

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDUARDO MACAM Y LONTOC, EUGENIO CAWILAN, JR. Y BELEN, ANTONIO CEDRO Y SANTOS, ERNESTO ROQUE Y MARIANO AND DANILO ROQUE Y MARIA...

G.R. Nos. 91011-12. November 24, 1994

Ponente: QUIASON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-91011-12/>

QUIASON, J.:

This is an appeal from the decision of the Regional Trial Court, Branch 104, Quezon City in Criminal Case No. Q-53781, finding Danilo Roque and Ernesto Roque guilty beyond reasonable doubt of the crime of Robbery with Homicide and sentencing each of them to suffer the penalty of reclusion perpetua.

I

In Criminal Case No. Q-53781, appellants, together with Eduardo Macam, Antonio Cedro and Eugenio Cawilan, Jr., were accused of Robbery with Homicide as defined and penalized under Article 294(1) of the Revised Penal Code, committed as follows:

"That on or about the 18th day of August, 1987, in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused; conspiring together, confederating with and mutually helping one another, with intent to gain, and by means of intimidation and/or violence upon person, armed with a firearm and bladed weapons, did, then and there, willfully, unlawfully and feloniously rob one BENITO MACAM y SY in the manner as follows: on the date and in the place aforementioned, the said accused, pursuant to their conspiracy, entered the residence of said offended party located at No. 43-A Fema Road, Brgy. Bahay Toro, this City, and thereafter divested the said offended party of the following properties:

- One (1) model .59 cal. 9mm (toygun)
- One (1) Walter P 38 cal. 9mm (toygun)
- One (1) airgun rifle with leather attache case
- One (1) master CO2 refiller
- One (1) Sony TV antennae
- Three (3) betamax tapes
- One (1) Kenyo betamax rewinder
- One (1) Samsonite attache case
- One (1) set of four pieces of trays
- One (1) Airmail typewriter

One (1) Sony betamax

One (1) Sony TV Trinitron

One (1) chessboard

One (1) Toyota Crown car bearing plate No. CAS-997

Assorted jewelry

Cash money (still undetermined)

One (1) .22 Walter

valued in the total amount of P454,000.00, more or less, Philippine Currency, and by reason of the crime of Robbery, said accused, with intent to kill, did, then and there, willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one Leticia Macam y Tui, thereby inflicting upon her serious and mortal injuries which were direct and immediate cause (sic) of her untimely death, and on the occasion of said offense, one Benito Macam y Sy, Salvacion Enrera y Escota, and Nilo Alcantara y Bautista, all sustained physical injuries which have required medical attendance for a period of more than thirty (30) days and which have incapacitated all of them from performing their customary labor for the said period of time, to the damage and prejudice of the heirs of the late LETICIA MACAM y TUI and to the damage and prejudice of the said offended parties in such amount as may be awarded under the provisions of the Civil Code (Rollo, pp. 3-4).

Together with Criminal Case No. Q-53781, Criminal Case No. Q-53783 was filed against Eugenio Cawilan, Sr. for violation of Presidential Decree No. 1612, otherwise known as the Anti-Fencing Law (Rollo, p. 31).

Upon being arraigned, all the accused in Criminal Cases Nos. Q-53781 and Q-53783 pleaded "not guilty" to the crimes charged.

After the prosecution had presented its evidence on July 4, 1989, accused Eduardo Macam, Antonio Cedro and Eugenio Cawilan, Jr., assisted by their respective counsels, changed their plea from "not guilty" to "guilty" (Rollo, p. 23). Consequently, a separate judgment was rendered sentencing each of them to suffer the penalty of reclusion perpetua and ordering each of them to pay P30,000.00 to the heirs of Leticia Macam without subsidiary imprisonment in case of insolvency, but with all the accessory penalties provided for by law, and to pay the costs (Rollo, p. 24).

The trial proceeded with respect to Eugenio Cawilan, Sr. and appellants. Of the latter, only Danilo Roque testified.

On September 26, 1989, the trial court rendered its judgment finding appellants guilty beyond reasonable doubt of the crime of Robbery with Homicide in Criminal Case No. Q-53781 and acquitting Eugenio Cawilan, Sr. of violation of the Anti-Fencing Law in Criminal Case No. Q-53783 (Rollo, pp. 43-44).

II

The trial court accepted the prosecution's version as correct and made the following findings of fact:

"The prosecution evidence, stripped of non--essentials, shows that on August 18, 1987, Eduardo Macam, Antonio Cedro, Eugenio Cawilan, Jr., Danilo Roque and Ernesto Roque went to the house of Benito Macam located at 43 Fema Road, Quezon City, and that upon arrival at said place, Eduardo Macam, a nephew of Benito Macam, entered the house and talked to Benito Macam. Benito then offered lunch to Eduardo, who told him that he had companions waiting outside. Benito then told his maid, Salvacion Enrera, to call the said

companions of Eduardo and ask them to enter the house and have their lunch. Salvacion went outside and called the persons waiting in a tricycle who, she positively identified, were Antonio Cedro, Eugenio Cawilan, Jr., Danilo Roque and Ernesto Roque. Salvacion Enrera testified that only Antonio Cedro, Eugenio Cawilan, Jr. and Danilo Roque entered the house and that Ernesto Roque remained in the tricycle. After Antonio Cedro, Eugenio Cawilan, Jr. and Danilo Roque had taken their lunch, Eduardo Macam suddenly grabbed the clutch bag of Benito Macam and pulled out Benito's gun and after they announced a hold-up, they started ransacking the place and looking for valuables. After tying up the members of Benito Macam's household, namely, Leticia Macam, Nilo Alcantara, Salvacion Enrera, and the children of Benito Macam, the same persons brought them to a room upstairs. After a while, Leticia Macam, Nilo Alcantara, Salvacion Enrera, and Benito Macam were taken out of the room and brought to another room where Leticia Macam was killed and Benito Macam, Nilo Alcantara, and Salvacion Enrera were stabbed. The prosecution presented as Exhibit "C" a list of the items taken by the said persons with a total value of P536,700.00.

Nilo Alcantara testified that while he was being brought downstairs by Antonio Cedro, he saw Leticia Macam being held by Danilo Roque inside the comfort room and that Danilo Roque told Antonio Cedro that "pare doon mo na upakan yan." Nilo then testified that he was brought back to a room upstairs where he suddenly heard a very loud scream from Leticia Macam, after which, he was suddenly stabbed by Antonio Cedro.

Salvacion Enrera testified that she was brought to another room by Antonio Cedro where she saw Benito Macam and Nilo Alcantara bloodied from stab wounds and that she heard a loud scream from Mrs. Leticia Macam prior to her being stabbed by Danilo Roque" (Rollo, pp. 36-37).

III

The version of the defense, as summarized by the trial court, is as follows:

"In exculpation, the defense in Criminal Case Q-53781 presented its sole witness accused Danilo Roque, who testified that in the morning of August 18, 1987, while he was driving his tricycle, he was stopped by three persons who, he came to know only during the trial of this case, were Eduardo Macam, Eugenio Cawilan, Jr. and Antonio Cedro. According to Danilo Roque, the said persons stopped him and asked that he bring them to Fema Road for which they were willing to pay P50.00 and that he agreed to bring them to Fema Road after Eduardo Macam gave him a calling card. Danilo Roque testified that they stopped at the residence of Benito Macam where Eduardo Macam alighted from his tricycle and entered the compound, and that after a while, he, together with Antonio Cedro and Eugenio Cawilan, Jr., was called by the maid of Benito Macam to go in the house and eat. After eating, Danilo stated that he washed the dishes and swept the floor, when suddenly, Eugenio Cawilan, Jr. pulled out a gun and announced a hold-up and told Danilo to keep silent and just follow what was asked of him to do. After the said persons tied the occupants of the house of Benito Macam, they told Danilo to help them gather some of the things therein, which order, Danilo obeyed for fear of his life. Danilo Roque then testified that after placing the things in a car parked inside the house, Eduardo Macam said, "Kailangan patayin ang mga taong yan dahil kilala ako ng mga yan," and that upon hearing this, he went out of the house and went home using his tricycle. He likewise testified that his brother, Ernesto Roque, was not at the said location. Danilo testified that his brother Ernesto had just arrived from the province on August 19, 1987 and that he asked Ernesto to go with him to the factory of Zesto Juice and that while they were at the said factory, where he was told by Eduardo Macam to get his payment, he and his brother Ernesto were suddenly apprehended by the security guards. He and Ernesto were then brought to the Quezon City Headquarters where Danilo alleged (sic) they (Ernesto Roque, Eduardo Macam, Eugenio Cawilan, Jr., and Antonio Cedro) were forced to admit certain acts" (Rollo, pp. 34-35).

The issues raised by appellants can be summarized into whether or not (a) their arrest was valid; and (b) their guilt have been proved beyond reasonable doubt.

Appellants contend that their arrest without a warrant and their uncounseled identification by the prosecution

witnesses during the police line-up at the hospital are violative of their constitutional rights under Section 12, Article 3 of the Constitution (Rollo, p. 119).

Appellants gave the following version of the circumstances surrounding their arrests:

"xxx, Accused-Appellant Danilo Roque stated that between 4:00 o'clock (sic) and 5:00 o'clock (sic) in the afternoon of August 19, 1987, he and his brother, Accused-Appellant Ernesto Roque, went to the factory of Accused Eduardo Macam's father in Kaloocan City to collect the fare of P50.00 from Accused Eduardo Macam; they were suddenly approached by the security guards of the factory and brought inside the factory where they were mauled by the security guards and factory workers and told they were involved in a robbery-killing; thereafter, Patrolman Lamsin and his policemen-companions brought them to the headquarters of the Quezon City Police Department for investigation and detention; the other Accused, Eduardo Macam, Antonio Cedro and Eugenio Cawilan, Jr., were in the jail of the Station Investigation Division, the Accused including Accused-Appellants Danilo Roque and Ernesto Roque were forced to admit to the robbery killing, but Accused-Appellants Danilo Roque and Ernesto Roque refused to admit they had anything to do with it; then all the Accused were brought to the Quezon City General Hospital before each of the surviving victims of the crime charged in handcuffs and made to line up in handcuffs together with some policemen in civilian clothes for identification by the surviving victims who the policemen spoke to before all of the Accused were pointed to as the suspects in the crime charged (TSN, July 12, 1989, pp. 15-18; Rollo, pp. 145-148)" (Rollo, pp. 121-122).

It appears that the security guards at the factory of the father of accused Eduardo Macam detained appellants. They were later brought to the Quezon City Police Headquarters for investigation. Since they refused to admit their participation in the commission of the crime, appellants were then brought to the Quezon City General Hospital and were made to line-up together with several policemen in civilian clothes. Salvacion Enrera, Benito Macam and Nilo Alcantara, who were confined at the hospital for injuries sustained during the robbery, were asked to pinpoint the perpetrators. At that time, appellants were handcuffed and bore contusions on their faces caused by the blows inflicted on them by the police investigators (TSN, July 12, 1989, pp. 15-18).

In *Gamboa v. Cruz*, 162 SCRA 642 (1988), we held that the right to counsel attaches upon the start of an investigation, i.e., when the investigating officer starts to ask questions to elicit information, confessions or admissions from the accused (See also *People v. Dimaano*, 209 SCRA 819 [1992]).

Historically, the counsel guarantee was intended to assure the assistance of counsel at the trial, inasmuch as the accused was "confronted with both the intricacies of the law and the advocacy of the public prosecutor." However, as a result of the changes in patterns of police investigation, today's accused confronts both expert adversaries and the judicial system well before his trial begins (*U.S. v. Ash*, 413 U.S. 300, 37 L Ed 2d 619, 93 S Ct 2568 [1973]). It is therefore appropriate to extend the counsel guarantee to critical stages of prosecution even before the trial. The law enforcement machinery at present involves critical confrontations of the accused by the prosecution at pre-trial proceedings "where the result might well settle the accused's fate and reduce the trial itself to a mere formality." A police line-up is considered a "critical" stage of the proceedings (*U.S. v. Wade*, 388 U.S. 218, 18 L Ed 2d 1149, 87 S Ct 1926 [1967]).

After the start of the custodial investigation, any identification of an uncounseled accused made in a police line-up is inadmissible. This is particularly true in the case at bench where the police officers first talked to the victims before the confrontation was held. The circumstances were such as to impart improper suggestions on the minds of the victims that may lead to a mistaken identification. Appellants were handcuffed and had contusions on their faces.

However, the prosecution did not present evidence regarding appellants' identification at the police line-up.

Hence, the exclusionary sanctions against the admission in evidence of custodial identification of an uncounseled accused can not be applied. On the other hand, appellants did not object to the in-court identification made by the prosecution witnesses. The prosecution witnesses, who made the identification of appellants at the police line-up at the hospital, again identified appellants in open court. Appellants did not object to the in-court identification as being tainted by the illegal line-up. In the absence of such objection, the prosecution need not show that said identifications were of independent origin (*Gilbert v. California*, 388 U.S. 263, 18 L Ed 2d 1178, 87 S Ct 1951 [1967]).

The arrest of appellants was made without the benefit of a warrant of arrest. However, appellants are estopped from questioning the legality of their arrest. This issue is being raised for the first time by appellants before this Court. They have not moved for the quashing of the information before the trial court on this ground. Thus, any irregularity attendant to their arrest was cured when they voluntarily submitted themselves to the jurisdiction of the trial court by entering a plea of not guilty and by participating in the trial (*People v. Rabang*, 187 SCRA 682 [1990]).

Appellants further contend that their guilt has not been proved beyond reasonable doubt, conspiracy not having been established by positive and conclusive evidence (Rollo, p. 131).

The presence of conspiracy between appellants and the other accused can be shown through their conduct before, during and after the commission of the crime (*People v. Dagoma*, 209 SCRA 819 [1992]).

It is undeniable that appellant Danilo Roque was the tricycle driver, who brought the accused Eduardo Macam, Antonio Cedro and Eugenio Cawilan, Jr. to the house of Benito Macam. He contends that he did not know the said accused. Yet, why did he agree to bring them to the Macam residence when the route going to that place is out of his regular route? Why did he agree to bring them to that place without being paid the P50.00 as agreed but was merely given a calling card?

Upon arriving at the residence of Benito Macam, appellant Danilo Roque, together with his co-accused, went inside the house to eat. He even admitted that after eating, he washed the dishes, swept the floor and sat on the sofa in the sala instead of going out of the house. This conduct is not in keeping with his being merely the tricycle driver hired by the accused to transport them to their destination.

Appellant Danilo Roque was the one who gathered the articles stolen from the house of the victim and who placed them inside the tricycle. While he claimed that he was merely intimidated by the accused to do so, his subsequent conduct belied this claim. According to him, he escaped after hearing accused Eduardo Macam tell his co-accused to kill all the possible witnesses who may be asked to identify them. Yet he continued to ply his route as if nothing unusual happened. How he was able to escape unnoticed by his co-accused is a puzzle by itself. Likewise, he did not mention the incident to anyone, not even to his brother, appellant Ernesto Roque, whom he saw the following day. He did not report the incident to the police. In *People v. Logronio*, 214 SCRA 519 (1992), we noted: "For criminals to make an innocent third party a passive and unnecessary witness to their crime of robbing and killing, and then to let such witness go free and unharmed, is obviously contrary to ordinary human experience."

Appellant Danilo Roque's denial of his participation in the commission of the crime is not sufficient to overcome the testimony of the prosecution witnesses, who positively identified the former as one of the persons who entered the Macam's residence, robbed and stabbed the occupants therein.

Salvacion Enrera testified that she was stabbed by appellant Danilo Roque. Nilo Alcantara, likewise, positively identified appellant Danilo Roque as one of those who brought Leticia Macam to the comfort room, where she

was found dead.

Appellant Ernesto Roque did not even testify in his defense at the trial. The Constitution does not create any presumption of guilt against an accused who opts not to take the witness stand (*Griffin v. California*, 380 U.S. 609, 14 L. Ed 2d 106, 85 S Ct 1229 [1965]). That is his right. However, appellant Ernesto Roque cannot rely on the testimony of Danilo Roque because said testimony failed to rebut and impeach the evidence of the prosecution against both appellants (*Cf. Desmond v. U.S.* 345 F. 2d 225 [CA 1st 1965]). We agree with the finding of the trial court that appellant Ernesto Roque, while remaining outside the house of Macam, stood as a look-out, which makes him a direct co-conspirator in the crime (*U.S. v. Santos*, 4 Phil. 189 [1905]).

Appellants contend that the crimes committed were robbery and homicide, and not the complex crime of robbery with homicide (*Rollo*, p. 143). We do not agree. The rule is whenever homicide has been committed as a consequence or on occasion of the robbery, all those who took part as principals in the robbery will also be held guilty as principals of the special crime of robbery with homicide although they did not actually take part in the homicide, unless it clearly appears that they endeavored to prevent the homicide (*People v. Veloso*, 112 SCRA 173 [1982]; *People v. Bautista*, 49 Phil. 389 [1926]; *U.S. v. Macalalad*, 9 Phil. 1 [1907]).

Lastly, the award of civil damages made by the trial court is not in accordance with law and jurisprudence. In its judgment, the trial court disposed in pertinent part as follows: "In Crim. Case Q-53781, the court finds accused DANILO ROQUE and ERNESTO ROQUE guilty beyond reasonable doubt of the crime of Robbery with Homicide, xxx and hereby sentences each of them to suffer the penalty of RECLUSION PERPETUA and each to indemnify the heirs of the deceased the sum of P30,000.00, xxx" (*Rollo*, pp. 43-44; underscoring supplied). The trial court overlooked the rule in Article 110 of the Revised Penal Code that the principals shall be "severally (in solidum)" liable among themselves (*People v. Hasiron*, 214 SCRA 586 [1992]).

WHEREFORE, the decision is AFFIRMED with the MODIFICATIONS: (1) that the civil damages awarded in favor of the heirs of Leticia Macam are increased to P50,000.00; and (2) that the word "each" before "to indemnify the heirs" in the dispositive portion of the decision is deleted.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.