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make respondent company liable to the workers for the payment of their wages AT CURRENT RATES from and after the expiration of such thirty-day period. The mother federation PAFLU AND RESPONDENT LIBERTY COTTON MILLS INC. ARE hereby sentence to pay JOINTLY AND SEVERALLY complainants-workers the equivalent of three (3) years backwages (AT THE RATES ACTUALLY RECEIVED BY THEM BEFORE THEIR DISMISSAL) without deduction or qualification, AND RESPONDENT PAFLU IS IN TURN SENTENCED TO REIMBURSE AND PAY RESPONDENT LIBERTY COTTON MILLS, INC. ANY AND ALL SUCH AMOUNTS THAT SAID RESPONDENT *COMPANY MAY PAY HEREUNDER BY WAY OF BACKWAGES TO* THE COMPLAINANTS-WORKERS.

"In view of the length of time that this dispute has been pending, this decision shall be immediately executory upon promulgation and notice to the parties. Without pronouncement as to costs."

Teehankee (Chairman), Fernandez, Guerrero, and *De Castro, JJ.,* concur.

Melencio Herrera J., reserves her vote.

EN BANC

[G.R. No. L-34356. May 31, 1979]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **JULIO VALERA and ERNESTO IMPERIAL,** *defendants,* **JULIO VALERA,** *defendant-appellant.*

[G.R. No. L-37016. May 31, 1979]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **JULIO VALERA and ERNESTO IMPERIAL,** *defendants,* **ERNESTO IMPERIAL,** *defendant-appellant.*

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SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; NOT AFFECTED BY MINOR INCONSISTENCIES.** — Relatively minor inconsistencies between the testimony of various witnesses or in the testimony of the same witness do not affect their basic credibility.

2. **ID.; ID.; ID.; TESTIMONY OF A MINOR, GIVEN WEIGHT.** — An intelligent boy is undoubtedly a good observer. He is little influenced by the suggestion of others and describes objects and occurrences as he has really seen them.

3. **ID.; ID.; ID.; STANDS IN THE ABSENCE OF ILL-MOTIVE.** — The absence of evidence as to any improper motive which may influence a principal witness for the prosecution strongly tends to sustain the conclusion that no such motive existed and his testimony is worthy of full faith and credit.

4. **ID.; ID.; ID.; RULE IN CASE OF INCONSISTENT AND CONTRADICTORY STATEMENT MADE UNDER OATH.** — The testimony of a co-accused who was taken from the penitentiary to testify for appellant, precisely to completely exculpate the latter is not worthy of credence where it appears that the co-accused had previously declared under oath that appellant instigated the commission of the crime and actively participated therein. Such inconsistent and contradictory statements made under oath does not argue in favor of the credibility of the declarant.

5. **ID.; CRIMINAL PROCEDURE; RIGHTS OF ACCUSED; RULE IN CASE OF PLEA OF GUILTY IN CAPITAL OFFENSES.** — In capital offenses where a plea of guilty is entered by the accused, the court must assure itself that he is fully aware of the implication of said plea and to this end, it may or should take some evidence to be reasonably certain that no injustice is done.

6. **ID.; ID.; PLEA OF GUILTY; CONSEQUENCES.** — Where after his arraignment and plea of guilty, accused was placed on the witness stand and after he was confronted with his extrajudicial admissions contained in his affidavit, he clearly and categorically confirms the truth and correctness of his confession, such

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admissions and overt acts show clearly that appellant fully understood the meaning and implication of this plea of guilty.

7. **CRIMINAL LAW; MITIGATING CIRCUMSTANCES; PLEA OF GUILTY, EFFECT OF.** — While an unqualified plea of guilty is mitigating, it, at the same time, constitutes an admission of all the material facts alleged in the information, including the aggravating circumstances therein recited. In such a case, the prosecution need not prove said circumstances since the accused by his plea of guilty, has already supplied the requisite proof.

8. **ID.; AGGRAVATING CIRCUMSTANCES; TREACHERY; ABSORBS NOCTURNITY, ABUSE OF SUPERIOR STRENGTH AND CRAFT.** — Nocturnity, abuse of superior strength and craft are absorbed in treachery.

9. **ID.; ID.; CRUELTY; WHEN APPRECIATED.** — In order that cruelty may be aggravating, it must be shown that the accused, for their pleasure and satisfaction, caused the victims to suffer slowly and gradually and inflicted on them unnecessary moral and physical pain.

APPEARANCES OF COUNSEL

Office of the Solicitor General for plaintiff-appellee.
Lorenzo P. Navarro for appellant Valera.
Salvador Laurel for appellant Imperial.

D E C I S I O N

***PER CURIAM*:**

Automatic review of the death sentence imposed by the Court of First Instance of Oriental Mindoro in Criminal Cases Nos. 409 and R-409-P on Julio Valera and Ernesto Imperial for the crime of Robbery with Double Homicide. For the slaying of the spouses Marcial Jalotjot and Valeriana Hernandez and the robbery committed in their house on the night of August 6, 1967, at Barrio Putingtubig, Pinamalayan, Oriental Mindoro, Julio Valera and Ernesto Imperial were charged with the crime of Robbery with Double Homicide, as follows:

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"The undersigned Assistant Provincial Fiscal accuses JULIO VALERA *alias* Juan Madrid and ERNESTO IMPERIAL of the crime of "Robbery With Double Homicide,' committed as follows:

"That on or about the 6th day of August, 1967, at 9:00 o'clock in the evening, more or less in the sitio of Putingtubig, barrio of Lumangbayan, municipality of Pinamalayan, province of Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Julio Valera *alias* Juan Madrid and Ernesto Imperial, conspiring and confederating together, mutually helping one another with evident premeditation, deceit, malice aforethought and deliberate intent to kill, taking advantage of the darkness of the night, superior strength, abuse of confidence and treachery, the accused armed with a bolo, sharp bladed instrument, and gun, to facilitate the commission of the robbery wilfully, unlawfully, and feloniously struck, stabbed and hacked the spouses Marcial Jalotjot and Valeriana Hernandez, inflicting upon the said spouses several mortal wounds which caused their instantaneous death, and subsequently after the death of the spouses Marcial Jalotjot and Valeriana Hernandez, the accused with intent of gain, by means of force, threat, intimidation and violence, took and carried away the following described properties belonging to the deceased spouses, *viz.*, money consisting of bills of different denominations amounting to THREE THOUSAND PESOS (₱3,000.00), Philippine Currency, assorted jewelries, valued at FIVE HUNDRED PESOS (₱500.00); one (1) Transistor Radio valued at ONE HUNDRED FIFTY PESOS (₱150.00); one pair of black shoes, valued at TWENTY PESOS (₱20.00); Keyholder with nail clipper, valued at FIVE PESOS (₱5.00); one (1) Revolver Caliber .22 with Serial No. 73899 with seven live ammunition, valued at FIVE HUNDRED PESOS (₱500.00), the total value of which is ₱4,175.00, all belonging to the spouses Marcial Jalotjot and Valeriana Hernandez, to the damage and prejudice of the latter in the said total sum of ₱4,175.00, Philippine Currency; that as a result thereof, the spouses were clubbed, stabbed and boloed to death, to the damage and prejudice of the heirs of the victims in the amount of ₱20,000.00.

"That the Revolver Caliber 22 with Serial No. 73899 with seven rounds of live ammunition; the Transistor Radio; pair of black shoes; one (E) keyholder with nail clipper were recovered from the control and custody of the accused.

"That in the commission of the crime, the following aggravating circumstances are present: (1) nocturnity because they took advantage

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of nighttime, to better commit the crime; (2) treachery because they took advantage of the position of the victim Marcial Jalotjot who was then eating and Valeriana Hernandez going down their stairs unable to offer any resistance or escape; (3) superior strength because they were two, both armed; (4) cruelty because they were not satisfied with inflicting the first mortal wounds but they continued inflicting cruel and unnecessary punishment with gun, bolo and knife and the victim lying prostrate on the cemented floor of their house the accused burned the defenseless body of Valeriana Hernandez; (5) craft because they pretended to be friends and peace officer; (6) abuse of confidence; and (7) dwelling.

"That the accused Julio Valera is a recidivist, and at the time of the commission of the crime is a police officer of Pola, Oriental Mindoro, as such he took advantage of his public position.

"CONTRARY TO LAW.

"Pinamalayan, Oriental Mindoro, September 23, 1967.

(Sgd.) RAMON B. AÑONUEVO
Assistant Provincial Fiscal"

On March 14, 1968, both the accused pleaded not guilty. However, on July 16, 1968, Ernesto Imperial, assisted by his counsel *de oficio*, moved that he be allowed to withdraw his plea of not guilty so that he could plead guilty to the Information. This was granted, and on November 27, 1968, Ernesto Imperial was re-arraigned and upon his plea of guilty was sentenced to suffer the penalty of death. Upon finding that the plea of guilty of Ernesto Imperial to the Information was improvident, this Court, in G.R. No. L-30039, on February 8, 1972, set aside the judgment and remanded the case to the court *a quo* for a new arraignment. Pursuant thereto, the lower court re-arraigned Ernesto Imperial (Criminal Case No. R-409-P) on November 28, 1972. On such arraignment, Imperial pleaded guilty and thereafter the lower court, on February 22, 1973 rendered judgment, finding him guilty as co-principal of the crime of robbery with double homicide and sentenced him to death, with recommendation for the commutation of the sentence to life imprisonment. He was also ordered to indemnify the heirs of said spouses in the amount of ₱4,175.00, representing the value

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of the stolen properties, and ₱24,000.00 as indemnity for the death of said spouses. In the meantime, the trial with respect to Julio Valera proceeded (from July 16, 1968 to August 9, 1971), and on September 15, 1971, the trial court convicted him of the offense charged and imposed upon him the penalty of death, and ordered him to indemnity the heirs of the deceased spouses in the amount of ₱20,000.00. The personal properties, except the gun which was forfeited in favor of the government, were ordered returned to the heirs of the victims.

The victims, Marcial Jalotjot and his wife, Valeriana Hernandez, were residents of Putingtubig, a barrio of the town of Pinamalayan, Province of Oriental Mindoro. The barrio is fully and is accessible by a road at the edge of which is the house of the afore-mentioned spouses where they maintained a *sari-sari* store wherein they sold soft drinks, beer, cigarettes and other articles of trade. Orlando Merza, their godson, a twelve year old boy, lived with them.

PEOPLE V. JULIO VALERA, G.R. No. L-34356

Testifying for the prosecution at the trial of Julio Valera, Orlando Merza declared that at about 3:00 o'clock in the afternoon of August 6, 1967, appellants Julio Valera and Ernesto Imperial came to their house. They informed them that they wanted to see Marcial Jalotjot, explaining that their mission was to look for unlicensed firearms. Valera, who was then a policeman of Pola, Oriental Mindoro, was dressed in civilian attire, with his gun snugly tucked inside his waist. Merza told them that Marcial Jalotjot was not at home but Valera and Imperial waited outside the house. Half an hour later, Marcial Jalotjot arrived. Upon being informed of the purpose of the visit of the two men, Jalotjot told them that he had been granted by the authorities license to hold and possess the firearm in his possession. He nevertheless invited them to enter his house and partake of some beer, and the three — Valera, Imperial and Marcial — then entered the sala of the house situated in the ground floor, where they were served by Marcial. As they were drinking beer, Vivencio Manzo, a nephew of Marcial, arrived bringing some "*tuba*" which the three mixed with their beer. After taking some drinks, Manzo left the house.

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At about 6:00 o'clock in the evening after they finished drinking, Marcial suggested that Valera and Imperial might as well have supper with him, which suggestion the two readily accepted. They proceeded to the dining room which was also situated in the ground floor of the house. At the dining table, Imperial sat beside Marcial Jalotjot, while Valera stood behind him. Valeriana Hernandez, wife of Marcial Jalotjot, was then in the second floor of the house, putting her baby to sleep. According to Orlando Merza, as Marcial started to eat, Imperial suddenly stabbed him on the stomach, causing Jalotjot to slump on the table. When Marcial attempted to stand up, Valera poked a gun at Imperial and instructed him to get the bolo (Exhibit "X") from the wall and to use it on Marcial and hack the latter, which Ernesto Imperial did. Valeriana Hernandez, hearing the outcries of her husband, went down the stairs. Upon seeing her, Imperial with the same double-bladed instrument, immediately stabbed her. When Valera saw that she did not collapse, he struck her on the head with his gun, causing her to fall. Valera then got hold of Orlando Merza and dragged him upstairs where he tied him up. Valera and Imperial then ransacked the house and then went downstairs and also ransacked the store. Afterwards, the two left, taking with them some money, a few pieces of jewelry, a "Columbia" radio transistor (Exhibit "Z") and the gun of Marcial Jalotjot (Exhibit "U"). After a few minutes, Orlando, sensing that the first floor of the house was on fire, managed to free himself, jump through the window and run to the house of their neighbor, Vivencio Manzo, Merza related to him his harrowing experience. Merza and Vivencio then shouted for help and as a result, many of their neighbors responded and came to their assistance.

Alejandro Gutierrez, Chief of Police of Pinamalayan, testified that upon being informed that same evening of the incident, he and Pat. Lamboloto Doriaga of Pinamalayan proceeded to the house of the Jalotjots and found the burnt body of Valeriana Hernandez lying near the door of the sala which was adjacent to the kitchen. The body of Marcial Jalotjot was sprawled on the floor of the kitchen in a state of *rigor mortis*. The police also found a bloodstained bolo (Exhibit "X") on the floor of the

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kitchen and saw food scattered on the table. In the second storey of the house, clothes were strewn all over the floor, an aparador appeared to have been forcibly opened and the drawers pulled out. A search of the *sari-sari* store showed that the drawer where the money was kept was already empty of cash. Vivencio Manzo, Orlando Merza and the people in the vicinity were questioned by the police. The police also prepared a sketch of the crime scene (Exhibit "CC").

An autopsy examination of the bodies of the two deceased was conducted by Dr. Fernando Viloria, Municipal Health Officer of Pinamalayan. His autopsy findings are as follows:

AS TO MARCIAL JALOTJOT:

"1. Cut wound 5 inches long at the left side of the neck severing muscles, arteries, veins and cervical vertebra;

2. Stab wound 3/4 inch long at the lower third of the sternum piercing the chest cavity;

3. Cut wound 1 inch long at the right cheek;

4. Cut wound 2 inches long above the right ear;

5. Cut wound 1 inch long at the right side of the forehead." (Exhibit "W", Folder of Exhibits, p. XXXII)

AS TO VALERIANA HERNANDEZ:

"1. Lacerated wound around two inches long with fractured skull at the left parietal region severing the brain.

2. Stab wound 3/4 cm. long lateral the left mammary gland with a direction medially and posteriorly piercing the left lung.

3. Stab wound 3/4 cm. long below the left mammary gland direction upwards and posteriorly piercing the left lung.

4. Stab wound 1 cm. long at the mid sternal region direction posteriorly to the left severing the left lung.

5. Two stab wounds 3/4 inch long at the posterior chest between the two scapulas muscles deep.

6. Cut wound behind the right ear 1½ inches long.

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7. Cut wound 1 inch long at the left occipital region.
8. Burns of both upper and lower extremities and anterior lower abdomen." (Exhibit "T", Folder of Exhibits, p. XXX).

Dr. Viloria testified that Marcial Jalotjot died as a consequence of a traumatic shock due to external hemorrhage, while Valeriana Hernandez died of traumatic shock due to damage in the brain, as well as internal and external hemorrhage.

Meanwhile, the police authorities from Pinamalayan and Pola, headed by Police Chiefs Alejandro Gutierrez and Rosauro Francisco, respectively, joined forces in the manhunt for the culprits. As their initial findings revealed that Ernesto Imperial and Julio Valera were the probable killers, the police authorities proceeded first to the house of Imperial at Barrio Saging, Pinamalayan, Oriental Mindoro, and there they were able to apprehend Imperial. In the course of their investigation of Imperial, they found that his traveling bag and other personal effects were already packed and deposited under the house of a neighbor. The wife of Imperial, who at first refused to talk, finally told the police that her husband and Julio Valera came home at about 3:00 o'clock early in the morning of August 7, 1967, bringing with them a gun and a radio. Imperial was brought to the Pola police headquarters and although at first he disclaimed his participation in the gruesome crime, he later on admitted his participation in the crime and that his companion was Julio Valera, a policeman of Pola. Imperial was brought back to Saging and at the place indicated by him, the police were able to recover the caliber .22 gun of Marcial Jalotjot (Exhibit "U"), and with the assistance of Elena, Imperial's wife, the transistor radio of the Jalotjots was also recovered.

Imperial gave a sworn statement (Exhibit "BB") on August 7, 1967 before Judge Efren Villanueva and Fiscal Ramon B. Anonuevo, admitting his participation in the killing and robbery of the Jalotjot spouses, but claiming that he acted only upon orders of Julio Valera, who was himself personally present at the scene of the crime. Upon apprehension of Julio Valera, he was interrogated in connection with the crime but he, however, refused to give a written statement.

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Upon the request of Fiscal Anonuevo, appellant Imperial re-enacted before the police how he boloed Marcial Jalotjot and stabbed Valeriana Hernandez, and also how he took some money from the store of the spouses, all of which he claimed to have been done upon orders of Julio Valera. As for Valera, he refused to participate in the re-enactment.

The foregoing facts were established by the testimonies of Raquel Doringo, Corporal of the Pola Police Force; Dominador Sotto, Acting Chief of Police of Pinamalayan, Oriental Mindoro; Billy Gonzales, photographer; Alejandro Gutierrez, who was then the Chief of Police of Pinamalayan; and Fiscal Ramon B. Añonuevo.

The testimony of Celedonio Orilla is limited to the fact that about 6:00 o'clock in the afternoon of August 6, 1967, when he bought cigarettes at the store of the victims, he saw Ernesto Imperial drinking beer inside the store, together with Julio Valera, who had a gun tucked in his waist.

Bernardo Precilla of the Bureau of Prisons testified that Julio Valera was formerly known as George Scott *y* Pascual and was previously convicted by final judgment on January 11, 1954 for attempted robbery and illegal possession of firearms and served sentence in the national penitentiary.

The last witness for the prosecution, Deogracias Maliwanag, Assistant Provincial Warden, testified only to the fact that appellant Julio Valera, while detained at the Provincial Jail for the afore-mentioned crime of Robbery with Double Homicide escaped on September 11, 1968.

At the trial of the case of Julio Valera on August 9, 1971, appellant Valera presented Ernesto Imperial and himself as the only witnesses for the defense. Ernesto Imperial testified that in the morning of August 6, 1967, he was in his house at Saging, Pinamalayan, Oriental Mindoro. In the afternoon of that date, he went to Pola, Oriental Mindoro to ask policeman Johnny Valera to accompany him to go to Putingtubig for the purpose of collecting some money. Later, he and "Johnny" went to Putingtubig, arriving there at around 3:00 o'clock in the

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afternoon, but not finding Marcial Jalotjot in his house, they inquired from his wife, Valeriana Hernandez, of Marcial's whereabouts, and Valeriana informed them that Marcial was in the poblacion of Pinamalayan but assured them that he would return that afternoon. At about 6:00 o'clock in the evening of that date, Marcial arrived and upon seeing them, invited them to his house where they were served beer, although Johnny Valera declined to drink. In the course of their drinking spree, a nephew of Marcial Jalotjot arrived, bringing with him "*tuba*" which Marcial mixed with the beer. After consuming the mixed drink of "*tuba*" and beer, Marcial invited them to dinner, but Johnny Valera declined. While they were eating, Imperial asked Marcial Jalotjot to pay his debt, explaining that he needed the money badly. When he noticed that Marcial was drawing a caliber .22 revolver from his waist (Exhibit "U"), he (Imperial) immediately grabbed a bolo lying on top of the table (Exhibit "X") and used it to hack Marcial, hitting the victim on the forehead. When Marcial slumped on the table, he hacked him again on the neck and afterwards got his "*balisong*" from his pocket and stabbed Marcial Jalotjot. He then divested the victim of his revolver and afterwards poked the gun at Johnny Valera and got the latter's caliber .38 pistol. After a while, when Valeriana Hernandez came down the stairs, he pulled her and hit her on the forehead with the gun and when she fell, he stabbed her four or five times with his "*balisong.*" Afterwards, he approached Valera with the intention of killing him, but was unable to do so because Valera ran away. He then grabbed Orlando Merza and dragged him up the stairs, where he hog-tied him. In the store, he got the shoes, transistor radio and other things, and thereafter set fire to the house. He fled from the scene of the incident with the intent of looking for Valera and when he could not find him, he went to hide in Malaus, Saging, Pinamalayan, Oriental Mindoro. When shown the contents of his sworn statement (Exhibit "BB") during his cross-examination, which appeared to be inconsistent with portions of his testimony, Imperial asserted that the contents of Exhibit "BB" were false, reiterating that Johnny Valera had no participation whatsoever in the crime as he alone perpetrated the heinous act.

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Julio Valera, testifying in his own defense, stated that on August 6, 1967 at about 12:00 noon, he was in the poblacion of Pola where he met Ernesto Imperial who sought his assistance in collecting a debt in Putingtubig; that he and Imperial went to the house of Marcial Jalotjot at Putingtubig, arriving there at around 3:00 o'clock in the afternoon; that upon finding that Marcial was out, they talked with his wife, Valeriana Hernandez; that they waited for Marcial until about 6:00 o'clock in the afternoon; that when Marcial arrived, he asked them to go inside the house; that inside the house, Ernesto Imperial asked Marcial to pay his debt, but instead of answering his request, Marcial invited them to join him in drinking beer; that a nephew of Marcial arrived with a jar of "*tuba,*" which was mixed with beer, which mixture they drank; that while they were drinking, Imperial reminded Marcial of his indebtedness, but Marcial evaded the matter, saying: "Let us talk about that later"; that the drinking spree lasted until 8:00 o'clock when Marcial invited them to eat; that he refused the invitation and so he was left in the sala of the house; that he saw Marcial and Imperial whispering to each other; that upon hearing the sound of a body falling to the floor, he went into the kitchen and saw Marcial on the floor, and Imperial was holding a gun with his left hand, while he held a bolo on the right hand; that Imperial immediately poked the gun at him and told him not to move; that he was taken aback when Imperial wrested his gun from his possession and ordered him to move to the other side of the kitchen; that afterwards when the wife of Marcial went down the stairs, he saw Imperial going towards the woman, hitting her on the head with the gun, then stabbing her several times; that after stabbing Valeriana Hernandez, Imperial dragged a boy upstairs and it was at this time that he escaped for Pola, finally reaching the *poblacion* at about 3:00 o'clock in the morning; that the following day, he reported what happened in Putingtubig to his chief, Rosauro Francisco, informing the latter that Ernesto Imperial was the assailant of the deceased; that he learned of his involvement in the case in the afternoon of August 7, 1967 when Imperial implicated him. He insisted that it was Imperial alone who committed the crime.

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The thrust of the brief of appellant Julio Valera is that the trial court should not have given much weight and credence to the testimony of Orlando Merza as it was highly improbable for Imperial and Valera, who were newly acquainted with each other, to have entered into a conspiracy to commit such a grave offense, especially since Valera himself was a police officer. It was also argued that if there was a conspiracy between the two, Orlando Merza would have been liquidated immediately instead of being hogtied, since they would have anticipated that he was a possible eyewitness to the crime. Appellant Valera further contended that the testimony of Orlando Merza contained various contradictions which impaired his credibility. Thus, it is claimed that on direct examination, Merza testified that Imperial was first ordered at gunpoint by Valera to kill Jalotjot, but on cross examination he made no mention of the order allegedly made by Valera, but stated that the stabbing of the victim was so sudden and unexpected that he (Orlando Merza) and the appellant Valera were caught by surprise. It is further asserted that on direct examination, Merza stated that while Imperial was hacking Jalotjot with the bolo, Valera was poking the gun at Imperial, but on cross-examination he said that Valera was poking his gun not at Imperial but at Merza.

Contrary to the contention of appellant Valera, it appeared that the two have known each other for sometime prior to the incident. Considering the past criminal record of Valera, it is not improbable for Valera to have participated in the commission of the afore-stated crime.

The circumstance that Merza was hogtied but not liquidated could be easily explained by the fact that at the time of the incident, he was but a fragile boy of twelve years of age, posing no immediate danger to the successful consummation of appellant's criminal enterprise. This is borne by the fact that Imperial admitted in his testimony that it never occurred to him that Merza would be used as a witness for the prosecution. On the alleged contradictions of Merza, it must be noted that the alleged inconsistencies are more apparent than real. For instance, he was asked: "Q. As a matter of fact, the stabbing was so sudden, that you as well as the accused Valera were caught

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by surprise for what Imperial did, am I correct?" He answered: "Yes, sir." Obviously, Merza was referring to himself alone and not to Valera, as the one caught by surprise, for certainly he could not have divined the mind of Valera. Likewise, the circumstance that Valera pointed his gun at Imperial to prod him to hack Jalotjot does not necessarily rule out the possibility that Valera later poked his gun at Merza to prevent him from shouting for help.

This Court has repeatedly declared that relatively minor inconsistencies between the testimony of various witnesses or in the testimony of the same witness do not affect their basic credibility. This Court has also noted that an intelligent boy is undoubtedly the best observer. He is little influenced by the suggestion of others and describes objects and occurrences as he has really seen them.[1] In the case at bar, the young Merza clearly and unhesitatingly narrated the events on the night in question, and positively described the different overt acts of the two appellants in the perpetration of this heinous offense. There is nothing in the record from which this Court could infer or deduce any improper motive on the part of this witness. And this Court has held in various cases that absence of evidence as to any improper motive which may influence a principal witness for the prosecution strongly tends to sustain the conclusion that no such motive existed and his testimony is worthy of full faith and credit.[2] Here, there is reasonableness and cogency in the testimony of Orlando Merza, and in the manner he answered the questions. Moreover, his testimony is corroborated by the other evidence, *viz.*: the testimony of Celedonio Orilla, the findings of the police authorities, and the uncontroverted physical facts, such as the nature and location of the wounds of the two victims.

It will be noted that the trial court aptly observed that Valera's testimony was a mere reproduction of the testimony of his co-accused Imperial which, according to said court, cannot be

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[1] *People v. Guzman*, L-13340, April 30, 1960, 107 Phil. 1122.

[2] *People v. Borbano*, L-37, May 25, 1946, 76 Phil. 702; *People v. Macalindong*, CA-No. 349, May 25, 1946, 76 Phil. 719.

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given credence because of the "overwhelming evidence of the prosecution pointing to him as the real culprit who masterminded the overall plan to liquidate the victims and to rob them ***." Neither is Ernesto Imperial's testimony availing to support Valera's defense, nor was it worthy of credence. It will be recalled that Imperial was taken from the penitentiary to testify for Valera, precisely to completely exculpate the latter. However, previous to this, Imperial had declared under oath, on August 6, 1967, that Valera instigated the commission of the crime and actively participated therein (Exhibit "BB"). While Imperial at first, on August 9, 1971, attempted to impugn this statement, he later, on November 28, 1972, affirmed the veracity thereof. Such inconsistent and contradictory statements made under oath, does not certainly argue in favor of the credibility of the declarant.

There cannot be any doubt, therefore, that appellant Valera participated in the killing and robbery. Merza pointed to Valera as the person who directed Imperial to hack Marcial Jalotjot with a bolo. It was also Valera, who according to Merza, struck the head of the wife of Marcial Jalotjot with his gun after she was stabbed by Imperial. This fact is corroborated by the lacerated wounds found on the left parietal region of the head of Valeriana Hernandez. It was also appellant Valera who dragged the young Orlando Merza to the second floor of the house where he was hogtied and then Valera ransacked the house and the store, where he got some money, a few pieces of jewelry, a "Columbia" transistor radio, and the Caliber .22 gun of the victim.

PEOPLE V. ERNESTO IMPERIAL, G. R. No. L-37016

We shall now consider the case of Ernesto Imperial.

As earlier stated, on November 28, 1972, Ernesto Imperial was re-arraigned under the Information filed by Fiscal Ramon B. Añonuevo and pleaded guilty.

Describing the proceedings anent the new re-arraignment of appellant Ernesto Imperial on November 28, 1972, the lower court said:

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"When the case was called for the arraignment of the accused, Atty. Arnulfo Panaligan, *de oficio* counsel, manifested that he was ready, stating further that he was conferred with the accused who signified his intention to enter a plea of guilty. Thereafter, the court addressing the accused Ernesto Imperial, asked the latter if he had really conferred with his counsel and if it was true that he intimated to said counsel that he was entering a plea of guilty, the accused answered in the affirmative. The Court likewise told the accused that he was charged of a very serious offense and a plea of guilty may mean his being sentenced to death, to which the accused answered that he was aware of that, likewise stating that he knew the consequences of his entering a voluntary plea of guilt. Moreover, it was made clear that even before leaving Muntinlupa for Pinamalayan to be re-arraigned, his mind was already fixed that he would enter a plea of guilty.

"At this juncture, the prosecuting fiscal moved that after the arraignment the accused be placed on the witness stand for interrogation. Thereafter the court ordered the re-arraignment of the accused and the Deputy Clerk of Court read the information in the Tagalog dialect and after having been heard and understood the same, the accused stated 'I plead guilty, sir,' so that the Court acting on the motion of the prosecuting fiscal, ordered the accused to be placed on the witness stand.

"Answering questions of the Prosecuting Fiscal, the accused admitted that on August 7, 1967, in the presence of Judge Villanueva and Assistant Provincial Fiscal Ramon B. Añonuevo, he executed an affidavit marked Exhibit 'BB' for the prosecution, said accused having been confronted with the copy of said affidavit and after examining the same, the accused answered in the affirmative. Later, the whole affidavit was read to him and he admitted that the questions stated in the same were really asked of him and that the answers appearing therein were also the answers that he made during the taking of the said affidavit and then categorically affirmed the truth and correctness of the same.

"The Court then proceeded and asked the accused whether he remembers that on August 9, 1971 he was present in Court by virtue of a subpoena issued for his appearance to be a witness in the case of *People of the Philippines versus Julio Valera* to which he answered in the affirmative. Reminded that in his testimony on that date, he assumed the sole responsibility for the death of Marcial Jalotjot and

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Valeriana Hernandez, he said that he made that narration of admission because of the promise of Julio Valera that if he would solely own the crime committed, he would be compensated in the amount of ₱300,000.00 and as his mind was then confused, thinking that he had no more future on the account of the penalty of death against him, he testified in the manner he did, at the same time admitting that his testimony on August 9, 1971 in favor of Julio Valera, was not altogether correct, having been only promised a reward. Asked by the court where he was promised such reward, he said that it was in the P.C. barracks at Calapan, Oriental Mindoro, but he did not received the amount.

"Thereafter, he affirmed the truth of the affidavit that was read to him by Fiscal Enriquez and said that he was retracting the testimony that he gave before the Court on August 9, 1971 in connection with his testimony in favor of Julio Valera, and emphasized that he was indeed retracting and that he was not telling the whole truth, stating further that his testimony this time, from his re-arraignment up to the last question propounded by the court, was the truth.

"The defense counsel then manifested that he had no questions to ask, whereupon, the court ordered the case submitted for decision and the accused be brought back to the national penitentiary at Muntinlupa, Rizal."[3]

In view of appellant's plea of guilty, the lower court convicted him as aforesaid of the crime charged and imposed upon him the death penalty with the same recommendation for commutation of sentence to life imprisonment. Once again, appellant's case is before this Court for automatic review.

Appellant in his brief claims that the trial court erred: (1) in not receiving evidence in order to be reasonably certain that no injustice was being done to the accused; and (2) in failing to inform him of the nature of the charge against him, and therefore, prayed that the decision of the lower court dated February 22, 1973 be set aside and the case remanded anew to the lower court for further proceedings conformably with the procedure laid down by this Court in case of a plea of guilty for a capital offense.[4]

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[3] Decision of the lower court dated February 22, 1973, pp. 5-7.

[4] Brief for the appellant, pp. 16-17.

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It is true that in capital offenses where a plea of guilty is entered by the accused, "the court must assure itself that he is fully aware of the implications of said plea and that, to this end, it may or should take some evidence to be reasonably certain that no injustice is done to him."[5]

In the case at bar, however, it appears from the record that appellant had full knowledge of the meaning and extent of his plea of guilty, as shown by the following circumstances: his testimony before the trial court on August 9, 1971, admitting that he stabbed and boloed Marcial Jalotjot and stabbed several times Valeriana Hernandez; and his actuations during his re-arraignment on November 28, 1972. Thus, after his plea of guilty, he was placed on the witness stand and after he was confronted with his extrajudicial admissions contained in his affidavit (Exhibit "BB") which he executed on August 7, 1967 before Judge Efren D. Villanueva and Fiscal Ramon B. Añonuevo at Pinamalayan, Oriental Mindoro he clearly and categorically affirmed the truth and correctness of his aforesaid confession. Although he retracted his testimony on August 9, 1971 wherein he owned solely the commission of the crime is not indicative of the truth because of Julio Valera's assurance that he will pay him ₱300,000.00, such admissions and overt acts show clearly that appellant fully understood the meaning and implication of his plea of guilty.

As explained by the Solicitor General:

"True it is that, as pointed out by the appellant under his second assignment of error in this appeal, this Honorable Court has repeatedly admonished that trial judges must 'be extra solicitous in seeing to it that when an accused pleads guilty, he understands fully the meaning of his plea and the import of an inevitable conviction' (*People v. Busa,* 51 SCRA 317, 320); and that trial courts should explain to the accused the meaning of the allegations regarding conspiracy and

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[5] *People v. Alincastre*, L-29891, Aug. 30, 1971, 40 SCRA 391. See also: *People v. Domingo y Nato, et al.*, L-30464-65, Jan. 21, 1974, 55 SCRA 237; *People v. Alamada*, L-34594-95, July 13, 1973, 52 SCRA 103; *People v. Silvestre,* L-33821, June 22, 1973, 51 SCRA 286.

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the aggravating circumstances of treachery, *etc.*, which are 'terms so technical that the layman' cannot possibly understand them (*People v. Silvestre,* 51 SCRA 286; *People v. Alamada,* 52 SCRA 103). And it is equally true that, as borne out by the 9-page transcript of stenographic notes of the second trial of the case against appellant Imperial, the court *a quo* again did not follow and adhere strictly to the guidelines set forth by this Honorable Court in the cases herein cited and other similar cases, because the presiding judge (The Honorable Ildefonso M. Bleza, who succeeded the then presiding judge, the Honorable Pascual N. Beltran, now retired and the one who penned the decision that was set aside by this Honorable Court in L-30039, *supra.*) did not himself explain to the appellant the precise nature of the charge against the latter, especially the allegations of conspiracy in the information herein for robbery with double homicide, and the meaning and legal significations of the aggravating circumstances of nocturnity, treachery, superior strength, cruelty, craft, abuse of confidence, and dwelling also alleged in said information; and neither did the trial court assure itself that the latter clearly and fully understood the direful consequences of his plea of guilty. But these flaws in the rearraignment of appellant Imperial do not detract from his unequivocal admission in his sworn statement Exh. 'BB' that he did hack the deceased Marcial Jalotjot while the latter was already in a defenseless position, so that he could and should be made accountable still for the crime of murder. And it is precisely because appellant's plea of guilty does not appear to be unconditional, qualified as it is by his affidavit Exh. 'BB', that undersigned counsel have herein expressed the view that by his plea of guilty, appellant Imperial should only be considered to have admitted such allegations in the information as were likewise admitted by him in his said sworn statement Exh. 'BB'."

The guilt of appellants Julio Valera and Ernesto Imperial of the crime of Robbery with Double Homicide has been proven beyond reasonable doubt.

The nature and number of aggravating circumstances proven by the prosecution warrants the imposition of the death penalty.

The trial court found that the commission of the crime was accompanied by the aggravating circumstances listed in the Information, namely: nocturnity, treachery, superior strength, cruelty, craft, abuse of confidence and dwelling, aside from that of recidivism insofar as Julio Valera is concerned.

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We find, however, that aside from Valera's recidivism, only the aggravating circumstances of treachery, dwelling and abuse of confidence or obvious ungratefulness may be appreciated against the accused-appellants. Nocturnity, abuse of superior strength and craft are absorbed in treachery. Cruelty has not been proven, there being no showing that the accused, for their pleasure and satisfaction, caused the victims to suffer slowly and gradually and inflicted on them unneccessary moral and physical pain.[6]

The Solicitor General recommends, however, that appellant Imperial's plea of guilty should be considered, "not as a total confession of guilt to the crime charged herein, as well as an admission of conspiracy and all the aggravating circumstances alleged in the information, but only as an admission of his having hacked the deceased in the neck with a bolo, together with the aggravating circumstances of *alevosia*, since he admittedly hacked the deceased when he was already wounded and unable to defend himself." In sum, the Solicitor General's assessment is that appellant Ernesto Imperial is guilty, not of the crime of Robbery with Double Homicide, but of Murder qualified by treachery, with no aggravating circumstance and with the mitigating circumstance of plea of guilty, and therefore the penalty of death imposed by the trial court should be reduced to *reclusion perpetua.*

We disagree with the Solicitor General. The rule is that while an unqualified plea of guilty is mitigating, it, at the same time, constitutes an admission of all the material facts alleged in the information, including the aggravating circumstances therein recited.[7] In such a case, the prosecutor need not prove said circumstances since the accused, by his plea of guilty, has already supplied the requisite proof.[8]

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[6] *People v. Luna*, L-28812, July 31, 1974, 58 SCRA 198.

[7] *People v. Egido*, L-4217, Jan. 31, 1952, 90 Phil. 762; *People v. Santos and Vicente*, L-12448, Jan. 22, 1959, 105 Phil. 40; *People v. Apduhan, Jr.*, L-19491, Aug. 30, 1968, 24 SCRA 798.

[8] *People v. Acosta, et al.*, L-7449, Mar. 23, 1956, 98 Phil. 642; *People v. Rapirap*, L-11000, Jan. 21, 1958, 102 Phil. 863; *People v. Apduhan, Jr., supra.*

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Likewise, We are not in accord with the observation of the Solicitor General that the crime committed by Imperial was Murder, qualified by treachery, and not Robbery with Double Homicide. The evidence has sufficiently shown that after Imperial had stabbed the victim and Valera had stabbed and struck the victim's wife, Valera and Imperial ransacked the house and then went downstairs and also ransacked the store. Moreover, in the course of the investigation of the crime by the police authorities, they were able to recover the Caliber .22 gun belonging to the victim at the place indicated by Imperial. The transistor radio of the victims was likewise recovered with the help of Imperial's wife. These circumstances sufficiently indicate that the crime committed by Imperial was Robbery with Double Homicide, and not Murder qualified by treachery. And, considering that Imperial's plea of guilty is insufficient to offset the aggravating circumstances of treachery, dwelling and abuse of confidence or obvious ungratefulness which attended the commission of the offense,[9] the penalty of death has been properly imposed. We note, however, that the trial court, having observed appellant's demeanor and remorse, recommended to the President that the penalty of death imposed he commuted to life imprisonment.

WHEREFORE, in view of all the foregoing, the decisions appealed from are hereby affirmed.

Teehankee, Makasiar, Antonio, Aquino, Concepcion Jr., Santos, Fernandez, Guerrero, De Castro, and *Melencio-Herrera, JJ.,* concur.

Fernando (Acting C.J.), took no part.

Abad Santos, J., I concur but I recommend executive clemency for Ernesto Imperial.

Barredo, J., on leave.

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[9] *People v. Nabual*, L-27758, July 14, 1969, 28 SCRA 747.