

[SYLLABUS]

[G.R. Nos. 96178-79, March 29, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDUARDO ESMAQUILAN, ACCUSED-APPELLANT.**

D E C I S I O N

ROMERO, J.:

For the death of Police Corporal Rogelio Dedal and Pablo Esteban, two separate informations for murder were filed on August 13, 1984 by First Assistant Provincial Fiscal Bonifacio J. Pagunsan against Eduardo Evangelista alias "Eduardo Panaguiton," Eduardo Esmaquilan, and the following persons all surnamed Mondia: Danny alias "Baby," Herman, Sr., Herman, Jr., Gilberto, Edwin, Edgar alias "Yongyong," Rizaldy, and Alderico.

Trial was initially conducted by Judge Rodolfo C. Soledad of the Regional Trial Court of Surallah, South Cotabato, Branch 26, from the arraignment of the accused until the prosecution rested its case. Thereafter, Judge Cristeto D. Dinopol presided. After hearing the entire version of the defense, as well as the testimony of Primitivo Fabian, lone eyewitness of the prosecution who was recalled to the stand, Judge Dinopol rendered a joint decision dated July 15, 1988, the dispositive portion of which reads as follows:

"IN VIEW OF THE FOREGOING, judgment is hereby rendered:

1. In Criminal Case No. 314-B, the accused Eduardo Evangelista, Herman Mondia, Jr., Edgar Mondia, and Eduardo Esmaquilan are found guilty beyond reasonable doubt as principals of the crime of murder. There being no modifying circumstances to consider, the Court sentences Herman Mondia, Jr., Edgar Mondia and Eduardo Esmaquilan to suffer the penalty of Reclusion Perpetua; while the accused Eduardo Evangelista(,) with one mitigating circumstance in his favor(,) is sentenced (to an indeterminate penalty of imprisonment) from Fourteen (14) years, Eight (8) months and One (1) day of Reclusion Temporal as minimum to Seventeen (17) years, Four (4) months and One (1) day of Reclusion Temporal as maximum.

The said accused Eduardo Evangelista, Herman Mondia, Jr., Edgar Mondia, and Eduardo Esmaquilan are sentenced to pay jointly and severally the Heirs of Rogelio Dedal the sum of Thirty Thousand (P30,000.00) Pesos, Philippine Currency, for (sic) reimbursement of actual expenses incurred in relation to the death of Rogelio Dedal and to further indemnify jointly and severally the Heirs of Rogelio Dedal by reason of Rogelio's death in the sum of Thirty Thousand (P30,000.00) Pesos, Philippine Currency.

The accused Danny "BABY" Mondia, Herman Mondia, Sr., Gilberto Mondia, Rizaldy Mondia, Alderico Mondia and Edwin Mondia, upon reasonable doubt, are hereby acquitted.

2. In Criminal Case No. 315(-B), Danny "Baby" Mondia, Herman Mondia, Jr., Eduardo Esmaquilan, Gilberto Mondia and Edwin Mondia are found guilty beyond reasonable doubt as principals of the crime of murder and there being no modifying circumstance to consider, the Court sentences each one of them to suffer the penalty of Reclusion Perpetua and to jointly and severally indemnify the Heirs of Pablo Esteban the sum of Thirty Thousand (P30,000.00) Pesos, Philippine Currency, by reason of the death of said victim. There being no evidence presented to prove actual expenses incurred in relation to Pablo's death, the Court cannot speculate.

The accused Eduardo Evangelista, Herman Mondia, Sr., Edgar Mondia, Rizaldy Mondia and Alderico Mondia, upon reasonable doubt, are hereby acquitted.

SO ORDERED."

To recapitulate, of the ten accused, Rizaldy, Alderico, and Herman, Sr., all surnamed Mondia, were acquitted in both cases, while Eduardo Evangelista did not appeal his conviction.^[1] Edwin and Edgar Mondia died in separate incidents on August 7, 1990 and March 6, 1991,^[2] respectively, while their case was on appeal. The appeal of Herman Mondia, Jr. was dismissed in the Court's resolution dated February 27, 1995, "for having escaped confinement during the pendency of his appeal."^[3] Danny and Gilberto Mondia have both withdrawn their appeals^[4] in order to seek a commutation of their sentences. Thus, the remaining appellant in these cases is Eduardo Esmaquilan. His participation in the crimes charged, if any, shall be shown presently.

Primitivo Fabian, the only alleged eyewitness presented by the prosecution, testified on June 5, 1985 before Judge Soledad and on November 19, 1987 before Judge Dinopol. The first time he was on the witness stand, he claimed that at around 6:00 o'clock in the evening of June 9, 1984, he and officer Dedal were riding a tricycle driven by Esteban on their way to the Poblacion of Banga. Dedal sat in front while Fabian sat at the rear of the "back-to-back" sidecar.^[5] Upon reaching Bo. 1, a group of men blocked the road. One of them, later identified as Danny Mondia, hurled a stone at the motorcycle's windshield, breaking it and hitting the head of Esteban, who fell to the ground.^[6]

Dedal alighted and introduced himself as a policeman, but he was only ignored by the group which separately ganged up on him and Esteban. He drew his gun and fired warning shots to no avail because his chest was stabbed twice by Eduardo Evangelista and once by Herman Mondia, Sr.^[7] Someone else grabbed his gun as others held his hands. He was also stoned and hacked with a bolo on the head. Esteban's head was likewise hit with a bolo.

Esteban and Dedal were then dragged to a muddy rice paddy where they were strangled and trod upon until their bodies sank in the mud. They were later divested of their personal belongings. Fabian apparently saw all of these from a distance of about ten meters while hiding in a ditch.^[8]

While in a state of shock, Fabian rose from the ditch and managed to mingle with the group, who thought that he was "one of their companions."^[9] When noticed by Herman, Sr., he denied being a companion of Dedal and Esteban. Herman, Sr. then ordered the group to run as the two victims were already dead^[10]

Yet, he also testified that as the group moved away from the rice paddy, he stood up, ran and was chased by one of the men who ordered him to return. He did not heed the man's command and continued to run as fast as he could so that he would not be overtaken and caught.^[11]

Amazingly, Fabian was able to specify the participation of each of the accused in the two killings, to wit:

1. Edgar Mondia held Dedal's wrists;
2. Rizaldy Mondia stepped on Dedal's body in the mud;
3. Herman Mondia, Jr. was among those who ganged upon and strangled Dedal;^[12]
4. Gilberto Mondia also stepped on Dedal's body and struck Esteban with a stone;
5. Danny Mondia was the one who stoned the tricycle's windshield but he did not gang up on Dedal;^[13]
6. Esteban was ganged upon by the following Mondias: Herman, Sr., Danny, Rizaldy, Gilbert and Edwin; Eduardo Evangelista; and the following Mondias who remain at large: Ulyses, Romulo, Ricardo, Sr. and Jr.;^[14]
7. Dedal was ganged upon by Eduardo Evangelista, and the following Mondias: Herman, Sr. and Jr., Gilberto, Edgar, Rizaldy and Danny;^[15]
8. Eduardo Evangelista stabbed Dedal and stepped on his body in the mud;^[16]
9. Herman Mondia, Sr. also stabbed Dedal;
10. Edgar, Edwin and Gilberto Mondia strangled Dedal;^[17] and
11. Eduardo Esmaquilan dragged and stepped on the body of Esteban.^[18]

When he testified anew on November 19, 1987, Fabian reiterated his earlier narration, although with a couple of material discrepancies, namely, (a) he admitted seeing Eduardo Esmaquilan for the first time while the latter was detained at the Banga Poblacion jail;^[19] and (b) he said that he and Dedal were riding side-by-side on the front seat of the sidecar when the incident occurred; no one sat at the back.^[20]

As stated at the outset, Eduardo Esmaquilan, the lone appellant in these cases, was found guilty of killing both Dedal and Esteban. Upon a re-examination of the entire proceedings as well as the decision rendered by the trial court, however, this Court believes that a serious injustice has been done. Such error must now be corrected.

It cannot be stressed enough that to convict a man of any crime, his guilt must be proved beyond reasonable doubt. This is in keeping with the constitutional presumption of innocence of any man accused of committing a crime. Thus, it is better to liberate a guilty man than to unjustly keep in prison one whose guilt has not been proved by the required quantum of evidence. The onus of proving the guilt of an accused person rests upon the State. The prosecution cannot simply rely on the weakness of the defense especially when, as in this case, the accused-appellant did not proffer any evidence to prove his innocence.

But what is the prosecution's evidence against Esmaquilan? It cannot be Fabian's testimony. Fabian claimed Esmaquilan only dragged and stepped on Esteban's body. Nowhere in his testimony did he ever say that Esmaquilan did anything else. In fact, he pointed to Eduardo Evangelista as the one who stabbed Dedal twice, consistent with the physical evidence showing that Dedal suffered two fatal stab wounds on the chest.^[21] Evangelista was convicted precisely because the trial court believed Fabian's account of the circumstances leading to Dedal's death.

In complete disregard of logic and procedure, the court a quo relied instead on the evidence of the defense. Evangelista's testimony was, in one instance, both spurned and embraced by the court. It was rejected as far as Evangelista's denial was concerned, but adopted for the purpose of convicting his co-accused, including Esmaquilan. Thus, the court said:

"Eduardo Esmaquilan presented no evidence to disprove the evidence of the prosecution against him. He had not denied either Evangelista's testimony that he did acts which were proof of the offenses charged against him, or that of Fabian(s).^[22] (Italics supplied).

According to Evangelista, the tricycle used by Esteban, Dedal and Fabian stopped because he and the Mondias were blocking the road. Esmaquilan was the one who smashed the windshield of the tricycle and stabbed Dedal once. He merely stood and watched his companions and co-accused kill the two victims; he was not able to see anymore what happened later, when Dedal was brought to the rice paddy, because the place was steep.^[23]

It is clear from the foregoing that Eduardo Esmaquilan cannot be held accountable for the death of officer Dedal. How can he be when the prosecution's lone eyewitness failed to point to him as the culprit? Neither can the court rely on