

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. PEDRO GALENDEZ, EULALIO GALENDEZ, NARCISO ACABO, FELIX TADIOS, CARLOS TADIOS, FABIAN SAJOT AND EMELIO LLEMIT, ACCUSED.

G.R. Nos. 56465-66. June 26, 1992

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

Originally for automatic review before us prior to the abolition of the death penalty under the 1987 Constitution, the present consolidated cases for murder are now on appeal after the accused-appellants manifested their intention to exercise their right to appeal.

Two separate informations charging the accused-appellants with the crime of murder were filed before the former Court of First Instance of Misamis Oriental, 15th Judicial District, Branch V, Cagayan de Oro City for the killing of the spouses Gaudencio Jamero and Dionisia Tadios Jamero.

In Criminal Case No. 333-M(78), the information reads:

"The undersigned, accuses Pedro Galendez, Eulalio Galendez, Narciso Acabo, Felix Tadios, Carlos Tadios, Fabian Sajot and Emelio Llemit, of the crime of Murder, committed as follows:

"That on or about the 4th day of February, 1978 at more or less 11:00 o'clock in the evening, at Kibungol, Hindangon, Gingoog City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, with deliberate intent to kill and with evident premeditation, treachery and by taking advantage of superior strength, by employing means or method to insure its execution and without risk to themselves, armed with deadly weapons, to wit: two sharp-pointed bolos, one sharp-pointed knife, a scythe, a stone and a coffee stick (sic), with which the accused were conveniently provided, did then and there wilfully, unlawfully and feloniously assault, attack, stab, wound and hit one DIONISIA TADIOS JAMERO, thereby wounding the victim on her face, nose, eyes, jaw, frontal bones and other parts of her body, which injuries caused her instantaneous death thereafter. The following aggravating circumstances were present in the commission of the crime, namely: (1) that it was committed in the dwelling of the offended party; (2) treachery; (3) cruelty; (4) evident premeditation; (5) superior strength; (6) nighttime; and (7) by a band."

Contrary to and in violation of Article 248 in relation to Article 14, paragraphs 3, 6, 13, 15 and 16, all of the Revised Penal Code." (Rollo, p. 3)

In Criminal Case No. 334-M(78), the same accused were charged with murder for the death of Gaudencio Jamero allegedly committed as follows:

"That on or about the 4th day of February, 1978 at more or less 11:00 o'clock in the evening, at Kibungol, Hindangon, Gingoog City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, with deliberate intent to kill and with evident premeditation, treachery and by taking advantage of superior strength, by employing means or

method to insure its execution and without risk to themselves, armed with deadly weapons, to wit: two sharp-pointed bolos, one sharp-pointed knife, a scythe, a stone and a coffee stick (sic), with which the accused were conveniently provided, did then and there wilfully, unlawfully and feloniously assault, attack, stab, wound and hit one Gaudencio Jamero, thereby wounding the victim on his face, left and right foot, stomach, and other parts of his body, which injuries caused his instantaneous death thereafter. The following aggravating circumstances were present in the commission of the crime, namely: (1) that it was committed in the dwelling of the offended party; (2) treachery; (3) cruelty; (4) evident premeditation; (5) superior strength; (6) nighttime; and (7) by a band." (Rollo, p. 8)

At the arraignment, all the above-named accused entered pleas of not guilty. Joint trial proceedings ensued upon the agreement of the prosecution and the defense considering that the crimes as charged were committed on the same occasion and required the same evidence.

After trial, three of the accused, namely, Emelio Llemit, Fabian Sajot and Carlos Tadios were acquitted on the ground of insufficiency of evidence while the accused-appellants were found guilty beyond reasonable doubt of double murder. The dispositive portion of the trial court's decision rendered on December 20, 1979 states as follows:

"IN VIEW OF ALL THE FOREGOING, the Court finds the accused Eulalio Galendez, Pedro Galendez, Narciso Acabo and Felix Tadios guilty beyond reasonable doubt of the crime of murder in both Criminal Cases Nos. 333-M and 334-M and, therefore, sentences each of them to suffer the supreme penalty of Death in each case, to indemnify, jointly and severally, the Heirs of the offended parties in both cases in the amount of Twelve Thousand Pesos (P12,000.00) and to pay the costs. The accused Carlos Tadios, Fabian Sajot and Emelio Llemit are acquitted of the charges in both cases for insufficiency of evidence, and the warden or whoever is in custody of these three accused is/are directed to discharge them from confinement immediately unless they are facing other charges.

SO ORDERED." (CFI Decision, p. 65, Rollo, p. 73)

The antecedent facts are presented by the Solicitor General in his brief as follows:

"On February 4, 1978, about 11:00 P.M., appellants together with Carlos Tadios, Fabian Sajot and Emilio (should be Emelio) Llemit went to the house of spouses Gaudencio and Dionisia Jamero located at Kibungol, Hindangon, Gingoog City. Their purpose, according to appellants, was to have the aching shoulder of appellant Pedro Galendez treated. Gaudencio Jamero tapped it the day before, and Pedro Galendez felt that his right arm would fall from its socket (p. 7, tsn, Oct. 15, 1979; p. 8, tsn, Oct. 22, 1979; p. 4, tsn, Oct. 25, 1979). Gaudencio Jamero was claimed to be known as a sorcerer whose notoriety spread throughout the locality (Exh. "M"; p. 8, tsn, Oct. 15, 1979; p. 10, tsn, Oct. 26, 1979). But Emilio Llemit stated that the purpose of appellants for going to the Jamero house was to avenge the death of Eutiquio Baino, a relative of Pedro and Eulalio Galendez, who died a victim (sic) of Jamero's sorcery (pp. 10-12, tsn, Oct. 26, 1979).

Pedro Galendez was armed with a long, sharp-pointed bolo (Exh. "J"), Eulalio Galendez with a scythe (Exh. "O"), and Narciso Acabo was bringing a torch (pp. 6, 8, tsn, April 16, 1979).

When Pedro Galendez, Eulalio Galendez and Narciso Acabo climbed the stairs in the Jamero house, Fabian Sajot, Carlos Tadios and Emilio Llemit stayed behind at a distance of about 30 meters (pp. 11-12, tsn, Oct. 26, 1979). The dogs of the Jamerons were then barking (pp. 5, 51, tsn, April 16, 1979). Felix Tadios stood watch at the foot of the stairs (Exh. "Q"). Narciso Acabo called out for Gaudencio Jamero and gave his name when asked to identify. As soon as Gaudencio opened the door, Pedro Galendez stabbed him with a long bolo on his stomach; Gaudencio staggered towards the wall (Exh. "J"; pp. 5-7, 12, 51, tsn, April 16, 1979). Lourdes, 19-year old daughter of Gaudencio Jamero, tried to help her father; but Eulalio Galendez, who was already inside with Narciso Acabo, held her hands (pp. 9, 54, id.). Flavio, 15 year old brother of Lourdes, tried to help

his sister but Eulalio boxed him on the left eyebrow. Flavio fell, but he instantly stood up and jumped out of the window, fleeing to the forest. (pp. 10-11, id). Lourdes also jumped out of the window after she was freed from Eulalio (pp. 54-55, id).

The three who were outside the house, namely, Emilio Llemit, Carlos Tadios and Fabian Sajot heard Gaudencio Jamero shout. Realizing that something was wrong, they ran away (pp. 13-14, tsn, Oct. 26, 1979).

Meantime, Dionisia Jamero, wife of Gaudencio, was awakened by the commotion and, sensing what was happening, fled toward the stairs. She was however met downstairs by Felix Tadios who struck her head and face with the use of a stick cut from a coffee tree (Exh. "Q", cf. pp. 54-55, tsn, April 16, 1979).

On February 5, 1978, appellants together with Llemit, Sajot and Carlos Tadios surrendered themselves to Sgt. Wilfredo Mueco of the PC Detachment stationed at Balason, Gingoog City (pp. 31-33, tsn, Dec. 11, 1978). Pedro Galendez also surrendered a bolo, Exhibit "J" (pp. 34-35, id). Then Sgt. Mueco and some companions went to the house of the Jameros and found the dead body of Gaudencio (pp. 37-38, id). They searched for Gaudencio's wife, but they could not find her (p. 38, id). The next morning, February 6, another group found the dead body of Dionisia Jamero under a second growth forest, 450 meters from the Jamero house (p. 12, tsn, Dec. 12, 1978). She was promptly buried following her husband (p. 39, tsn, Dec. 11, 1978).

In the afternoon of February 6, 1978, Dr. Vicente Jadol, City Health Officer of Gingoog City, exhumed the dead bodies of Gaudencio and Dionisia Jamero and conducted a post-mortem examination (pp. 4-6, tsn, Dec. 11, 1978). Gaudencio Jamero died of internal hemorrhage due to multiple hacking and stab wounds on different parts of his body. Dr. Jadol's findings are as follows:

x x x x x x x x

"Face – multiple hacking (cutting wounds) were noted measuring more or less 5 to 6 inches in length gaping in character, severely cutting and fracturing the bones of the face – including the frontal bones exposing the brain.

Right Eye – was missing and nose was severely cut into several pieces including the mount. Most of the wounds were sharp – clean cut and gaping in character.

Neck – just below the chin and lower jaw – a big incised wound was noted cutting across the neck measuring 5 inches in length with clean cut sharp edges – cutting the blood vessels of the neck.

Right shoulder – anterior region. Another hacking cutting wound was noted cutting the skin, muscle and hitting the shoulder bones, measuring 2 inches in length and gaping in character.

Abdomen – There are multiple stab wounds and incised wound noted at the abdomen cutting the skin, muscles and intestine. One (1) wound was noted penetrating the abdomen (thru and thru) just 2 inches above the navel – left medially measuring 1 1/2 inches in length – above edge were (sic) a sharp clean cut with the exit at the back part below the left thoracic rib measuring 1 cm. in length.

Chest – just one (1) inch above the left nipple region. Another stab wound was noted measuring one (1) inch in length edges were clean cut and other edges were rounded.

Left thigh – Just above the left knee – another hacking – cutting wound was noted measuring 2 inches in length and gaping in character, edges were clean cut – sharp and hitting the femur bones (lower portion)

Feet – both feet were severely cut and hack (sic) fracturing the bones of the feet (tarsal bones).

The body was still in the state of rigor mortis.

Approximate time of death: 36 to 40 hrs.

Cause of Death:

Internal hemorrhage due to multiple hacking and stab wounds of the different parts of the body.

(Decision attached to appellants' brief, at pp. 5-6).

On the other hand, the findings of Dr. Jadol on his examination of Dionisia Jamero are as follows:

X X X X X X X X

Pertinent Findings; was (sic) centered at the head, especially at the face, and because mostly of the injuries inflicted were in this region, fracturing the bone (comminuted fracture) of the skull, including the frontal bones.

Mouth, Nose and Ears. – Bloody discharges were noted on the different orifices especially in the ears orifices.

Glabellu – at the root of nose – Between the eyebrows. – A big lacerated wound was noted, cutting the skin, muscle and fracturing (Comminuted fracture) the frontal bones. The lacerated wound measured 1 inch in length, gaping and the edges were irregular and fracturing the frontal bones and exposing the brain.

Face at the right side – maxillary region. A big stab wound was noted measuring 1 1/2 inches in length, gaping and edges were clean cut. Below this region a big contusion and hematoma was also noted measuring 2 inches in diameter.

Below the left eye. – Another stab wound was noted measuring 1 cm in length, hitting the left maxillary bones.

Another big stab wound was noted at the left jaw, measuring 3 cm in length, gaping in character and the edges were sharp clean-cut and other edges were rounded.

The body was still in the state of rigor mortis.

Approximate time of Death: 36 to 40 hrs.

Cause of Death:

Cerebral hemorrhage

Due to Comminuted Fracture of the skull and Internal Hemorrhage due to multiple stab wounds. (ID, at pp. 6-7)

All seven surrenderees were taken to the City Hall where the police investigated them. As a result, they all signed and swore to their statements namely: Exhibit "M", for Pedro Galendez, Exhibit "L", for Eulalio Galendez, Exhibit "P", for Narciso Acabo, Exhibit "Q", for Felix Tadios, Exhibit "R", for Carlos Tadios, Exhibit "S", for Fabian Sajot and Exhibit "T", for Emilio Llemit (pp. 6-12, rec. of Crim. Case No. 334-M)". (Brief for the Appellee, pp. 3-10; See Rollo, p. 159)

The defense version as contained in the accused-appellants' brief is:

"On February 4, 1978, at about 11:00 P.M., appellant together with Carlos Tadios, Fabian Sajot and Emilio (should be Emelio) Llemit went to the house of the spouses Gaudencio and Dionisia Jamero. According to the testimony of Emilio Llemit, appellant Pedro Galendez was alleged to have forced the 3 to accompany them as he along with his companions were (sic) going to kill Gaudencio Jamero, a person who in their locality was thought to possess voodoo power (TSN, Emilio Llemit's testimony, October 26, 1979, p. 10) and who moreover was thought by appellant Pedro Galendez to have caused the death of Eutiquio Bains, a relative of appellant Pedro Galendez (Ibid., p. 12) The 3 being threatened with death by appellant Galendez were forced to accompany appellants (Ibid). This alleged motive of appellants in going to see Gaudencio Jamero was however disputed by appellants. The latter's motive for going to the Jamero house was to have the aching shoulder of appellant Pedro Galendez treated; it seemed that Gaudencio Jamero had tapped it the day before,

appellant Pedro Galendez felt that it was "going to fall off." (TSN, Testimony of Pedro Galendez, Oct. 15, 1979, p. 7; TSN, Testimony of Eulalio Galendez, Oct. 22, 1979, p. 7; TSN, Testimony of Narciso Acabo, Oct. 25, 1979, p. 4).

The three stayed thirty or more meters away from the Jamero house (TSN, Testimony of Emilio Llemit, Oct. 26, 1979, p. 13) but appellants went inside the house (Ibid., p. 14). Llemit testified that he heard Gaudencio Jamero shout, and realizing that something was wrong, ran to the forest together with Sajot and Carlos Tadios (Ibid.).

As to what happened inside the Jamero house, appellant Pedro Galendez testified that Gaudencio Jamero opened the door and upon learning that appellant Pedro Galendez wanted his shoulder treated, said 'whenever people get sick, they place the blame on me (Jamero).' (TSN, Testimony of Pedro Galendez, Oct. 15, 1979, p. 11). Jamero then got very angry, retreated and reached for his bolo. (Ibid., p. 12) Appellant Galendez then pulled out his bolo and stabbed him (Ibid.) several times (Ibid., p. 14). By this time, appellants Narciso Acabo and Eulalio Galendez, as well as Dionisia and the Jamero children ran away (Ibid., p. 12).

Flavio Jamero, Gaudencio Jamero's son, however alleged, that his father upon hearing appellant Acabo calling him, opened the door and was then stabbed by appellant Pedro Galendez with a large bolo (TSN, Testimony of Flavio Jamero, April 16, 1979, pp. 5-6). His father staggered to the wall; his sister Lourdes tried to help her father, but her hands were held by appellant Eulalio Galendez (Ibid., p. 9). Flavio tried to come to the aid of his sister, but he alleged that appellant Eulalio Galendez hit him on the left side of his lower eyebrow (Ibid., p. 10). Flavio Jamero then jumped out of the window and saw that two persons who (sic) he could not identify were beating his mother Dionisia (Ibid.) who by this time had also fled from the house. Flavio returned to the house the following morning and saw that his father was already dead (Ibid., p. 14). He then went to report the death to the Philippine Constabulary together with his cousin, Juan Todle (Ibid., p. 15) Also on February 5, 1978, Flavio told a neighbor Jose Namoc that Dionisia Jamero had died. Namoc, together with some 22 of his companions searched for the body of Dionisia and found it on February 6, 1979, 450 meters away from the Jamero house (TSN, Testimony of Jose Namoc, Dec. 12, 1978, p. 12) with a wound between her two eyes above the bridge of the nose (Ibid.).

Sgt. Wilfredo Mueco assigned to the Philippine Constabulary Detachment at Bal-ason, Gingoog City, testified that appellants together with Llemit, Tadios and Sajot surrendered themselves to him on February 5, 1978 (TSN, Testimony of Wilfredo Mueco, Dec. 11, 1978, p. 31), for the reason that they 'killed somebody' whom they named as Gaudencio Jamero (Ibid., p. 32). Appellant Pedro Galendez also was said to have surrendered a bolo (Ibid., p. 35). After which, Sgt. Mueco together with some companions went to the house of Gaudencio Jamero and found his body (Ibid., p. 38).

All seven surrenderees were taken to the City Hall, where they were subjected to questioning and gave extra-judicial confessions. It is in respect of these extra-judicial confessions upon which the trial court based its decision finding appellants guilty of the separate crimes of murder of Gaudencio and Dionisia Jamero, a reliance which will be shown to be prejudicial error. (Appellant's Brief, pp. 2-4; See Rollo, p. 147)

The lone assignment of error made by the accused-appellants that:

"THE TRIAL COURT ERRED IN CONSIDERING THE EXTRAJUDICIAL CONFESSIONS OF THE APPELLANTS AS ADMISSIBLE AGAINST THEM AND BASING ITS DECISION OF FINDING THEM GUILTY THEREON" (Appellants' Brief, p. 1)

rests on their allegation that the said extrajudicial confessions were involuntarily given inasmuch as force, intimidation and violence attended the taking of the sworn statements from the accused-appellants in connection with their respective participation in the crimes of murder under consideration.

After a painstaking review of the records of this case, taking into account the letters forwarded to us by the

accused-appellants begging for our mercy, we are not persuaded to tilt the scales of justice in their favor.

As far as the death of the victim Gaudencio Jamero is concerned, the prosecution presented the children of the deceased spouses who positively identified the accused-appellants as the assailants of their father. On direct examination, Flavio Jamero categorically declared as follows:

x x x x x x x x

FISCAL TACANDONG: (Cont.)

Q. Do you remember where were you (sic) on February 4, 1978 at more or less 11 o'clock in the evening?

A. Yes, sir.

Q. Where were you?

A. I was in our house at Kibungol, Hindangon, Gingoog City.

Q. Could you remember if there was an unusual incident that took place at that time?

A. Yes, there was.

Q. What was it?

A. I heard barks of the dog and I heard the voice of Narciso Acabo calling my father.

Q. Now, whose dog was barking at that time?

A. Our dog.

Q. And you said that it was Narciso Acabo who was calling for your father, why do you know that it was Narciso Acabo who was calling for your father?

A. Because when he called out, my father opened and asked him "Who are you?" and he answered, I am Narciso Acabo."

Q. And what did your father do after that?

A. He opened the door.

Q. What happened after your father opened the door of your house?

A. He was stabbed by Pedro Galendez.

Q. And what happened to your father after he was stabbed by Pedro Galendez.

A. My father was hit.

C O U R T : (to the witness)

Q. Where?

A. Here (witness pointing to his stomach).

FISCAL TACANDONG: (cont.)

Q. What particular weapon was used by Pedro Galendez in stabbing your father and hitting his abdomen?

A. A long bolo.

Q. We reserve our right to present that Your Honor. Now, if Pedro Galendez is in the courtroom now will you

please point to him?

C O U R T : (to the witness)

You go down.

A. (Witness went down and tapped the shoulder of Pedro Galendez) This is Pedro Galendez.

FISCAL TACANDONG: (cont.)

Q. You said it was nighttime, how were you able to recognize that it was Pedro Galendez who stabbed your father at that time?

A. I was lighted by a lamp.

Q. Where was the lamp?

A. The lamp was at the altar.

C O U R T : (to the witness)

Q. How far was that lamp to the place where Pedro Galendez was, who stabbed your father?

A. About this distance. (witness indicating a distance of 2 1/2 meters)

Q. What was that lamp made of?

A. Made of tin can, a kerosene lamp.

FISCAL TACANDONG: (cont.)

Q. What else transpired after you saw your father after he was (sic) stabbed by accused Pedro Galendez?

A. My father staggered.

Q. Towards what direction was your father?

A. To the wall.

Q. And then what happened next?

A. Eulalio Galendez and Narciso Acabo went inside.

Q. You said that you saw Eulalio Galendez, what was he holding, if any?

A. Eulalio Galendez was holding a scythe.

Q. How about Narciso Acabo, what was he holding at that time?

A. A lamp.

Q. Was that a lighted lamp?

A. Yes, sir.

Q. And what did Eulalio Galendez do inside your house?

A. When my sister Lourdes Jamero tried to help my father, she was held by Eulalio Galendez.

Q. How did your sister, Lourdes Jamero, try to help your father?

ATTY. FABE:

Your Honor, please, we object an opinion.

FISCAL TACANDONG:

It is based on his actual observation.

C O U R T :

It is 'how did'.

I withdraw the question.

Q. (cont.) You said that your sister attempted to help your father but Eulalio Galendez held the hands of your sister. How did Eulalio Galendez do this to your sister?

A. Eulalio Galendez held the two hands of my sister.

Q. If this Eulalio Galendez is in the courtroom now, will you please point to him?

A. This is Eulalio Galendez (witness went down from the witness stand and point Eulalio Galendez).

Q. This Narciso Acabo who was with Eulalio Galendez and Pedro Galendez at that time who was holding a lighted kerosene lamp, will you please point to him?

A. This is the one. (witness pointing to the accused who gives his name as Narciso Acabo).

Q. When Eulalio Galendez held the hands of your sister, what happened?

A. I tried to help my sister Lourdes but I was boxed by Eulalio Galendez.

C O U R T : (to the witness)

Q. Where you hit?

A. Yes, sir. I was hit here (witness pointing to the left side of the lower eyebrow). (TSN, April 16, 1979, pp. 4?10)

Likewise, Lourdes Jamero in her testimony stated that the accused-appellants assisted each other in killing her father. She testified that:

"DIRECT EXAMINATION BY FISCAL TACANDONG, JR.:

Q. Do you remember where were you (sic) on February 4, 1978 at about 11 o'clock in the evening?

A. Yes, sir.

C O U R T: (to the witness)

Q. Where were you?

A. I was in our house.

Q. Where?

A. At Kibungol, Hindangon, Gingoog City.

FISCAL TACANDONG: (cont.)

Q. Will you please tell the Honorable Court if there was an unusual incident that took place during that time?

A. There was.

Q. What was it?

A. I heard the barking of the dog and heard Narciso Acabo calling my father.

Q. Who is your father?

A. Gaudencio Jamero.

Q. What did your father Gaudencio Jamero do after he was called by Narciso Acabo?

A. My father asked: 'Who are you?' and he answered, 'I am Narciso Acabo.'

Q. After telling your father that he is Narciso Acabo what did your father do?

A. He opened the door.

Q. After your father opened the door, what happened?

A. I saw Pedro Galendez stabbed (sic) my father Gaudencio Jamero.

Q. Was your father hit?

A. Yes, sir, and the weapon pierced through his back.

Q. What part of the body of your father was first hit?

A. Here (witness pointing), on the stomach.

Q. With what kind of weapon was your father stabbed by Pedro Galendez?

A. A sharp pointed bolo.

Q. Would you recognize that sharp pointed bolo?

A. Yes, sir.

Q. I am showing to you a sharp pointed bolo marked Exh. J, for the prosecution, what relation has this bolo to the bolo you said used by Pedro Galendez in stabbing on the abdomen of your father and pierced through his back?

A. This is the one.

Q. And what else happened after you saw your father being stabbed by Pedro Galendez with Exh. J?

A. When my father was stabbed, Narciso Acabo and Eulalio Galendez went near my father.

Q. Now, you said that you saw Eulalio Galendez and Narciso Acabo went near your father, what did (sic) Eulalio Galendez holding at that time?

A. A scythe.

Q. Now, did you notice that scythe?

A. Yes, sir.

Q. I have here a scythe, will you please inform the Honorable Court what relation has this scythe to the scythe you noticed being held by Eulalio Galendez?

A. This is the one.

Q. Already marked Exh. O, for the prosecution. Now, immediately after you saw -- I withdraw. What was

Narciso Acabo holding at that time?

A. A lamp.

Q. Will you please inform the Honorable Court what kind of lamp was it?

A. It was a 'moron'.

Q. And what else happened after you saw Narciso Acabo and Eulalio Galendez went near your father?

A. I also went near my father to help him but I was pulled by Eulalio Galendez.

Q. How did Eulalio Galendez pull you?

A. He twisted my hands.

Q. Your both hands or only one hand?

A. Both hands.

Q. And while Eulalio Galendez held your both hands, what else transpired?

A. My younger brother Flavio Jamero came near to help.

C O U R T: (to the witness)

Q. When he came near to help, what happened?

A. Eulalio Galendez released me. (Ibid, pp. 50-54)

We find no flaws in the aforementioned testimonies that would discredit the witnesses considering the relationship that existed between them and the deceased since we have consistently held that the mere relationship of a witness to a party does not impair his credibility. (see *Ebajan v. Court of Appeals*, 170 SCRA 178 [1989] citing *People v. Demetrio*, 124 SCRA 914 [1983]) Moreover, in the case at bar, Dr. Vicente Jadol, the medical officer who conducted the post-mortem examinations on the bodies of the deceased Jamero spouses provided collaborating testimony, thereby, rendering the testimonies of the eyewitnesses, Flavio and Lourdes, credible. Dr. Jadol described the severity of the wounds sustained by the Jamero spouses and the instrument that could have caused the said wounds (TSN, December 11, 1978, pp. 4-20)

Thus, we reiterate our ruling in the case of *People v. Gil Uy, et. al.* (G.R. No. 84275, February 14, 1992) that:

"x x x mere relationship to the victim need not automatically tarnish the testimony of the witness. When there is no showing of improper motive on the part of the witnesses for testifying against the accused, the fact that they are related to the victim does not render their clear and positive testimony less worthy of full faith and credit. x x x (At pp. 13-14)

We further held in the same case that:

"x x x collaborating testimony of the doctor who conducted the autopsy on the victim renders the testimony of the eyewitnesses credible (At p. 14 citing *People v. Encipido*, 146 SCRA 478 [1986])."

With respect to the death of Gaudencio's wife, Dionisia, the records teem with circumstantial evidence pointing to the accused-appellants as the ones responsible therefor. The following circumstances are not disputed: (1) Both children of the deceased spouses related in Court that when they were able to free themselves from their father's attackers, both of them immediately ran for their lives. Flavio Jamero jumped out of the window and after having landed on the ground, saw two persons beating his mother. Lourdes Jamero, on the other hand, jumped out of the

door where she saw her mother lying face down on the ground near the stairs of their house (TSN, April 16, 1976, pp. 10-11; 54-55); (2) Three of the accused-appellants, namely Eulalio Galendez, Narciso Acabo and Pedro Galendez admitted in open court that they went to the house of the Jamero spouses on the evening of February 4, 1978, the date and time of the fatal killing of both spouses; that their purpose in going there was to have the aching shoulder of Pedro Galendez treated; and that the said visit ended with the killing of Gaudencio Jamero as he was stabbed by Pedro Galendez after an altercation between Gaudencio and Pedro ensued; (TSN, October 22, 1979, pp. 6-17; TSN, October 25, 1979, pp. 3-11; TSN, December 15, 1979, pp. 6-15); (3) the defense of alibi given by the accused-appellant Felix Tadios is unavailing considering that the distance between his house (where he allegedly slept from nine o'clock in the evening of February 4, 1978 until four o'clock the following morning) and the Jamero's residence is only two kilometers and there was no showing that it was physically impossible for accused-appellant Tadios to be at the scene of the crime at the time in question; (4) Dr. Vicente Jadol asserted in his testimony that after having conducted a post-mortem examination of the bodies of the deceased spouses on February 6, 1978, he concluded that the Jamero spouses had been dead then for 36 to 48 hours (TSN, December 11, 1978, p. 28), thus, placing the time of death at the time the accused-appellants could have been at the Jamero residence; and (5) Emelio Llemit revealed in open court that the real purpose of the accused-appellants in going to the house of the Jameross was to kill Gaudencio because the latter was a "barangan" (witch) and that he, together with Fabian Sajot and Carlos Tadios, was forced by the accused-appellants to accompany the latter to the house of the Jameross in order to avenge the death of one Eutiquio Baiño who allegedly died of Gaudencio's sorcery.

We are convinced that the requirements under Rule 133, Section 4 of the Revised Rules of Evidence for circumstantial evidence to sustain a conviction in the death of the wife are present in this case. As we have held in the case of *People v. Jara*, (144 SCRA 516 [1986]):

"x x x In determining the sufficiency of circumstantial evidence to support a conviction, each case is to be determined on its own peculiar circumstances and all of the facts and circumstances are to be considered together as a whole, and when so considered, may be sufficient to support a conviction, although one or more of the facts taken separately would not be sufficient for this purpose (23 CJS, p. 555). x x x" (At p. 539)

Otherwise stated, before there can be conviction on the basis of circumstantial evidence, the circumstances proved must constitute an unbroken chain which leads to one fair and reasonable conclusion pinpointing the accused, to the exclusion of the all others, as the perpetrator of the crime (see *People v. Ganohon*, 196 SCRA 431 [1991], citing *People v. Ritter*, 194 SCRA 690 [1991] and *People v. Subano*, 73 Phil. 692 [1942]; see also *People v. Tiozon*, 198 SCRA 368 [1991]). The circumstances in this case are such that no doubt exists as to the finding that the accused-appellants are also the ones responsible for Dionisia Jamero's death.

Inasmuch as the presence of conspiracy is borne out by the records considering that as found by the trial court all the accused-appellants went to the house of Gaudencio Jamero for one definite purpose - to avenge the death of Eutiquio Baiño and that the numerous wounds inflicted on the victims indicated a plurality of assailants, all the accused-appellants are liable as co-conspirators. Hence, the act of one is the act of all.

It is a well-entrenched rule that conspiracy need not be established by direct evidence but may be proven through a series of acts done in pursuance of a common unlawful purpose (*People v. Alfredo Moreno, Jr. y Andaya, et al.*, G.R. No. 94755, April 10, 1992 citing *People v. Alvarez*, 169 SCRA 730 [1989]; *People v. Dante Donato, et. al.*, G.R. No. 94530, March 6, 1992 citing *People v. Bicog*, 187 SCRA 556 [1990]; *People v. Quijano, et al.* 197 SCRA 761 [1991]).

In view of the foregoing, we need not dwell on the assigned error raised by the accused-appellants in this appeal. The extra-judicial confessions which clearly admitted their full participation in the two crimes with full details are not essential to find them guilty. We simply note that the accused-appellant's claim of maltreatment at the time of

the taking of their extrajudicial confessions are unsubstantiated by the evidence on record.

On April 1, 1991 appellant Pedro D. Galendez, writing from his dormitory in the New Bilibid Prison, urged the release of his co-appellants and insisted that he was the sole criminal in the crimes. The records prove otherwise. Conspiracy is clear.

We, therefore, find no reversible error in the trial court's findings of fact to which we accord full respect and credence in consonance with the well-entrenched rule that the findings of the trial court should not be disturbed on appeal, unless some facts or circumstances may have been overlooked that may otherwise affect the result of the case considering that the trial court has the privilege of observing the demeanor of the witnesses while on the witness stand thereby allowing it to discern if the witnesses are telling the truth or not. (People v. Vicente Rebulado, et al., G.R. No. L-42987, March 4, 1992 citing *Amarante Heirs v. Court of Appeals, et al.*, 155 SCRA 46 [1987]; *People v. Gil Uy, et al.*, supra citing *People v. Kyamko*, 192 SCRA 374 [1990]; *People v. Lorenzo*, 200 SCRA 207 [1991].

Furthermore, we find no error in the trial court's finding that the aggravating circumstances as alleged in the informations of these consolidated cases are present and well-supported by the established facts.

With respect to the penalty of death imposed by the trial court, we reduce the same to reclusion perpetua in view of the mandate of the 1987 Constitution (Article III, section 19(1), 1987 Constitution). The indemnity to the heirs of each of the deceased spouses is raised to P50,000.00 pursuant to present jurisprudence. (*People v. Dante Donato, et al.*, supra citing *People v. Sison*, 189 SCRA 643 [1990]).

WHEREFORE, the appealed decision is hereby affirmed with the modification that each of the accused?appellants is sentenced to suffer the penalty of reclusion perpetua in each case and to indemnify jointly and severally the heirs of the offended parties in the amount of P50,000.00 in each case.

SO ORDERED.

Feliciano, Bidin, Davide, Jr., and Romero, JJ., concur.

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