

FIRST DIVISION

[G.R. No. 127493, December 08, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ORLANDO LABTAN Y DAQUIHON (AT LARGE), ALIAS BEBOT,
HENRY FELICIANO Y LAGURA AND JONELTO LABTAN (AT
LARGE), ACCUSED, HENRY FELICIANO Y LAGURA, ACCUSED-
APPELLANT.**

D E C I S I O N

PUNO, J.:

Accused-appellant Henry Feliciano appeals the decision of the Regional Trial Court of Cagayan de Oro City, Branch 25^[1] convicting him of **highway robbery** and **robbery with homicide** on the basis of a sworn statement which he repudiated during the trial.

On April 23, 1993, an *information*^[2] was filed against Henry Feliciano, Orlando Labtan, and Jonelto Labtan charging them with **robbery with homicide** committed as follows:

"That on or about April 16, 1993, at about 2:30 in the afternoon, more or less, at Buntong, Camaman-an, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, and with grave abuse of confidence, did then and there wilfully, unlawfully and feloniously and by means of violence, take, rob and carry away P30.00/cash money to the damage and prejudice of the offended party (Florentino Bolasito); that on the occasion of the said robbery and for the purpose of enabling them (accused) to steal, take and carry away the P30.00 money, the herein accused, in pursuance of their conspiracy, did then and there wilfully, unlawfully and feloniously, and with evident premeditation and taking advantage of their number and strength and with intent to kill, accused Orlando Labtan, y Daquihon, alias Bebot Labtan and Jonelto Labtan, treacherously attack, assault and use personal violence upon Florentino Bolasito thereby inflicting upon him the following injuries: "Shock due to multiple stab wounds heart", with the use of a (sic) knives/bladed weapon which accused are conveniently provided, which directly caused the death of the said Florentino Bolasito.

"Contrary to and in violation of Article 299 and 249 of the Revised Penal Code."

Subsequently, another *information*^[3] dated May 20, 1993 was filed against Henry Feliciano and Orlando Labtan charging them with **highway robbery** committed as follows:

"That on March 28, 1993, at more or less 10:30 o'clock in the evening while inside a motor vehicle in the national highway at Barangay Agusan up to the road at Camaman-an, all of Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named with intent to gain and against the will of the owners, by means of violence against and intimidation of persons, or force upon things with the use of knives which they were conveniently provided with, conspiring, confederating together and mutually helping one another, did then and there wilfully, unlawfully and feloniously and criminally take, rob and carry away money or cash amounting to P720.00, pioneer stereo, booster and twitters owned by and belonging to Roman S. Mercado, and a Seiko Diver wristwatch owned by Ismael P. Ebon, all in all amounting to P10,800.00, against their will, to the damage and prejudice of the said offended parties in the total sum of P10,800.00 Philippine Currency.

"Contrary to and in violation of PD 532."

Only accused Feliciano pleaded not guilty to the two charges. Orlando Labtan had escaped the Maharlika Rehabilitation and Detention Center in Carmen, Cagayan de Oro City where he was detained while Jonelto Labtan has eluded arrest. The two cases were tried together.

The prosecution's case was mainly anchored on the three-page sworn statement executed by Feliciano, originally in Visayan language, before the Cagayan de Oro City Police Station, viz:^[4]

"Preliminary: You Henry Feliciano y Lagura, I would like to inform you that you are here in [the] Theft and Robbery Section of Cagayan de Oro City Police Station to be investigated regarding an incident wherein a certain driver whose name is Florentino Bolasito, a resident of Abellanos St., of this City (sic). Said driver was killed on April 13, 1993, whose body was found at Tipolohan, Camaman-an of this City since you knew everything about it.

I would like to inform you that according to our law you have the following rights:

1. You have the right to remain silent, and not to answer incriminating questions which will be used as evidence against you.
2. You have the right to choose an attorney to defend you in this investigation.
3. That if you can't (sic) get a lawyer, I can give you a counsel de officio to defend you.

Certification

This is to establish the fact that I myself voluntarily executed this certification and hereby affix my signature hereunder on the ____ day [of] April, [1993 in the] City of Cagayan de Oro, Philippines.

Sgd. Henry Feliciano y
Lagura
(Affiant)

Assisted by his lawyer:

Sgd. Pepito A. Chavez
Notary Public
Until Dec. 31, 1993
PTR No. 10843256 1/8/93

Q: Before we (will) proceed [with] this investigation, did you understand all those rights I narrated to you?

A: Yes, sir[,] I understand everything.

Q: Will you get a lawyer of your own to defend you in this investigation?

A: No, sir. I can't (sic) pay the services of lawyer.

Q: Since you will not get your own lawyer, will you agree that I'll (sic) give you Atty. Pepito Chavez as your counsel *de officio* in this investigation?

A: Yes, sir. I agree that Atty. Pepito Chavez will be my lawyer for the ascertainment of the truth.

Q: What is your highest educational attainment?

A: Grade 4 only at Baongca, Bukidnon.

Q: In other words, you know how to read Visaya?

A: I know [,] sir how to read Visaya including English but I can't (sic) understand deep English.

Q: Tell me your name, age, occupation, residence and other personal circumstances?

A: I, Henry Felciano, 25 years old, married and a resident of Kolambog, Lapasan of this city and I am [a] jeepney driver of this City.

Q: Up to this time, are you still driving?

A: No more, sir.

Q: What is then your work at this time?

A: I go [to] work [with] my friends like Orlando Labtan alias Bebot Labtan who are residents of Kolambog, Lapasan of this City.

Q: From what time did you go along with this [sic] persons?

A: Since the month of February, 1993.

Q: From the time you go (sic) with them, what have you done, if any?

A: On March 1993, I participated in a hold-up of a certain driver Mr. Roman Mercado^[5] **of Tablan who owned a jeep I use[d] to drive (before) and we got a car stereo including the jeep. Then, we brought the jeep to Buntong, Camaman-an and the driver, however, we freed the driver later.**

Q: What else?

A: On March 1993 we hold-up (sic) a collector of my brother whose name is Carmen Tan y Feliciano^[6] and we were able to get cash of P2,080.00; [a]nd, there was also [a] certain jeep, owned by Mr. Mangano that we carnapped and brought (it) to Aglayan, Malaybalay, Bukidnon.

Q: With the latest incident, what have you done?

A: Last April 16, 1993, we held-up a certain driver of [a] "PU Minica" whose name is Florentino Bolasito of Abellanos St.

Q: Will you tell us how the driver was killed and who killed them?

A: **On April 16, 1993, at 2:30 in the afternoon, I, Bebot Labtan an Jonelto Labtan [were] hang[ing] around outside Ororama Superstore at J.R. Borja St., of this City, and the three of us went to a place where most of PU Minica cars were parked. We were able to board one PU Minica driven by an old man.**

Q: **As you boarded the PU Minica where did you go?**

A: **We ordered the driver to take us to Buntong,**

Camaman-an of this City. When we arrive[d] thereat, Jonelto told us that he will visit his girlfriend while Bebot Labtan alighted, we remained inside the vehicle. As [the] driver demanded for the fare, however, we have no money to pay. Suddenly, I saw Bebot Labtan and Jonelto Labtan took a knife and stabbed the driver.

Q: After stabbing the driver, he died, and so Jonelto Labtan drove the PU towards Tipolohan and we leave (sic) behind the body of the driver, instead of me getting out from the car (sic), Jonelto did not stop the car (sic), so we proceeded towards Aluba Subd. And we left the PU Minica there.

A: After you left the PU Minica at Aluba, where did you go?

Q: I went home at Balolong of this City, and I do not [know] where my companions proceeded.

Q: Who then stabbed the driver?

A: The one who stabbed [the driver] [,] sir [,] was Jonelto Labtan and Bebot Labtan.

Q: Did (sic) you able to get some money from the driver?

A: Jonelto Labtan was able to get P30.00, and we brought (sic) a (sic) coconut wine at Kolambog, Lapasan.

Q: With respect to this (sic) two (2) knives which were taken from you and Bebot Labtan, what can you say about this (sic) knives?

A: These two (2) knives, sir, the sharp knife with a knife case is owned by Bebot Labtan, this double blade is owned by Jonelto Labtan.

Q: Are these [the] knives which were used by Bebot Labtan and Jonelto Labtan in stabbing the PU Minica driver if you know?

A: Yes, sir. Bebot Labtan used this knife with a knife case, but this knife which is double bladed was not used, the other kitchen knife like a fan knife which was left inside the PU was used by Jonelto in stabbing.