

EN BANC

[G.R. No. 139670, January 21, 2002]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AHMAD LANGALEN Y DEMALEN A.K.A. "KUMANDER KAMLON," HASIM UPAM Y ABUBACAR, SAMSUDIN TALIB Y LIMBA, AND ABUBAKAR DAGADAS Y ANGGUBALA, ACCUSED-APPELLANTS.

DECISION

DAVIDE JR., C.J.:

Under automatic review is the decision^[1] of the Regional Trial Court (RTC) of Manila, Branch 18, in Criminal Case No. 95-145780, finding accused-appellants Ahmad Langalen y Demalen (hereafter AHMAD), Hasim Upam y Abubacar (hereafter HASIM), Samsudin Talib y Limba (hereafter SAMSUDIN) and Abubakar Dagadas y Anggubala (hereafter ABUBAKAR) guilty of violation of Presidential Decree No. 532, otherwise known as the Anti-Piracy and Anti-Highway Robbery Law of 1974, and sentencing them to suffer the penalty of death.

The accusatory portion of the information^[2] in Criminal Case No. 95-145780, under which accused-appellants were tried and convicted, reads as follows:

That at about 3:15 o'clock [sic] in the afternoon of September 8, 1995 along Palacio and Orosa Streets, Intramuros, Manila, a street or road used by persons or vehicles for movement, circulation or transportation of persons, goods or articles, and within the jurisdiction of this Honorable Court, the above-named accused, together with MOHAMAD MAMISON whose case is still pending preliminary investigation with the Department of Justice, and other persons whose identities are still unknown and are at large, conspiring, confederating and mutually helping one another, with intent to gain, did then and there, willfully, unlawfully and feloniously attack with firearms the four (4) vehicles convoy which were then traveling towards the general direction of Ermita, Manila and which occupants were then carrying money owned by proprietors/owners of VMG Money Changer amounting to Fourteen Million Seven Hundred Thousand (P14,700,000.00) Pesos, more or less, (Philippine Currency) and thereafter carted away said money contained in two (2) duffle [sic] bags and one (1) paper bag and on the occasion of such robbery, three (3) persons were killed and several others injured.

No bail was recommended for the temporary liberty of accused-appellants.

Upon their arraignment on 25 October 1995, accused-appellants entered a plea of not guilty and waived their right to a pre-trial. On even date, they filed a motion for bail on the ground that the evidence against them was weak. No action thereon was taken by the trial court. Trial on the merits proceeded on various dates.

The trial court summarized the evidence for the prosecution as follows:

The record shows that on September 8, 1995, at around 3:00 p.m. a convoy of nine male employees and/or private security guards of VMG Money Changer, which holds office in Ermita, Manila, together with two police escorts, SPO2 Romeo and SPO3 Ricardo Gonzales, were on board four cars travelling southward along Palacio Street. Loaded in the lead car driven by Zeny Santillan with Dante Castro and Gilbert Yu as passengers were two leather bags and one paper bag of money in the total sum [sic] of P13,600,000.00. The money was earlier withdrawn from the Metrobank (P7,000,000.00) and the Equitable Bank (P6,600,000.00) in Binondo, Manila. Of the three occupants of the lead car, only Castro was armed with a .45 cal. pistol.

On nearing the intersection of P. Burgos and Gen. Luna Streets, the convoy stopped, because the traffic lights [sic] turned red. At this point, several men in fatigue uniform with bonnets covering their faces, (only their eyes and noses were exposed) and armed with rifles and handguns, suddenly appeared and fired at the convoy. Castro was able to return fire and so did the two police escorts. Later, Castro and his companion jumped from their car to seek cover across the street, but while running, Castro sustained gunshot wounds in his right thigh and left buttock, which rendered him unconscious for a few minutes. SPO3 Gonzales, who was inside the last car of the convoy, died on the spot due to gunshot wounds, while SPO2 Romeo suffered gunshot wounds in his right thigh, right leg and right armpit. Two other members of the convoy, Tiborcio Tomas and Tony Diquit also suffered gunshot wounds. The gunmen swiped the P13,600,000.00 from the lead car of the ambushed convoy and drove away in their vehicles.

[National Bureau of Investigation] Agent Moises Tamayo was assigned to investigate the robbery. On September 10, 1995, Hasam Mohammad was introduced to Agent Tamayo by the latter's friend, Allan Sulaybar. Mohammad revealed that his common-law wife, Halina Gulam, knew some of the people involved in the robbery. On September 15, Agent Tamayo met Gulam, who confided to him that Mohammad Mamison was one of those involved in the robbery and she executed a written statement on the matter, Exhibit "1". On the basis of this information, the NBI procured a search warrant from Hon. Executive Judge William Bayhon of the RTC of Manila, against Mamison and raided his house on No. 158 24th Avenue, Rembo Fort Bonifacio, Makati, on the early morning of September 19, 1995. The NBI operatives led by Atty. Artemio Sacaging did not find any illegal firearms in the house of Mamison, but nevertheless invited the latter to their office for investigation. And after about three hours of questioning and friendly persuasion by Agent Tamayo, Senior Agents Serafin Gil and NBI Special Investigators Gregorio Tumagan and Rene Sagun, Mamison finally admitted in the presence of his lawyer, Atty. Perfecto Caparas, and wife, Normina Kamid, his participation in the robbery and implicated the four accused as among those involved. And the declaration of Mamison was reduced into writing, Exhibit "B".

On September 22, 1995, the NBI operatives armed with a search warrant, raided the house of Accused Ahmad Langalen on RIN, Maharlika, Taguig, Metro Manila, where the operatives found and confiscated one .38 cal. revolver; one .45 cal. pistol, (both unlicensed), and live ammunitions for the two handguns. The four accused, Langalen, Upam, Talib and Daganas, who were all in the house of accused Langalen at the time of the raid, were arrested for illegal possession of firearms. At the NBI Headquarters, the four accused were positively identified in a police line- up by Mamison as participants in the robbery, and in connection therewith, Mamison executed a supplemental sworn statement, Exhibit "C".

In the trial of the case, Mamison, who is in the custody of the NBI under the witness protection program, was presented as a prosecution witness. He affirmed the truthfulness of the two sworn statements he had given to the NBI, Exhibits "B" and "C", and he declared that he is from Cotabato City, Mindanao, where he was a farmer before he took up residence in Metro Manila. From his testimony, the court has gathered that on September 8, 1995, at around 8:00 a.m., Mamison visited Accused Langalen (alias Kumander Kamlon) at the latter's house in Taguig, Metro Manila. The two have known each other for a long time when they were both residing in Cotabato. Mamison asked Accused Langalen for a loan of P100.00, but he rejoined that he has [*sic*] no money and suggested that Mamison instead go with his (Langalen's) men who were about to leave. Mamison asked Accused Langalen where his men were going, but he was told by the latter to just go with his men and he (Mamison), would later know their destination. Wanting to earn some money, Mamison accepted the offer of Accused Langalen and boarded an owner type jeep together with Accused Upan, Langalen and Daganas, and two other men, Nortin Ismael and Ibrahim Usman. Mamison saw Accused Talib board an L-300 Van together with [the] other men of accused Langalen. Except (for) Mamison who is [*sic*] to act as look out, the men in the jeep were all equipped with firearms.

On reaching Intramuros, Mamison was made to get off from the jeep at a street corner near the Round Table Restaurant on Gen. Luna Street. Accused Upam instructed Mamison to inform them if he would see [*sic*] any policeman. Thereupon the jeep parked 20 meters away where the L300 Van later followed and also parked. Mamison saw the occupants of the jeep and the L-300 Van get off from the vehicles armed with handguns and rifles. Then suddenly he heard rapid gunfire and he saw his companions shooting at the occupants of the convoy of four cars that were on standstill. Alarmed and scared, Mamison ran to the direction of the City Hall, where he boarded a passenger jeepney and went home.^[3]

The trial court did not recount the testimonies of the other witnesses for the prosecution, nor did it consider the testimonies of some defense witnesses. This decision, consisting of slightly more than four (4) pages, is perhaps one of the shortest *ponencias* we have reviewed where the death penalty has been imposed. This is rather lamentable in light of the gravity of the offense charged and the number of witnesses presented by the prosecution and the defense.

We are thus constrained to painstakingly examine and assess the evidence the parties presented and offered. In the process, and for moral certainty, we deem it necessary to summarize the testimonies of the other witnesses in the case at bar.

Witness Luis Gelvez was a bank representative of Montes Moveo Corporation. Among his duties was to withdraw money from the bank. In the afternoon of 8 September 1995, he was with his co-worker Bong Canapi, and he was instructed to withdraw P7,000,000 from the Metropolitan Bank & Trust Company (Metrobank) and P1,000,000 from the Citytrust Banking Corporation, both at the Plaza Lorenzo Ruiz branch in Binondo, Manila. Canapi was tasked to withdraw P6,600,000 from the nearby Equitable Bank & Trust Company (Equitable Bank). After these transactions, Gelvez informed his office that the money was ready for pick-up at Metrobank. He eventually turned over the P8,000,000 to Dante Castro and Gilbert Chua, his co-employees who met him at the bank. He remained in the bank to settle the balance of the office account. In the meantime, Canapi confirmed that the P1,000,000 he withdrew from Equitable Bank had also been handed to Castro and Chua. The entire collection was to be delivered to the VMG Money Changer branches at M.H. del Pilar Street, Ermita, Manila and Dian Street, Makati.^[4]

Gelvez called up his wife, the cashier of VMG Money Changer, to inquire if Castro had already arrived. Instead, she asked where he was since she heard from the office's two-way radio that there were fatalities. He and Canapi immediately proceeded to the VMG Money Changer. On the way, they encountered heavy traffic near the city hall. He told Canapi to check the situation while he opted to park the car and walk toward Intramuros. There he saw the convoy of four cars used by Castro. All four vehicles were riddled with bullets and the police were already at the scene of the incident. He immediately checked the compartment of each car and discovered that all the money was gone. He also saw the dead body of their police escort inside a vehicle. There were five others who were wounded, all members of the convoy team. From there, he went back to the VMV Money Changer.^[5]

Witness Dante Castro, a member of the security force of the VMG Money Changer, testified that he was at their office in the afternoon of 8 September 1995 when he received a call from Luis Gelvez, who instructed him to fetch the money the latter had just withdrawn. Along with ten companions in a convoy of four cars, they proceeded to Metrobank, Binondo branch, where Gelvez was waiting. He received the money contained in a knapsack and a brown paper bag and kept it inside the car compartment, before proceeding to the Equitable Bank to get the money withdrawn by Bong Canapi. On their way back to the office, while waiting for a green light at the corner of P. Burgos and Palacio Streets in Intramuros, he saw at least four men in green and brown fatigue uniforms who suddenly fired at them with their rifles. He immediately took cover under the dashboard of the car, opened the door, and returned fire, hitting one of their assailants. Before he ran out of bullets, he saw three other men in fatigue uniform and wearing bonnets. He reloaded his gun then jumped out of the car to seek cover, but he was hit in the right thigh, which rendered him unconscious.^[6]

The money Castro collected from Gelvez and Canapi allegedly amounted to P15,000,000, which were stored in two bags and a paper bag. The two bags were kept in the car's compartment while the paper bag was hidden under his seat. The

entire collection was taken by their assailants. He also learned that their police escort, SPO3 Ricardo Gonzales, died on the spot, while another police escort received three gunshot wounds. One of their drivers was also injured. He categorically denied that any of their assailants were inside the courtroom. Neither could he identify them as their faces were concealed.^[7]

Witness Senen Santillan, a driver at the Montes Moveo Corporation, recalled that in the afternoon of 8 September 1995, he was assigned to drive for Castro and his companion to Binondo. A convoy of four cars left the office and proceeded to Metrobank, Binondo branch. Castro and his companion alighted to go inside the bank and they returned after a couple of minutes with Castro toting a bag. He was told to open the compartment of the car, where Castro placed the bag. They proceeded to Equitable Bank, where the two obtained another bag, which was also placed in the car's compartment. Before boarding the car, Castro also received from a bank representative a paper bag which he placed beside his leg. On their way to Ermita, they were ambushed. He saw four men get off a green car in front of them. The men, wearing green fatigue uniforms and bonnets, immediately fired at them. He dove for cover, alighted from the car, and crawled under it. The gunfire went on for about five minutes. After the shootout, he saw that some of his companions had been wounded. He also discovered that the money was gone. However, he denied if he could still identify the malefactors.^[8]

Witness PO3 Rodolfo de Castro was in the vicinity of the incident when he heard the gunshots. At the scene of the shootout, he saw a man in a long-sleeved brown *barong tagalog* armed with a baby armalite. They exchanged fire. He described the suspect as between 40 and 45 years old, about 5'6" and 150 pounds, with fair complexion and chinky eyes. The suspect escaped in a red car, which he chased in vain. He was certain that there was no owner-type jeep or L-300 van involved in the shootout.^[9]

Witness SPO3 Pio Inocencio was another policeman who arrived at the crime scene after the incident. He saw four cars parked one after the other, all with multiple bullet holes. In the last car was an unidentified person, who apparently died on the spot. His team made an ocular inspection, took pictures and gathered available evidence for laboratory analysis. Investigation revealed that the suspects used four cars. He prepared a police report and a sketch^[10] of the crime scene. Altogether, he submitted five progress reports^[11] on the case.^[12]

The gist of the testimony of Mohammad Mamison is contained in the factual findings of the trial court which was earlier quoted.

Witness Moises Tamayo was the National Bureau of Investigation (NBI) agent who took the statement of Mohammad Mamison in relation to the incident of 8 September 1995, after the NBI assumed jurisdiction over the investigation of the case and Mamison's involvement therein was determined. Tamayo was able to persuade Mamison to give a statement with the assistance of counsel, whom Tamayo recommended. Mamison eventually signed two sworn statements which also bore counsel's signature, where he identified accused-appellants as the perpetrators of the crime under investigation. Subsequently, AHMAD's home was raided, resulting in the confiscation of unlicensed .38 and .45 revolvers and ammunition. Accused-appellants were eventually arrested and were properly