

FIRST DIVISION

[G.R. Nos. 112453-56, June 28, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GERARDO LATUPAN Y SIBAL, ALIAS JERRY, ACCUSED-
APPELLANT.**

D E C I S I O N

PARDO, J.:

The case is an appeal from the decision^[1] of the Regional Trial Court, Tuao, Cagayan, Branch 11 convicting Gerardo Latupan y Sibal, *alias* Jerry of the complex crime of double murder and sentencing him to "life imprisonment" and to indemnify the heirs of the two victims in the amount of fifty thousand (P50,000.00) pesos each. The court also convicted accused Gerardo Latupan of inflicting physical injuries to Jaime Asuncion, and sentenced him to "ten days imprisonment" and to pay two hundred (P200.00) pesos as indemnity.

On April 13, 1992, Provincial Prosecutor Alejandro A. Pulido of Cagayan filed with the Regional Trial Court, Tuao, Cagayan four separate informations charging Gerardo Latupan y Sibal *alias* Jerry with two counts of frustrated murder and two counts of murder, committed as follows:

Criminal Case No. 379-T

"That on or about April 29, 1991, in the Municipality of Tuao, Province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, Gerardo Latupan alias Jerry, armed with a pointed knife, with intent to kill, with evident premeditation and with treachery did then and there willfully, unlawfully and feloniously attack, assault, box, maul, kick and hit with his aforesaid arm one Leo Asuncion, inflicting upon him injuries on the different parts of his body.

"That the accused had performed all the acts of execution which would have produced the crime of Murder as a consequence but which, nevertheless, did not produce it by reason of causes independent of his own will.

"Contrary to law."^[2]

Criminal Case No. 380-T

"That on or about April 29, 1991, in the Municipality of Tuao, Province of Cagayan, and within the jurisdiction of this

Honorable Court, the said accused, Gerardo Latupan alias Jerry, armed with a pointed knife, with intent to kill, with evident premeditation and with treachery did then and there willfully, unlawfully and feloniously attack, assault, box, maul and kick one, Jaime Asuncion inflicting upon him injuries on the different parts of his body.

"That the accused had performed all the acts of execution which would have produced the crime of Murder as a consequence but which, nevertheless, did not produce it by reason of causes independent of his own will.

"Contrary to law."^[3]

Criminal Case No. 381-T

"That on or about April 29, 1991, in the Municipality of Tuao, Province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, Gerardo Latupan alias Jerry, armed with a pointed knife, with intent to kill, with evident premeditation and with treachery did then and there willfully, unlawfully and feloniously attack, assault and stab one, Jose Asuncion inflicting upon him stab wound on his body which caused his death.

"Contrary to law."^[4]

Criminal Case No. 382-T

"That on or about April 29, 1991, in the Municipality of Tuao, Province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, Gerardo Latupan alias Jerry, armed with a pointed knife, with intent to kill, with evident premeditation and with treachery did then and there willfully, unlawfully and feloniously attack, assault and stab one, Lilia Asuncion inflicting upon her stab wounds on her body which caused her death.

"Contrary to law."^[5]

At the arraignment on May 25, 1993, accused pleaded not guilty to the charge of frustrated murder.^[6] During the pre-trial conference of the four cases, accused offered to change his plea of not guilty to guilty of the complex crime of double murder and frustrated murder. The prosecution did not interpose any objection. Thus, on July 20, 1993, the trial court re-arraigned the accused. He withdrew his plea of not guilty and instead pleaded guilty to the single offense of multiple murder with multiple frustrated murder.^[7]

Thereafter, the trial court ordered the prosecution to present evidence to establish the culpability of the accused.

The facts are as follows:

On April 29, 1991, at around 4:00 in the afternoon, Ceferino Dagulo (hereafter Ceferino) was chopping firewood outside his house in Angang, Tuao, Cagayan. Suddenly, he heard the shouts of a woman and a child coming from the north.

Moments later, Ceferino saw accused Gerardo Latupan y Sibal walking in his direction, carrying a thin, bloodied knife. Accused Latupan entered the house of Ceferino and started chasing Ceferino's wife, who was able to run to another house nearby. Unable to catch Ceferino's wife, accused Latupan turned to Ceferino and said, "I will kill you all." At that time, accused Latupan's clothes, chest, hands and legs were full of blood. Accused Latupan attempted to thrust the knife into Ceferino, who was able to parry it. Later on, accused Latupan told Ceferino to bring him to the authorities and tried to give the knife to Ceferino. Ceferino refused to touch the knife and told accused to go to the authorities by himself. Hearing this advice, accused ran away.

The house of Emilio Asuncion (hereafter Emy) was 100 meters from Ceferino's house. At around 4:00 in the afternoon of the same day, Emy Asuncion was returning to his house from a store. He reached his house and found his wife, Lilia, dead on the ground with several stab wounds on her body. His one-year old son, Leo, was lying on top of Lilia Asuncion. Emy picked up Leo and saw that the left side of Leo's face was lacerated. He saw Jaime, his three-year old son and asked where Jose, his eldest son, was. At that moment, Emy heard the voice of Jose from upstairs of the house, asking for medicine. He ran upstairs and saw that Jose was wounded. He asked Jose who stabbed him. Jose replied, "Uncle Jerry, Tatang." Seeing that Jose needed immediate medical treatment, Emy brought him to the house of Ceferino and then returned to his house to get his two other children, Leo and Jaime. They left the corpse of Lilia Asuncion inside Emy's house.

Lilia Asuncion was the sister of Ceferino's wife.

Meanwhile, Ceferino tried to ask a barangay councilman for assistance. Failing to obtain assistance, Ceferino went back to his house and found Emy Asuncion and his children there. Then, Ceferino went to a military camp to borrow a vehicle to bring the children to the hospital. The military men provided them with a jeep. Thus, the three children were taken to the Nuestra Señora de Piat Hospital in Cabalansan. Riding in the jeep were five soldiers, the accused Latupan, Emy Asuncion, Ceferino Dagulo, Ceferino's wife, and the three children, Leo, Jaime and Jose Asuncion.

During the trip to the hospital, Emy's son, Jose, saw accused Latupan inside the jeep. Jose pointed to accused Latupan as the one who stabbed him.

At the hospital, the doctors treated the injuries of Leo and Jaime. However, the doctors advised Emy and Ceferino to bring Jose to another hospital due to the seriousness of his wounds. So, they proceeded to Cagayan Valley Regional Hospital. Sadly, Jose was dead on arrival.^[8] He was only nine years old.

Jaime, 5 year-old son of Emy Asuncion, testified that he was three years old when the incident occurred. He stated that accused Latupan stabbed his mother, stepped on him, threw his brother, Leo, outside the window and stabbed his other brother, Jose.^[9]

After presenting testimonial and documentary evidence, the prosecution rested its case. The defense did not present any testimonial or documentary evidence, merely relying on accused's plea of guilty. Thus, the case was considered submitted for decision.

On August 25, 1993, the trial court rendered a decision, the dispositive portion of which reads:

"WHEREFORE, finding the accused GERARDO LATUPAN alias JERRY GUILTY beyond reasonable doubt of the complex offense of Double Murder, the Court hereby sentences him to suffer life imprisonment and to indemnify the heirs of the two victims in the amount of P50,000.00 each or a total of P100,000.00.

"For the physical injuries suffered by Jaime Asuncion, the accused is sentenced to suffer ten (10) days imprisonment. Likewise, for the physical injuries suffered by Leon Asuncion, the accused is also sentenced to suffer ten (10) days imprisonment, both to be suffered simultaneously with the more grievous sentence of life imprisonment, plus P200.00 indemnity to each of the two victims.

"SO ORDERED.

"Given in chambers this 25th day of August, 1993, at Tuao, Cagayan, Philippines."

"(sgd.) ORLANDO D. BELTRAN

"Judge"^[10]

Hence, this appeal.^[11]

Accused-appellant pleaded guilty to the single offense of multiple murder with multiple frustrated murder.

Although this Court has set aside convictions based on plea of guilty in capital offenses because of improvidence thereof and when such plea is the sole basis of the condemnatory judgment, the circumstances of this case merit a different result. "Where the trial court receives evidence to determine precisely whether or not the accused erred in admitting his guilt, the manner in which the plea of guilty is made (improvidently or not) loses legal significance, for the simple reason that the conviction is based on the evidence proving the commission by the accused of the offense charged."^[12]