

## THIRD DIVISION

**[ G.R. No. 95751-52, December 02, 1999 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAIME TUMARU AND ALEX MAUN, ACCUSED-APPELLANTS.**

### DECISION

**PURISIMA, J.:**

Appeal interposed by Jaime Tumaru and Alex Maun from the Decision of Branch 26 of the Regional Trial Court in Luna, Kalinga-Apayao, finding them guilty of murder in Criminal Case Nos. 15-88 and 16-88 for the killing of Atty. Eduardo Madrid and Santiago Umoso, and sentencing them accordingly.

Filed on September 13, 1988 by 1st Assistant Provincial Fiscal Godofredo G. Guerrero, the Informations indicting appellants Jaime Tumaru and Alex Maun, allege:

#### **In CRIMINAL CASE NO. 15-88**

"That on or about the afternoon of May 24, 1987 at Malubibit, Flora, Kalinga-Apayao and within the jurisdiction of this Honorable Court, the above-named accused armed with guns, conspiring, confederating and mutually aiding one another with the attendance of treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and shot one EDUARDO MADRID y FERNANDEZ, inflicting upon the latter gun shot wounds thereby causing the direct and immediate death of said EDUARDO MADRID.

That the offense is further attended with the aggravating circumstance of ignominy.

CONTRARY TO LAW."<sup>[1]</sup>

#### **In CRIMINAL CASE NO. 16-88**

"That on or about the afternoon of May 24, 1987 at Malubibit, Flora, Kalinga- Apayao and within the jurisdiction of this Honorable Court, the above named accused armed with guns, conspiring, confederating and mutually aiding one another with the attendance of treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and shot SANTIAGO UMOSO inflicting upon the latter gun shot wounds thereby causing the direct and immediate death of said SANTIAGO UMOSO.

CONTRARY TO LAW."<sup>[2]</sup>

With the appellants entering negative pleas on November 29, 1988, upon arraignment with the assistance of Atty. Delfin Taala, as counsel *de parte*, joint trial ensued with the prosecution presenting Lorenzo Miguel, Zenaida Madrid, Dr. Ferdinand Nicolas, Jose Limmayog, Francisco Balanban, Sergio Sabbun, Froilan Taberna, Marcelo Lawat, Francisco Balanban, Nestor Ortega, Roy Umoso, Warlito Montanez, Villamor Caluya, and Disederio Mamba, as its witnesses.

For the defense, Florante Bariuan and appellants Jaime Tumaru and Alex Maun took the witness stand.

For the prosecution, Lorenzo Miguel and its other witnesses testified as follows:

Lorenzo Miguel is a native of Barangay 42, Apaya, Laoag City but he spent his summer vacation in his brother Moises' house in Ginto, Flora, Kalinga-Apayao.

On May 24, 1987, he (Lorenzo Miguel) together with his brother and two others were pasturing their carabaos in Papagan, Flora, Kalinga-Apayao. They later brought the carabaos to the river for a bath.

While his companions were still at the river and he was alone pasturing the carabaos in the riceland of Moises, a man sitting on the branch of a tree whistled and signaled him (Lorenzo Miguel) to go away by waving his left hand forward and backward. He did not accede and simply ignored such signal because he thought the man was his brother when, in fact, Moises was still at the river. He did not know the man. It was only during the trial that he came to know him to be Alex Maun. The place is a second growth forest and the tree is forty (40) meters away from the spot where he stood.

Meanwhile, two (2) persons riding on a motorcycle arrived. The driver was Municipal Councilor Santiago Umoso while the other on board was OIC Mayor Eduardo Madrid. Thereafter, he (Lorenzo Miguel) heard a gun rapport coming from the long gun of the man sitting on the branch of the tree. Atty. Madrid fell from the motorcycle. He got down from the carabao but remained in the place. Another person, later identified as Jaime Tumaru, who was at the foot of the tree, fired a short gun at Umoso. Lorenzo knew that Papagan is a critical area, having heard about it from his brother and friends.

Maun was wearing a sleeveless white T-shirt and maong long pants while Tumaru wore a T-shirt with short sleeves and blue stripes and short maong pants. The motorcycle fell together with Umoso. Frightened, Lorenzo ran to his brother's house but he did not report the incident to the police or the authorities.

On May 25, 1987, Lorenzo left for Laoag together with his father because his brother Moises told the father about what he (Lorenzo) witnessed.

Under cross-examination on May 29, 1989, Lorenzo testified that he was living with Mrs. Zenaida Madrid, widow of Atty. Madrid, in Tondo, Manila, since December 17, 1988. She was supporting him and even promised to send him to school. The police investigated him four times, once in Quezon City, in Tuguegarao, in Laoag City and at the office of JAGO on June 8, July 1, 6 and 30, 1987, respectively.

Mrs. Madrid sent a letter-request to the Chief of the Narcotics Section of the

National Bureau of Investigation (NBI) and on July 30, 1987, the latter referred the matter to NBI Agents Jose Limmayog and Francisco Balanban, who conferred with Cpl. Marcelo Lawat. The latter furnished them with copies of the sworn statements of Lorenzo Miguel, Moises Miguel and Eduardo Galvez. Lorenzo, in the presence of Mrs. Madrid, Cpl. Lawat, Atty. Laygo, Atty. Francisco Balonbon, Jr. and NBI Agent Danny Reyes, picked up the pictures of Jaime Tumaru and Alex Maun and identified them as the perpetrators of the crime.

Capt. Espia, Asst. Investigator Sergio Sabbun and Pat. Froilan Taberna, all from INP, Flora, Kalinga-Apayao, conducted the initial investigation. According to them, there was no danger in Flora except for the goons of former Mayor de San Jose. Attys. Laygo and Balonbon, together with Cpl. Lawat and Agent Reyes, proceeded to Camp Adduru in Tuguegarao where Capt. Espia produced the bodies of Tumaru and Maun. In two sets of line-up, Lorenzo Miguel identified the culprits as Alex Maun and Jaime Tumaru. Pictures were taken while the boy was identifying Maun and Tumaru. They came to know later that Atty. Madrid and Mayor de San Jose were political enemies.

Upon the order of Station Commander Roque Visitacion, Sabbun finalized the sketch dictated by Pat. Taberna, son-in-law of the deceased Umoso. Pat. Taberna was in the cockpit arena when C1Cs Conyado and Datugan, the latter being the security guard of Atty. Madrid, reported to him the incident. Together with Cesar Adsay and Lorenzo Magpale he went to the crime scene to recover the bodies of Atty. Madrid and Santiago Umoso. They saw Santiago Umoso lying on the ground face down with several gunshot wounds and clotted blood coming out from his mouth, between the junction going to Malubibit Norte and Sta. Maria, Flora, Kalinga-Apayao. They found the body of Atty. Madrid in the upper part of the mountain, left side of the road proceeding to the Poblacion of Flora, Kalinga-Apayao. There were gunshot wounds and Atty. Madrid's head was completely severed from the body. They were not able to recover his head. They also saw the motorcycle, and brought the cadaver of Atty. Madrid to the Poblacion on board his service car.

Dr. Ferdinand Nicolas, in his capacity as resident physician of Flora District Hospital, conducted an autopsy on the cadavers of Atty. Madrid and Santiago Umoso and submitted the following necropsy report:

"May 26, 1987

Autopsy report on the body of Atty. Eduardo Madrid, 47 years old, male, married, Filipino, Catholic, and presently residing at Poblacion West, Flora, Kalinga-Apayao.

Name of incident-Gunshot wound

Day of Incident-May 24, 1987

Time of Incident-3:30 P.M.

Place of Incident-Sitio Papagan, Barangay Tamalunog, Flora, Kalinga-Apayao.

Findings:

1. Complete avulsion of head and neck at level cervical vertebra #2 neck stump is corrugated with protruding ships of the bone.
2. Incised wound at about 1.5 cm., entrance at the middle 3rd of clavicle anterior chest wall, right, penetrating with exit at the back near the tip of

the scapula.

3. Gunshot wound with smudging entrance left, anterior chest wall at the area of the clavicle, middle 3rd measuring at about 1.5 x 1 cm. directed downward penetrating, perforating (?), with underlying complete fracture of the clavicle, and

4. Multiple semi-lunar abrasion with contusion, (sic) anterior chest wall;

a) Lateral aspect of sternum, right #4 measuring at about 2.5 x 2 cm.

b) Lateral aspect of sternum, left #3 measuring about 2 x 2 cm. each.

Cause of death: Cardiopulmonary arrest secondary to shock, secondary to hemorrhage.<sup>[3]</sup>

The findings on the body of Santiago Umoso were:

1. Gunshot wound at the head with wound entrance at the left nostril with laceration at about .5 cm directed upward and forward with exit at occipitoparietal region measuring about 12 by 10 cm with underlying traumatised (sic) brain tissue.

2. Gunshot wound lateral aspect right anterior chest wall, level of third rib measuring about 1.3 x 1 cm with smudging directed downward, penetrating, perforating with exit at left lumbar region measuring about 1x 1 cm.”<sup>[4]</sup>

Mrs. Madrid, together with her mother-in-law and sister-in-law, were in their house in the Poblacion, Flora, Kalinga-Apayao, when one Mr. Aguda informed them of the incident. She looked for their drivers in order to confirm what happened but they left upon knowing of the ambush. It was already 5:00 o'clock in the afternoon when the military and the bodyguards brought Atty. Madrid's remains to their house. He was beheaded. His body was embalmed and he lay in state for fifteen (15) days at Funeraria Baquiran in Aguilar, Pangasinan, for security reasons. She spent Sixty Thousand (P60,000.00) Pesos during the six-day wake at Funeraria Carbonel, Flora, Kalinga-Apayao. She also spent for the bringing of the body of her husband to Kalinga-Apayao; Six Thousand (P6,000.00) Pesos for the funeral car; One Thousand (P1,000.00) Pesos for gasoline, and Six Thousand (P6,000.00) Pesos for the tomb. She lost everything when her husband died because he (Atty. Madrid) was the breadwinner.

Mrs. Madrid narrated that her husband was involved in an altercation with Mayor de San Jose. There was a case against Alex Maun for which her husband acted as counsel for the complainants, regarding the killing of Cacaho. Maun wanted to settle the case amicably for the sum of Twenty Thousand (P20,000.00) Pesos. But the heirs of the victims would accede only to a settlement in the amount of Thirty Seven Thousand (P37,000.00) Pesos. The heirs of the victims were forced to consent for fear that they would be the next victims.

Roy Umoso, son of the deceased Santiago Umoso, borrowed the motorcycle owned by Clemente Ortega from the latter's son, Nestor Ortega, at 1:00 o'clock in the afternoon of May 24, 1987, upon the order of his father and Atty. Madrid. They used the motorcycle to go to Malubibit Norte. At 4:00 o'clock in the afternoon, he learned