

## THIRD DIVISION

[ G.R. No. 117398, August 15, 1997 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ANDRES DABBAY, ACCUSED-APPELLANT.**

### D E C I S I O N

**FRANCISCO, J.:**

At dawn of February 16, 1992, the lifeless body of Jacinto Sibal was found hog-tied and floating along the banks of the Cagayan River.

Charged with the killing of Jacinto were brothers Andres and Alfonso Dabbay, their cousin Rolly Dabbay and appellant's former neighbor, Dante Tuliao. The indictment against them for murder reads: "That on or about February 15, 1992, in the municipality of Iguig, province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, Andres Dabbay, Dante M. Tuliao, Alfonso Dabbay y Erro and Rolly Dabbay, armed with sharp pointed bladed instrument, conspiring together and helping one another with intent to kill, with evident premeditation, treachery and taking advantage of superior strength did then and there, willfully, unlawfully, feloniously hog-tied, attack assault and stab one, Jacinto Sibal thereby inflicting upon him stab wounds on his body which caused his death, thereafter drowned him at the Cagayan River."<sup>[1]</sup>

Three of the accused (Andres Dabbay, Alfonso Dabbay and Dante Tuliao) were arrested but allowed bail. Accused Rolly Dabbay, on the other hand, absconded and is still at large. Trial ensued and after the prosecution rested its case counsel for the accused filed a demurrer to evidence. In an order dated July 23, 1993, the Regional Trial Court (RTC) of Cagayan, Branch 2, dismissed the case against Alfonso Dabbay and Dante Tuliao for insufficiency of evidence but denied the demurrer with regard to accused-appellant Andres Dabbay.

Trial proceeded to its conclusion and judgment was thereafter rendered convicting appellant, the dispositive portion of which reads:

"WHEREFORE, finding the accused Andres Dabbay guilty beyond all reasonable doubt of the crime of murder, defined and penalized under Article 248 of the Revised Penal Code, he is hereby sentenced to reclusion perpetua with all the accessories of the law and to indemnify Angela Sibal and Romulo Sibal the amount of P17,845.00 as actual damages and P50,000.00 for the death of Jacinto Sibal and to pay the costs.

SO ORDERED."<sup>[2]</sup>

Hence, the present appeal.

The antecedent facts as accurately narrated in the People's Brief are as follows:

"1. Jacinto Sibal, an electrician by occupation, after working in Abra for a month, returned to his hometown in Barangay Redondo, Municipality of Iguig, Cagayan, on February 8, 1992, for a vacation. (pp. 8-10, tsn, A. Sibal, March 23, 1993).

"2. Three days later, he reported to his mother, Angeles Sibal, an incident which took place on the date of his arrival. He told her that he saw appellant Andres Dabbay, Rolly Dabbay and Alfonso Dabbay pulling his (Jacinto's) grandmother's pig on the road at about 12:00 o'clock midnight. Angeles later learned that his grandmother, Lola Henta, actually lost a pig. (pp. 10-11 and 15-16, A. Sibal, March 23, 1993).

"3. On the night of February 15, 1995, there was a benefit dance of the Kabataang Barangay in Redondo. Jacinto and his younger brother Edmundo decided to attend the benefit dance. (pp. 17-18, tsn, A. Sibal, March 23, 1993; p. 5, tsn, E. Sibal, March 29, 1993).

"4. In the afternoon of the same day, Angeles Sibal's 'balae', Dominador Ragingan, whose nephew was married to her daughter, and who lived at Barangay Atanang Ginad in the Municipality of Baggao, Cagayan, went to her (Angeles) house in order to watch the benefit dance in Redondo. That night, Dominador left alone for the dance hall. (pp. 20-21, tsn, A. Sibal, March 23, 1993; pp. 2-4 and 24, tsn, Ragingan, April 2, 1993).

"5. Meanwhile, upon their arrival at the dance hall, while Edmundo attended the benefit dance, Jacinto, on the other hand, joined appellant Andres Dabbay, Alfonso Dabbay, Rolly Dabbay and Dante Tuliao who were having a drinking spree beside the road, about four to five meters away from the dance hall. While they were drinking, Jacinto called out to Edmundo to join them but he (Edmundo) refused. (pp. 23-25, tsn, A. Sibal, March 23, 1993; pp. 5-6 and 15-16, tsn, E. Sibal, March 29, 1993).

"6. Near midnight, somebody threw stones at the dance hall. A commotion resulted which made people leave the dance hall. Edmundo ran out of the dance hall and looked for his brother. However, he failed to find Jacinto and thus went home. (pp. 6-7 and 16-17, tsn, E. Sibal, March 29, 1993).

"7. Dominador, on the other hand, upon seeing the commotion, also ran out of the dance hall. As he ran towards the direction of the street, he came to a stop as he saw appellant Andres Dabbay with four other persons who were about two to three meters away from him. (pp. 4, 11 and 13, tsn, Ragingan, April 2, 1993).

"8. Dominador saw appellant tying a person who turned out to be Jacinto Sibal and who was being held by two other people. There was a fifth

person on the scene who was holding a knife. As Dominador came to a halt for less than a minute, appellant told him not to reveal what he saw. Appellant also threatened him, uttering, ' If you will tell anybody what you saw, we will going (sic) to kill you.' (pp. 4-5 and 9-11, tsn, Ragingan, April 2, 1993).

"9. After being threatened by appellant, Dominador immediately left the scene and returned to Angeles Sibal's house. He went to sleep and, at about four o'clock in the morning of the following day, left the house for the road where he waited for his ride to Baggao. (pp. 5 and 13-14, tsn, Ragingan, April 2, 1993; pp. 21-22, tsn, a. Sibal, March 23, 1993).

"10. After spending the whole night in his farm guarding his watermelons, Romulo Sibal, Edmundo and Jacinto's father, returned to his house at about six o'clock in the morning of February 16, 1992. As soon as he reached his house, his daughter informed him that Jacinto had been killed. Earlier, his son Edmundo was informed by people who washed their clothes at the river that Jacinto's body was at the bank of the Cagayan river along Barangay Salamagui. Together with two barangay officials and their neighbors, Romulo and Edmundo proceeded to the river. (pp. 3-4, tsn, R. Sibal, March 31, 1993; pp. 17 and 21-25, E. Sibal, March 29, 1993).

"11. Jacinto's body was indeed at the river bank of Salamagui. (p. 4, tsn, R. Sibal, March 31, 1993). The cadaver was brought to the Sibal's house where Angeles saw that the neck and arms of Jacinto had been tied. (p. 12, tsn, A. Sibal, March 23, 1993).

"12. A post mortem examination of the cadaver was conducted by Dr. Edward Antonio who issued a Medical Certificate dated February 16, 1992, the contents of which were admitted by the defense. (pp. 2-3, tsn, A. Sibal, March 23, 1993). The Medical Certificate revealed that the victim bore many stab wounds, six hematomas on the head and had been hogtied. (pp. 2-3, tsn, A. Sibal, March 23, 1993). From the nature of the wounds suffered by the victim and the fact that he had been hogtied, the conclusion was made that there could have been more than one assailant. (pp. 3-4, tsn, A. Sibal, March 23, 1993)."<sup>[3]</sup>

In his appeal, appellant contends that the circumstantial evidence presented in this case is not sufficient to warrant a conviction. Further, he assails the credibility of the prosecution witnesses by pointing to some alleged inconsistencies in their testimony, i.e., while Edmundo testified that he did not see the victim after he left the dance hall, on the other hand, Dominador claimed having seen appellant tying the victim with the help of three other men after he had left the dance hall.<sup>[4]</sup>

While there is no eye-witness who testified to having seen appellant stab Jacinto Sibal, yet all circumstances point to him as one of the perpetrators of this ghastly deed.

The incriminating circumstantial evidence pointing to appellant's guilt as aptly observed by the trial court are as follows: