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The crime committed is robbery with homicide and rape with the aggravating circumstances of band and dwelling. The rapes committed on the same occasion are considered an aggravating circumstance.[67]

WHEREFORE, the decision of the trial court dated July 24, 1968, being in accordance with law and the evidence, is hereby affirmed, except as to the penalty of death imposed on accused Santiago Ang who died on August 7, 1978, and against whom the case was dismissed in so far as criminal liability is concerned, with costs against the other accused.

SO ORDERED.

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

Barredo, J., votes for life imprisonment, considering that more than ten years have already lapsed since his conviction by the trial court.

Fernando, C.J., took no part.

EN BANC

[G.R. No. L-30966. December 14. 1979]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **LUISITO BERNALES and JUANITO SINCO,** *defendants-appellants.*

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[67] *People vs. Bacsa.* 104 Phil. 136. and cases therein cited.

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SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CONFESSION COUPLED WITH PROOF OF *CORPUS DELICTI* AS BASIS FOR CONVICTION; EXPLAINED.**— The rule that an accused cannot be convicted upon his confession, without some proof of the *corpus delicti,* does not mean that all the elements of the crime must be clearly established by evidence independent of the confession. It only means that there should be some evidence tending to show the commission of the crime apart from the confession. Besides, it is not necessary that an eyewitness should have seen the commission of the crime before an accused may be held under his own confession. Otherwise, the usefulness of the confession as a species of proof would vanish if it were necessary, in addition to the confession, to adduce evidence sufficient to justify conviction independently of such confession.

2. **CRIMINAL LAW; CONSPIRACY; ELEMENTS.**— Conspiracy need not be proved by direct evidence an may be deduced from the facts and circumstances, which taken together, indicate that the assailants cooperated and labored to the same end.

3. **ID.; ID.; LIABILITY OF CONSPIRATOR; CASE AT BAR.**— The foregoing statement of the appellant clearly shows that he conspired with his co-accused Juanito Sinco together with "Boy" and "Alejandro" to rob and to kill the deceased Antonio Sy. Hence, he is liable for the crime of robbery with homicide, whether or not he actually participated in the killing of the deceased, for the rule is well-settled that when homicide takes place as a consequence or on the occasion of the robbery, all those who took part in the robbery shall be guilty as principals of the complex crime of robbery with homicide whether or not they actually participated in the killing, unless there is proof that they had endeavored to prevent the killing.

D E C I S I O N

CONCEPCION JR., *J.*:

About 2:30 in the afternoon of May 10, 1969, the police authorities of Malabon, Rizal, received a telephone call informing them that a Chinaman named Ang Ho Not Lim Guat, *alias*

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"Antonio Sy," was found dead at his residence at Pascual St., San Agustin, Malabon, Rizal.[1] Immediately thereafter, Lt. Felimon Pacheco, Patrolman Eduardo Fernandez, and a police photographer proceeded to the Chinaman's residence. Arriving thereat, they found the Chinaman with his feet tied with ropes, and his body bearing several contusions, bruises, and black marks which appeared to have been caused by blows with the use of blunt instruments.[2] The personal belongings of the deceased were scattered all around the room, while a drawer contained marks showing that it was forcibly opened.[3] The money of the deceased which he had in his person amounting to ₱1,000.00 and the sum of ₱500.00 which he kept in his drawer were missing.[4]

While the police were conducting an investigation, they found inside the house, Jose Bulan, the houseboy of the deceased.

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[1] pp. 4, 23, t.s.n., June 10, 1969.

[2] pp. 5, 6, 23, 24, t.s.n., June 10, 1969; pp. 2-6, t.s.n., June 10, 1969; The Necropsy Report (Exh. "G") shows the following injuries of the deceased:

"Pallor, lips and nailbeds;

Ligature marks: neck, anterior aspect, extending upward and laterally, both sides, 8.0 x 2.5 cm.; forearms, right and left, lower third, 14.0 x 0.3 cm.; thigh, right, lower third, 30.0 x 0.3 cm.

Contused-abrasions: lips, lower, right side, 1.0 x 0.2 cm.; hypochondriac, right, and epigastric regions, 16.0 x 8.0 cm.

Hematoma, scalp, parietal region, right, 6.0 x 5.0 cm.

Fractures, complete; sternum, level of 6th rib; ribs, right, 5th to 8th along mid-clavicular line.

Rupture, severe, liver, right and left lobes.

Hemopheritonsum, about 1000 cc.

Heart, empty.

Brain and other visceral organs, pale.

Stomach empty.

CAUSE OF DEATH: — Intraabdominal hemorrhage, severe, secondary to traumatic rapture of the liver."

[3] pp. 5, 13, t.s.n., June 10, 1969.

[4] pp. 5, 6, 8, t.s.n., June 11, 1969.

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When interrogated at the police headquarters, he revealed that his nephew, also named Jose Bulan, had previously informed him that on May 9, 1969, he (Jose Bulan, the nephew) overheard an alleged conversation at a cockpit in Navotas, Rizal, between Juanito Sinco and Fernando Labian about a supposed plan to rob the deceased Antonio Sy and that he told his employer what his nephew narrated to him but the latter did not attach importance to it.[5]

Juanito Sinco was consequently picked up by the police for investigation. After the investigation, he signed a sworn statement,[6] admitting his participation in the commission of the crime and pointed to Luisito Bernales and two others whom he could only then identify as "Boy" and "Alejandro" as his companions. He also stated that he, and Luisito Bernales acted as guards (*bantay*) outside the house of the deceased Antonio Sy, and that "Boy" and "Alejandro" were the ones who entered the house.

Acting upon the information given by Juanito Sinco, the police picked up Luisito Bernales, and, after the investigation, he also signed a sworn statement,[7] admitting that he was one of those who robbed the deceased Antonio Sy, during which his two companions killed the Chinaman. He further stated that his companions were Juanito Sinco, "Boy" and "Alejandro"; that he, like Juanito Sinco, acted as guards (*bantay*) outside the house of the deceased; that it was Juanito Sinco who planned the robbery-killing which was hatched in the presence of "Boy" and "Alejandro"; and that "Boy" gave him ₱80.00 as his share of the loot.

On the basis of the aforesaid sworn statements, and other evidence, Luisito Bernales and Juanito Sinco were charged in the Circuit Criminal Court of Rizal, Pasig, Rizal, with the crime of robbery with homicide, docketed therein as Criminal Case No. CCC-VII-166-Cal. City, allegedly committed as follows:

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[5] pp. 8, 9, 10, 25, t.s.n., June 10, 1969; p. 25, t.s.n., June 11, 1969.

[6] Exhibit "E", p. 93, Record.

[7] Exhibit "A", p. 86, Record.

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"That on or about the 10th day of May, 1969, in the municipality of Malabon, province of Rizal, and within the jurisdiction of this Honorable Court, the abovenamed accused, conspiring and confederating together with John Doe *alias* "Boy" and Peter Doe *alias* "Alejandro" whose true identities and present whereabouts are still unknown and who are still at large, all the four of them mutually helping and aiding one another, with intent to gain and by means of force, violence and intimidation upon the person of one Ang Ho Not Lim Guat *alias* "Antonio Sy" and being in the residence of the latter, by means of destroying the lock of a table drawer, did then and there wilfully, unlawfully and feloniously take, steal and carry away cash money in the amount of ₱1,500.00 belonging to Ang Ho Not Lim Guat *alias* "Antonio Sy" to the damage and prejudice of the latter in the aforementioned amount of ₱1,500.00; that on the occasion of the said robbery and for the purpose of enabling them to take, steal and carry away the money of the victim, the above-named accused, in pursuance of their conspiracy and for the purpose of insuring the success of their criminal act, with intention to kill, did then and there wilfully, unlawfully and feloniously attack, assault, box and hit with blunt instruments and strangle with clothing material the said Ang Ho Not Lim Guat *alias* "Antonio Sy," as a result of which the latter sustained physical injuries which directly caused his death."[8]

Upon arraignment, both accused pleaded not guilty to the charge.[9] Thereafter, trial proceeded, and the prosecution as well as the defense presented their respective evidence.

The prosecution was not able to present a single eyewitness to the commission of the crime but relied mainly for the conviction of the accused on their extra-judicial confessions. After the trial, the court *a quo* rendered its decision convicting the two accused of the crime of robbery with homicide on the strength of the aforesaid extra-judicial confessions, the dispositive portion of which reads as follows:

"*SA GAYONG DAHILAN ay napatunayan ng Hukuman na ang mga akusadong sina Luisito Bernales at Juanito Sinco ay NAGKASALA, ng walang pag-aalinlangan, sa salang Panloloob*

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[8] p. 1, Record.

[9] p. 9, *Id.*

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at Pagpatay, ayon sa sakdal, alinsunod sa Talata 1, Artikulo 294 ng Iniwastong Kodigo Penal, at sila ay kapwa hinahatulan ng kaparusahang KAMATAYAN, at pagbabayaran nila ang naiwan ng nasawi ng halagang labintatlong libong (₱13,000.00) Piso at Limang Daan, magkasama o maghati; at pagbabayarin din nila ang mga nagugol sa usaping ito."[10]

The case is now before this Court for mandatory review on account of the death penalty imposed upon them. During the pendency of the appeal, the accused Juanito Sinco died,[11] and his appeal was dismissed insofar as his criminal liability is concerned.[12] Hence, only the case against Luisito Bernales is under review.

The appellant now assails the trial court in convicting him on the basis of his extra-judicial confession and that of his co-accused Juanito Sinco without any corroboration by evidence of *corpus delicti*. In this connection, he argues, among others, that the prosecution failed to present any witness who had actually seen the commission of the crime, and that the alleged robbery was not established by clear and convincing evidence.

The contention of the appellant is untenable. The rule that an accused cannot be convicted upon his confession, without some proof of the *corpus delicti*, does not mean that all the elements of the crime must be clearly established by evidence independent of the confession. It only means that there should be some evidence tending to show the commission of the crime apart from the confession.[13] Besides, it is not necessary that an eyewitness should have seen the commission of the crime before an accused may be held under his own confession. Otherwise, the usefulness of the confession as a species of proof would vanish if it were necessary, in addition to the

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[10] pp. 175-176, Record.

[11] pp. 55, 72, *Rollo*.

[12] p. 75, *Id*.

[13] *People vs. Abrera*, 17 SCRA 771.

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confession, to adduce evidence sufficient to justify conviction independently of such confession.[14]

In the case at bar, the *corpus delicti* as to the homicide is unquestionable. It is proven by the Necropsy Report. As to the robbery, prosecution witness Jose Bulan, the houseboy of the deceased Antonio Sy, testified that on May 10, 1969, when the latter gave him ₱223.00 while they were at the store of the deceased at the public market of Malabon, about ₱1,000.00 more was left in the person of Antonio Sy.[15] He further testified that the last time the deceased took money from his drawer at his residence was on May 8, 1969 at which time he saw that ₱500.00 was still left in the drawer.[16] The police investigators also testified that when they arrived at the residence of the deceased, they found that the personal belongings of the latter were scattered all around the floor and that a drawer contained marks showing that it was forcibly opened.[17] After the incident, the money of the deceased which he had in his person in the amount of ₱1,000.00 as well as the sum of ₱500.00 which he kept in his drawer were missing.[18] The foregoing testimony of the prosecution witnesses prove the *corpus delicti* or the fact that robbery was committed. Appellant's voluntary extra-judicial confession that he and his co-accused Juanito Sinco together with "Boy" and "Alejandro" robbed and killed the deceased Antonio Sy was corroborated by evidence of the *corpus delicti*.

The appellant further contends that the trial court erred in holding him liable as principal in the crime of robbery and homicide, claiming that there was no proof of conspiracy, and that, even assuming that there was conspiracy, their plan was only to rob and not to kill the deceased. Hence, his criminal liability should

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[14] *People vs. Castañeda, et al.*, L-32635, August 31, 1979, and cases therein cited.

[15] pp. 5-6, t.s.n., June 11, 1969.

[16] pp. 7-8, *Id.*

[17] pp. 5, 23, t.s.n., June 10, 1969.

[18] pp. 5, 6, t.s.n., June 11, 1969.

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be gauged by his own individual act, that is, by acting as guard only, or that he should be held liable only for the crime of robbery.

Again, We find this contention of the appellant to be devoid of merit. Conspiracy need not be proved by direct evidence and may be deduced from the facts and circumstances, which taken together, indicate that the assailants cooperated and labored to the same end.[19] In his extra-judicial confession, the appellant declared as follows:

"10. *T* — *Bago kayo nagpunta sa bahay ng intsik, saan kayo nagmula?*

S — *Sa Yangco Street, Navotas, Rizal, sa bahay namin.*

11. *T* — *Ang ibig mong sabihin, si Boy, si Alejandro at si Juanito at ikaw ay nagtagpo sa Yangco Street. at pagkatapos ay nagtuloy kayo sa bahay ng intsik sa Malabon, Rizal para nakawan at pagkatapos ay patayin pa?*

S — *Opo.*

12. *T* — *Ano ang sumunod na nangyari habang ikaw at si Juanito ay nasa labas ng bahay ng intsik at nagbabantay sa ginawa ninyong pagnanakaw sa kanya?*

S — *Sina Boy at Alejandro ay lumabas sa bahay at ako ay kanilang inaya na para umalis na at gayon din inaya namin si Juanito para umuwi sa Navotas, Rizal.*

13. *T* — *Nang nakauwi na kayo sa Navotas, Rizal, ano pa ang sumunod na nangyari?*

S — *Ako ay binigyan ni Boy ng ₱80.00 matapos na dukutin sa kanyang bulsa."*

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18. *T* — *Sino ang nagbalak para nakawan ang intsik at pagkatapos ay patayin siya?*

S — *Si Juanito Sinco.*

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[19] *People vs. Roncal*, L-26857-58, Oct. 21, 1977; *People vs. Aleta*, L-40694, Aug. 31, 1976.

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19. *T* — *Noong balakin niya ang pagnakaw at pagpatay sa intsik, sino ang mga kaalam at kaharap niya?*
S — *Si Boy at si Alejandro at nang sila ay lumakad nga papuntang Malabon ay isinama nila ako.*

20. *T* — *Ano ang ginamit ninyong sasakyang papuntang Malabon, Rizal nang kayo ay manggaling sa Yangco Street, Navotas, Rizal?*
S — *Sumakay kami ng dyip papuntang Malabon, Rizal at kami ay bumaba sa malapit sa Caltex at mula doon ay naglakad kami papuntang bahay ng intsik."*

xxx xxx xxx

24. *T* — *Bakit si Boy at si Alejandro ay pumasok sa bahay ng intsik samantalang ikaw at si Juanito ay nasa labas!*
S — *Dahil napag-usapan namin na ako at si Juanito ay maiiwan sa labas x x x."*

The foregoing statement of the appellant clearly shows that he conspired with his co-accused Juanito Sinco together with "Boy" and "Alejandro" to rob and to kill the deceased Antonio Sy. Hence, he is liable for the crime of robbery with homicide, whether or not he actually participated in the killing of the deceased, for the rule is well-settled that when homicide takes place as a consequence or on the occasion of the robbery, all those who took part in the robbery shall be guilty as principals of the complex crime of robbery with homicide whether or not they actually participated in the killing, unless there is proof that they had endeavored to prevent the killing.[20]

Robbery with Homicide is punishable by *reclusion perpetua* to death.[21] In the commission of the crime, there is present the aggravating circumstance of dwelling[22] and without any mitigating

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[20] *People vs. Castañeda, supra*, and cases therein cited.

[21] Art. 294, par. (1), Revised Penal Code.

[22] *People vs. Saquing*, L-27903, Dec. 23, 1969, 30 SCRA 834.

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circumstance. The trial court, therefore, correctly imposed the death penalty.[23]

WHEREFORE, the decision of the trial court, being in accordance with the law and the evidence, is AFFIRMED. However, for lack of the required number of votes for the imposition of the capital punishment, the appellant Luisito Bernales is hereby sentenced to suffer the penalty of *reclusion perpetua*.

SO ORDERED.

Fernando, C.J., Makasiar, Aquino, Santos, Fernandez, Guerrero, Abad Santos, De Castro, and *Melencio-Herrera, JJ.*, concur.

Teehankee, J., votes for affirmance of the death penalty.

Barredo, J., concurs. My vote is for life imprisonment because in a sense their confessions were pleas of guilty. I am not convinced that appellants knew the technical arguments of their counsel about the alleged insufficiency of their confessions as bases for conviction.

Antonio,* *J.*, took no part.

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[23] Art. 63, par. (1), Revised Penal Code.

* Mr. Justice Felix Q. Antonio took no part being the Solicitor General at the time.