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raised to ₱12,000.00.[6] With the modifications as are above indicated, the decision appealed from is affirmed in all other respects, with costs.

SO ORDERED.

Fernando (C.J.), Barredo, Makasiar, Antonio, Aquino, Concepcion Jr., Santos, Fernandez, Guerrero, Abad Santos, and *Melencio-Herrera, JJ.*, concur.

Teehankee, J., took no part.

EN BANC

[G.R. No. L-31401. October 30, 1979]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **PEPITO VILLA, ANASTACIO SALCEDO, NORBERTO SALCEDO and ERNESTO SALCEDO,** *defendants-appellants.*

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; WITNESSES; CREDIBILITY; STANDS WHEN THEIR TESTIMONIES ARE CLEAR AND OF LOGICAL SEQUENCE.— The testimonies of eyewitnesses Estrella Acosta and Mrs. Dominga Domingcil Vda. de Acosta were given in a simple straightforward manner, mentioning details of the incident that could not have been merely concocted, indicating sincerity in narration of events during the incident, indicative of truth as to what actually happened. The ten year old Estrella Acosta showed remarkable intelligence in her narration of events during the direct examination and survived the cross examination by clinging to the veracity of her version in the sequences of events she observed on the night of June

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[6] *People vs. Pantoja*, G.R. No. L-18793, October 11, 1978, 25 SCRA 468.

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28, 1968. Likewise, Mrs. Dominga Domingcil Vda. de Acosta never wavered in her narration of what happened during that night when she was subjected to a searching cross-examination. The narration of the incident coming from both eyewitnesses coincided and are consistent with each other. They are clear and of logical sequence.

2. ID.; ID.; CONFESSION; EXTRA-JUDICIAL CONFESSION; WHEN ADMISSIBLE.— The confessions of the accused cannot be totally ignored even if they repudiated all of them on the ground of alleged extraction by force and intimidation, because the narrations contained in them coincide with the narration given by the eyewitnesses Estrella Acosta and Dominga Vda. de Acosta. The details contained in these confessions could not have been known to the P.C. investigators before whom they were given, taking into consideration that they were given on the morning of June 29, 1968, immediately after the apprehension of the four accused at 2 a.m. of the same morning, and within 24 hours after the crime was committed at dusk of June 28, 1968. It is likewise difficult to believe that the P.C. investigators could have concocted events and fabricated evidence against the accused in such a short time.

3. ID.; ID.; ID.; ID.; VOLUNTARINESS; WHEN ESTABLISHED.— The contention of the accused that they were maltreated and forced to sign the confessions Exhibits "A", "B", "C", and "D" cannot be given credence. The P.C. investigators apprehended the accused at 2:00 a.m. of June 29, 1968. The same morning of June 29, 1968, the sworn statements of the four accused were taken, and before noon said statements were subscribed and sworn to by the accused before the Municipal Judge of Bacarra. The accused could not show any medical certificate about the supposed physical injuries they suffered. They admitted that there were many persons present when they were apprehended and investigated. The Municipal Judge of Bacarra did not notice any intimidation against the four accused. On the contrary they all voluntarily signed their confessions and swore to them before the Municipal Judge. The P.C. investigators, Sgt. Mariano Visaya and Sgt. Herminigildo Paguirigan merely performed their duties as such when they took down the statements of the accused on June 29, 1968. The trial court observed "that the respective signatures of the accused in their separate extrajudicial confessions appear to be continuous and stable, indicating that they were made by firm hands."

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4. CRIMINAL LAW; AGGRAVATING CIRCUMSTANCES; DWELLING; WHEN CONSIDERED.— The other aggravating circumstances proven present in the crime are: dwelling, for the crime was committed in the dwelling of the offended parties without the latter having given any provocation.

5. ID.; ID.; NIGHTTIME; WHEN CONSIDERED.— Nighttime, the accused having purposely sought it to realize the crime with ease; by a band, the accused being more than three who were all armed.

6. ID.; ID.; CRAFT; WHEN CONSIDERED.— Craft, the accused having pretended to be P.C. Rangers in order to gain entrance into the house of the offended parties.

APPEARANCES OF COUNSEL

Solicitor General-Antonio for plaintiff-appellee.
Teodoro Padilla Law Office for defendants-appellants.

D E C I S I O N

***PER CURIAM*:**

In the early evening of June 28, 1968, Juan Acosta was killed at his residence in Barrio Buyon, Municipality of Bacarra, Ilocos Norte.[1] Swift action by elements of the 121st P.C. Company at Camp Juan, Laoag City, aided by civilians, led to the apprehension of accused Anastacio Salcedo, Pepito Villa, Norberto Salcedo, and Ernesto Salcedo, two hours after midnight of the same day, while the four were in a Manila bound bus which the P.C. soldiers flagged down in front of their detachment in Badoc, southernmost town of Ilocos Norte, along the highway to Manila. Southward along the same highway, is Sinait, Ilocos Sur, hometown of the four accused. Barrio Buyon of Bacarra, where the crime occurred, is about five kilometers north of Laoag City. From Laoag City to Badoc, southward, is about

[1] p. 2, Original Record, Crim. Case No. 5199 of the Court of First Instance of Ilocos Norte.

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forty kilometers distance. Sinait, Ilocos Sur, is nine kilometers from Badoc.[2]

Immediately after investigation, the P.C. Command in Ilocos Norte initiated in the Municipal Court of Bacarra, three cases, to wit: Criminal Case No. 939, for robbery in band with homicide; Criminal Case No. 941, for usurpation of official function; and Criminal Case No. 942, for illegal possession of firearms and ammunition. Dominga Domingcil Acosta, widow of the victim Juan Acosta, also initiated in the same Court Criminal Case No. 940, for rape.[3]

Criminal Case No. 942, for illegal possession of firearms and ammunition was terminated when the accused Norberto Salcedo pleaded guilty and was sentenced by the Municipal Court of Bacarra.[4] Criminal Cases 939, robbery in band with homicide; 941, usurpation of official function; and 940, for rape, were forwarded to the trial court.[5] The rape case (Criminal Case No. 940) was dismissed and consolidated with the criminal case for robbery in band with homicide (Criminal Case No. 5199-III, for Robbery with Homicide and Rape). A separate information for usurpation of official function was filed by the Provincial Fiscal (Criminal Case No. 5202-III)

The information filed in Criminal Case No. 5199-III (Robbery in Band with Homicide and Rape) reads:

'That on or about the 28th day of June, 1968, at about 7:00 o'clock p.m., in barrio Buyon, municipality of Bacarra, province of Ilocos Norte, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, armed with guns and sharp pointed bolos, conspiring and confederating together and mutually helping one another, did then and there wilfully, unlawfully and feloniously, with intent of gain and by means of violence against and intimidation of

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[2] pp. 7-8. *Rollo.*

[3] p. 184. *Id.*

[4] Exhibit "G", p. 184. *Id.*

[5] Court of First Instance of Ilocos Norte and Laoag City, Branch III, Laoag City.

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persons, take and carry away personal properties belonging to the spouses Juan Acosta and Dominga Domingcil, to wit:

"Articles	*Value*
One (1) lady's watch	₱150.00
Five(5) necklaces for women	100.00
Two(2) finger rings for women	80.00
Two (2) finger rings for minors	7.00
Two (2) pairs of earrings	5.00
One (1) engagement ring	5.00
One (1) 8-Transistor Radio	68.00
Four (4) batteries	1.00
Spare parts for sewing machine	250.00
One (1) locket for men	35.00
Two (2) pants for men	45.00
Two (2) Polo barong	30.00
One (1) Saya for women	15.00
One (1) pant, khaki	6.00
One (1) Rural Bank book	10.00
Cash money	720.00
Three (3) blankets	75.00
One (1) pomade	.25
One (1) plier	5.00
One (1) Face towel	.80
Three (3) wallets for children	1.50
One (1) Lighter	5.00
Total	₱1,614.95

with a total value of One Thousand Six Hundred Fourteen Pesos and Ninety-Five Centavos (₱1,614.95), Philippine Currency, to the damage and prejudice of the aforenamed owners in the said amount;

"That by reason of or on the occasion of the commission of the robbery, the abovenamed accused, conspiring and confederating together and mutually helping one another, did then and there, wilfully, unlawfully and feloniously, with intent to kill and with treachery, attack, assault, shoot and stab, the husband Juan Acosta, thereby inflicting upon him mortal wounds on the different parts of his body causing his death immediately thereafter;

"That likewise the commission of the crime of robbery had been accompanied by rape when the accused, conspiring and confederating

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together and mutually helping one another, did then and there, wilfully, unlawfully and feloniously, and by using force and intimidation have carnal knowledge of the woman Dominga Domingcil;

"That the crime was committed with the following aggravating circumstances: abuse of superior strength, treachery, evident premeditation, ignominy, dwelling of the offended parties who have not given provocation, craft and disguise, nocturnity and by a band which facilitated the commission of the crime.

"Contrary to law."[6]

The information filed in Criminal Case No. 5201-III (Usurpation of Official Function), reads:

"That on or about the 28th day of June, 1968, at about 7:00 o'clock p.m. in barrio Buyon, municipality of Bacarra, province of Ilocos Norte, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused, conspiring and confederating together and mutually helping one another, did then and there, wilfully, unlawfully and feloniously, represent themselves knowingly and falsely as members of the Philippine Constabulary, to the spouses Juan Acosta and Dominga Domingcil, and consequently gained entry into the house of the said spouses, and once inside, and under pretence of official position, the said accused, without being lawfully entitled, performed acts pertaining to a person in authority, by then and there claiming to possess search warrants and opening and ransacking the chests, aparadors and trunks of the said spouses and searching the whole house.

"Contrary to law."[7]

Upon arraignment, the accused pleaded not guilty to the crime charged in Criminal Cases Nos. 5199-III and 5201-III, and the two cases, being closely related and arising from the same occasion, were tried jointly.[8]

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[6] pp. 29-31. Original Record.

[7] pp. 11-12. *Rollo.*

[8] p. 185. *Id.*

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The lower court, after trial, rendered a decision of conviction in Criminal Case No. 5199-III and acquittal in Criminal Case No. 5201-III, with the dispositive portion, to wit:

"Wherefore,

"In Criminal Case No. 5199, the Court finds the accused Pepito Villa, Anastacio Salcedo, Norberto Salcedo and Ernesto Salcedo, guilty beyond reasonable doubt of the crime of Robbery with Homicide, attended by the aggravating circumstances of rape, dwelling, nighttime, by a band, and craft, without any mitigating circumstance in their favor, and hereby sentences said accused to suffer the supreme penalty of *death*, with the accessories prescribed by law; to indemnify jointly and severally the heirs of Juan Acosta in the sum of ₱12,000.00 and to pay said heirs the sum of ₱1,060.79, the values of the things stolen but not recovered, and to pay further the costs.

"The money amounting to P26.16 (Exhibits "J-9", "J-10" to "J-18") and other articles recovered from the accused, namely Exhibits "J-19" to "J-25", "J-27" to "J-29", "J-31" to "J-37", "J-39", "J-40" to "J-43", are hereby ordered returned to Dominga Domingcil, the widow of Juan Acosta. "Exhibit "J-1" (revolver, paltic); "J-2" to "J-6" (live bullets); "J-7" and "J-8" (empty shells); "J-44" (Khaki belt); "J-45" (PC ranger patch); "J-46" (PC ranger cap); "J-47" (Khaki oversea cap); "J-48" (Khaki uniform); "J-49" (fatigue uniform); and "J-50" (buri bag) are hereby ordered forfeited in favor of the government.

"In Criminal Case No. 5201, the Court hereby orders the *acquittal* of the accused, for insufficiency of evidence, with costs *de oficio*.

"So Ordered."[9]

The injury suffered by the victim Juan Acosta, according to Dr. Jovencio Castro, who performed an autopsy of the body of the deceased on June 29, 1968, at 3:00 p.m., is as follows:

"Post Mortem Findings

"1. Skin and mucocutaneous surfaces — pale

2. Stabbed wound 1" wide, penetrating at the level of the second intercostal space incising the lobe of the left lung, chest left.

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[9] pp. 57-58. *Id.*

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3. Lacerated wound one-half (.5 inch) wide, parieto temporal region, left.

"*Cause of Death:*

Internal hemorrhage, severe secondary to stabbed wound penetrating at the level of the second intercostal space incising the left lung, chest left."[10]

The principal issues to be determined in this automatic review, are: which of the conflicting versions of the prosecution and the defense as to how the crime was committed is correct; and whether the confessions of the accused (Exhibits "A", "B", "C" and "D") were given voluntarily, or extracted by force and intimidation.

The prosecution's version of the crime is as follows:

Estrella Acosta, ten-year old daughter of the victim Juan Acosta and Dominga Domingcil, stated that in the early evening of June 28, 1968, at their house in Barrio Buyon, Bacarra, Ilocos Norte, both her parents, together with the witness and her two sisters, were at the kitchen. Her brother, George, 4 years old, was sleeping in the sala. Her father Juan was arranging tobacco leaves in a stick, while witness and her mother was cooking.[11] When their three dogs began to bark at about 6:30 p.m., her father went to the stairs leading to the kitchen, carrying a "*hasag*" lamp to see why the dogs were barking. Her mother and herself followed Juan at the head of the stairs. Estrella saw four men in uniform. The four were wearing fatigue and khaki uniforms and they were with weapons tied at their waists with leather holster.[12] Accused Anastacio Salcedo and a certain Felix Salcedo used to eat in the house of her father. Two of the accused were wearing oversea caps and the other two were wearing adolfo caps. One oversea cap was colored brown while the other was spotted with yellow. Adolfo caps were

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[10] Exhibit "F", p. 98. Original Record.

[11] p. 270, t.s.n., Vol. I.

[12] pp. 274-276, t.s.n., Vol. I.

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gray and black. Accused Anastacio Salcedo was wearing the oversea cap spotted with yellow,[13] while the other accused was wearing a brown oversea cap.[14] Estrella was sure that two wore fatigue uniforms and that two wore khaki uniforms.[15] Accused Anastacio Salcedo wore a fatigue uniform. Witness Estrella identified the companion of accused Anastacio Salcedo at that time as accused Pepito Villa, Norberto Salcedo and Ernesto Salcedo. Norberto Salcedo wore a khaki oversea cap, while Pepito Villa and Ernesto Salcedo wore adolfo hats.[16] Norberto Salcedo asked for the gun of her father and Juan Acosta answered he had no gun. Accused Norberto said they were going up the house to search for the gun as they were P.C. rangers searching for that gun.[17] Accused Norberto Salcedo, Ernesto Salcedo and Anastacio Salcedo went up the house, while accused Pepito Villa went near the other stairs leading to the sala. The three accused went to the sala of the house followed by the spouses and their children. The three looked around the house. Ernesto Salcedo grabbed the "*hasag*" lamp from Juan and put it out. Thereafter, the group went inside the room. The three accused and her parents went to the northern part of the room, where Norberto Salcedo told her mother to open a carton containing washed clothes.[18] Norberto took out the clothes, shook them and threw them to the floor, while accused Ernesto Salcedo focused a flashlight he was holding on the clothes being taken out from the carton by Norberto. Accused Anastacio Salcedo was at that time pointing a gun at Juan.[19] The three said they were looking for a gun but they did not find any in ransacking the contents of the carton. Estrella

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[13] Exhibit "J-46".

[14] Exhibit "J-47"; pp. 276-279, t.s.n., Vol. I.

[15] p. 280, t.s.n., Vol. I.

[16] pp. 281-282, t.s.n., Vol. I.

[17] pp. 283-284, t.s.n., Vol. I.

[18] pp. 285-288, t.s.n., Vol. I.

[19] pp. 288-289, t.s.n., Vol. I.

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heard the dogs barking and she saw through the window accused Pepito Villa focusing a flashlight at the dogs which were trying to attack him. Pepito retreated towards the stairs leading to the sala, went up the house and joined his companions.[20]

Accused Pepito Villa ordered Estrella's mother to open the *aparador* of her father, and he ransacked the contents of the *aparador*, shaking the articles and throwing them to the floor of the house, while Norberto Salcedo focused his flashlight on the articles inside the *aparador*.[21] Norberto Salcedo ordered the opening of a trunk containing blankets and searched the contents of the trunk while Ernesto Salcedo focused on the said items a flashlight he was holding.[22] Then, Ernesto Salcedo ordered the opening of the *aparador* used by her mother and the children. Ernesto ransacked the *aparador* in the same manner, while Anastacio Salcedo focused a flashlight on the contents.[23]

At that moment, Estrella's brother George sleeping in the sala, woke up and began crying, so she went to the sala to pacify him. While in the sala, Estrella heard a voice say "you bring out the proceeds of the sale of your cow" and she heard her mother answer "We did not sell any cow."[24] Accused Pepito Villa took his father to the sala of the house and struck her father with the handle of his gun on the nape.[25] Juan Acosta fell face downward on the bamboo floor, whereupon Pepito Villa made Juan stand up and walk back to the room. Then, witness heard the report of a gun in the southern part of the room. She heard her father say: "By gosh, we know each other, you should not be that cruel." After that, she heard another shot also in the southern portion of the room.[26] Estrella and

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[20] pp. 290-292, t.s.n., Vol. I.

[21] pp. 292-293, t.s.n., Vol. I.

[22] p. 294, t.s.n., Vol. I.

[23] p. 295, t.s.n., Vol. I.

[24] p. 296, t.s.n., Vol. I.

[25] pp. 296-297, t.s.n., Vol. I.

[26] pp. 298-300, t.s.n., Vol. I.

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her younger sisters and brothers were crying. Afterwards, Estrella saw accused Norberto Salcedo bring her mother out of the room to the porch holding her mother by the shoulder and pointing his gun towards the mouth of her mother.[27] After accused Norberto Salcedo brought her mother to the porch, accused Ernesto Salcedo came to the place where the children were huddled together and covered them with a blanket.[28] While covered with the blanket, Estrella noticed persons walking towards the porch.[29]

After about five minutes, Estrella removed the blanket covering her, went to the window and saw her mother in the porch lying face upward with hands and feet hogtied. She went back to the place where her brothers and sisters were and she saw accused Anastacio Salcedo, who said "Let us go." She saw Norberto Salcedo leaving the place with something bundled in a blanket under his arms.[30]

After the four accused left, Estrella went to the porch and she removed a piece of cloth tied around the mouth of her mother. She then went for help to the house of her uncle Martin de la Cruz and she came back to the house with her grandmother Basilia.[31]

In their house, Estrella took the wick lamp and entered the room, accompanied by her grandmother, younger sisters and brothers. She saw her father lying face upward, head and face covered with a T-shirt. They cried. She noticed a wound on the left side of his chest, with a stocking stuck on the wound. Her father's body was naked except for short pants. His hands were tied with a rope and his feet were tied with a dog's collar. She saw a pair of scissors stuck between the bamboo slits north of the place where her father's body was. Then, her

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[27] pp. 301-302, t.s.n., Vol. I.

[28] pp. 302-303, t.s.n., Vol. I.

[29] pp. 303-304, t.s.n., Vol. I.

[30] pp. 304-306, t.s.n., Vol. I.

[31] p. 307, t.s.n., Vol. I.

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mother arrived in the house with her aunts Benjamina and Dionicia Domingcil, sisters of her mother. Natividad Pascual, a sister-in-law of her mother, was also with them.[32] Later, her aunts and her mother transferred the body of her father to the sala. Sometime afterwards, Sgt. Galapon and her uncle Sgt. Anastacio Domingcil of the P.C. arrived, as well as Municipal Judge Pilar.

Dominga Domingcil Acosta, widow of the victim Juan Acosta, corroborated the narration of Estrella, her daughter, from the time of the arrival of the four accused in the early evening of June 28, 1968, their announced purpose to look for a gun belonging to the victim Juan Acosta, up to the time they went up the house, ransacked the contents of a carton, an *aparador* and a trunk.[33] Accused Ernesto Salcedo took out pieces of jewelry from the drawer of the *aparador* and pocketed them.[34] Ernesto also asked Dominga to produce the proceeds of a sale of a cow and insisted that the money be produced. Accused Anastacio Salcedo said that the couple really sold a cow the previous Sunday.[35]

Accused Anastacio Salcedo took the P450 and the coin deposits of her children. Accused Pepito Villa said that if the proceeds of the sale of the cow would not be brought out, the couple would be killed. Pepito struck the left side of the head of Juan Acosta with the handle of his gun.[36] When Juan fell, Pepito Villa raised the T-shirt of Juan up and covered the latter's face with it. Pepito also tied the hands of Juan with a rope, while Ernesto Salcedo tied Juan's feet with a dog's collar. Then accused Norberto Salcedo and Pepito Villa carried Juan and placed him crosswise on the bed.[37] Pepito Villa pressed his gun at the left side of the head of Juan. Dominga tried to

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[32] pp. 308-312, 315, 316-317, t.s.n., Vol. I.

[33] pp. 465-475, t.s.n., Vol. II.

[34] pp. 475-476, t.s.n., Vol. II.

[35] pp. 480-481, t.s.n., Vol. II.

[36] pp. 482-483, t.s.n., Vol. II.

[37] p. 484, t.s.n., Vol. II.

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prevent Villa from doing so, but accused Ernesto Salcedo pushed her. She cried and then she heard a gun report. She subsequently saw Pepito Villa leaving her husband Juan. Accused Norberto Salcedo went near Juan and pressed his gun at the left side of Juan's breast. Dominga wanted to go near her husband Juan, but accused Ernesto Salcedo held her and turned her around. She again heard a gun report. She saw accused Norberto Salcedo leaving Juan's side and she also saw a wound on Juan's breast that was bleeding.[38]

Afterwards, Norberto Salcedo placed his left arm around Dominga's shoulder and held his gun pointed at her when she was taken to the porch. The three accused followed them to the porch. Accused Ernesto Salcedo and Norberto Salcedo held each of her hands. Pepito Villa went in front of Dominga and raised her dress. He lowered her panties. Ernesto Salcedo remarked, "The children may see us." Whereupon, he went inside the room, took a blanket and went to the place where her children were. Norberto Salcedo raised her hand and placed her on three chairs west of the porch. She cried while Anastacio Salcedo pointed a gun at her. When Dominga was forced to lie down on the chair, Anastacio Salcedo went in front of her, raised her dress, spread her legs apart, brought out his private part and inserted it inside her private part.[39] She wanted to struggle but Norberto Salcedo held her arms. Then Anastacio Salcedo held her hands while Norberto Salcedo also raped her. Afterwards, she was made to lie face down on the floor. Pepito Villa tied both her hands and feet with rope, and stuffed her mouth with a handkerchief. Then Pepito Villa and Ernesto Salcedo told Dominga not to cry for help because they would guard her till morning. Her daughter Estrella came afterwards and removed the handkerchief from her mouth. She told her daughter to go and ask for help from the spouses Carolina Acosta and husband.[40]

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[38] pp. 485-486. t.s.n., Vol. II.

[39] pp. 487-490. t.s.n., Vol. II.

[40] pp. 491-493. t.s.n., Vol. II.

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Dominga was able to remove the rope that bound her and she went for help in her father's house. When she returned to her house and the room where her husband was, Juan was found lying beside the bed, with a wound on the left side of his breast stuffed with a stocking, a pair of scissors near the body on the floor. His hands and feet were tied and his T-shirt covered his head and face. Many of their personal belongings were missing.[41] A good portion of the missing personal belongings were later recovered from the possession of the accused when they were apprehended at Badoc.

The morning following the night of the incident she was examined by Dr. Maximiano Agbayani of the Ilocos Norte Provincial Hospital at Laoag City for the outrage committed against her by the accused. His findings are included in a medical certificate, to wit:

"1. Linear abrasion above wrist across the dorsal aspect of left forearm.

"2. Abrasion vertibule of vulva near the upper ends of labia minora.

"3. Vaginal smear negative for spermatozoa."[42]

Mrs. Dominga D. Acosta explained the statement she made in her sworn statement[43] taken on June 29, 1968, the very next day of the incident, that her husband was shot when the autopsy report showed he was stabbed, by stating in her testimony that she was still in a state of shock when her sworn statement of June 29, 1968, was taken, and having heard two shots when the incident happened she had the impression that her husband Juan was shot.[44] Furthermore, Dominga stated that later, when she realized her mistake, she even told the Municipal Judge who conducted the preliminary investigation of the case, but

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[41] pp. 494-496, t.s.n., Vol. II.

[42] Exhibit "R".

[43] Exh. "4", page 15, Original Record.

[44] pp. 564-569.

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he told Dominga just to correct the mistake later when she testified in court.

Regarding the early apprehension of the four accused, P.C. Sgt. Mariano Galapon testified that at about 9 p.m. on June 28, 1968, P.C. Sgt. Anastacio Domingcil reported to the headquarters of the 121st P.C. Co. in Laoag City the incident that happened in the house of his brother-in-law Juan Acosta at barrio Buyon, Bacarra. Acting on the report, Sgt. Rufino Lasaten ordered Sgt. Galapon, Sgt. Tabladillo and Pvt. Nelson Acosta to accompany Sgt. Domingcil to the scene of the crime to investigate and apprehend the suspects. They left the P.C. Camp immediately but before they went to Bacarra, they first proceeded to San Nicolas, the next town south of Laoag City because Sgt. Domingcil said that Anastacio Salcedo, one of the suspects, is from Sinait, Ilocos Sur, and it is possible that the suspects went southward. They found three civilians, relatives of Sgt. Domingcil, in front of the San Nicolas town hall, who could identify Anastacio Salcedo. After staying there for a short while, Sgt. Galapon instructed Sgt. Tabladillo and Pvt. Nelson Acosta to wait for a ride to Badoc and to proceed thereto with the three civilians to intercept the suspects. Sgt. Galapon and Sgt. Domingcil went to Bacarra and conducted a cursory inquiry in the house of the Acostas, after which the two proceeded to Badoc. When they arrived in Badoc at about 2:30 the following morning, the accused were already apprehended. Sgt. Claudio Alcaraz, P.C. Detachment Commander at Badoc, turned over to Sgt. Galapon the articles confiscated from the accused and he made an inventory of said articles.[45] He interrogated the accused about the P.C. uniforms which were confiscated from them. Ernesto Salcedo admitted that the khaki uniform was his, and Anastacio Salcedo admitted that the fatigue uniform was his. Both Ernesto and Anastacio admitted they wore those uniforms when they went to the house of Juan Acosta and that they were not soldiers. They had a picture taken with the four accused together with the confiscated loot.[46] Anastacio Salcedo and Norberto Salcedo

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[45] Exhibit "J".

[46] Exhibit "K".

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wore the fatigue and khaki uniforms, respectively, for the picture taking. After the picture was taken, Sgt. Galapon, Sgt. Tabladillo, and Pvt. Acosta took the four accused to the P.C. Headquarters at Laoag City, together with the recovered articles. At the P.C. Headquarters, Sgt. Galapon turned over the four accused and the recovered articles to Sgt. Visaya, their Chief Investigator.[47]

P.C. Pvt. Nelso Acosta corroborated the testimony of Sgt. Galapon. From San Nicolas, Sgt. Tabladillo and Pvt. Acosta and the three civilians took a ride and they arrived at Badoc about 10 p.m. In Badoc, they checked all southward going motor vehicles. At about 2 a.m., the following morning, they stopped a southward bound Philippine Rabbit Bus. Pvt. Acosta, Sgt. Bernabe Nicolas of the Badoc detachment and the three civilians boarded the bus. Eleuterio Domingcil, a civilian and brother of Sgt. Domingcil, pointed out to Pvt. Acosta the accused Anastacio Salcedo who was sitting in the first seat behind the driver's seat, left side of the bus. The person sitting beside Anastacio had curly hair. Pvt. Acosta frisked Anastacio Salcedo for sidearms but found none. When Pvt. Acosta asked Anastacio for the latter's companions, he pointed at his seatmate and two others who were sitting in the first seat, right side of the bus. Sgt. Nicolas searched Anastacio's seatmate and found a *.22 caliber paltik revolver*[48] at his waist. Sgt. Nicolas opened the cylinder of the revolver, and Pvt. Acosta saw the cylinder full of bullets. When Sgt. Nicolas asked that person his name, he answered he was Norberto Salcedo. Pvt. Acosta searched the other two men seated on the right side front seat and he did not find any sidearm. When Pvt. Acosta inquired from the two their names, they answered — Ernesto Salcedo and Pepito Villa. Pvt. Acosta saw a *buri* bag[49] in front of the seat of the two. He saw a jacket and a transistor radio in the bag, and

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[47] pp. 78-101. t.s.n., Vol. I.

[48] Exhibit "E-1".

[49] Exhibit "J-50".

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Eleuterio Domingcil told Pvt. Acosta those things belong to the victim Juan Acosta. On the order of Pvt. Acosta, the four accused alighted from the bus accompanied by the former and his companions. They all went to the Badoc P.C. detachment where Pvt. Acosta turned over to Sgt. Alcaraz the *buri* bag and its contents. Pvt. Acosta again searched Anastacio Salcedo and he found in the latter's pocket one (1) ten peso bill and five (5) one peso bills.[50] Eleuterio Domingcil remarked that the polo barong with blue decorations[51] and the gray pants[52] which Anastacio Salcedo was then wearing belonged to the victim Juan Acosta. Eleuterio Domingcil also said that the polo barong with brown decorations[53] which accused Pepito Villa was wearing belonged to Juan Acosta. Sgt. Alcaraz poured out the contents of the *buri* bag on the table. At that moment, Sgts. Galapon and Domingcil arrived. Sgt. Alcaraz turned over the recovered articles to Sgt. Galapon who prepared an inventory of the same. They then had a picture taken with the four accused, and the confiscated articles. Afterwards, they proceeded to the P.C. Headquarters at Laoag City. Ernesto Salcedo admitted that they owned the *buri* bag.[54]

P.C. Sgt. Mariano Visaya, as Chief Investigator of the 121st P.C. Company with headquarters at Camp Juan, Laoag City, stated that at about 6:00 a.m. on June 29, 1968, Sgt. Galapon delivered to his custody at the camp, the four accused and the articles confiscated from them when they were apprehended in Badoc, together with a pair of scissors which Sgt. Galapon took from the scene of the crime. Sgt. Visaya investigated the accused Anastacio Salcedo and Norberto Salcedo, while Sgt. Herminigildo Paguirigan investigated accused Pepito Villa and Ernesto Salcedo. After the statements of the accused were

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[50] Exhibits "J-9" to "J-14".

[51] Exhibit "J-42".

[52] Exhibit "J-40".

[53] Exhibit "J-41".

[54] pp. 214-236, t.s.n., Vol. I.

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taken, the four accused and their statements were brought before the Municipal Judge of Bacarra so they could sign and swear to their respective statements.[55]

P.C. Sgt. Herminigildo Paguirigan testified that on the morning of June 29, 1968, he investigated Pepito Villa and Ernesto Salcedo. Both of them read their respective written statements. Those statements were given to Sgt. Visaya who brought the four accused before the Municipal Judge of Bacarra for the signing and swearing of their statements. Sgt. Paguirigan also said that he and Sgt. Juan Jerez went to the Provincial Jail on August 15, 1968, where Sgt. Jerez took the statement of Norberto Salcedo[56] after which they brought Norberto Salcedo to the Office of the Provincial Fiscal where Norberto swore to the truthfulness of the contents of said statement.[57]

P.C. Sgt. Juan C. Jerez stated that on July 2, 1968, it occurred to him to inquire from accused Norberto Salcedo about the scissors found near the cadaver of victim Juan Acosta, and Norberto explained that he was ordered by accused Anastacio Salcedo, during the incident of June 28, 1968, to stab Juan Acosta through the gunshot wound on his breast. So he stabbed Juan Acosta with a pair of scissors, and left the weapon near the body of Juan Acosta. Sgt. Jerez explained that due to pressure of work he was not able to get the written statement of Norberto until August 15, 1968. That written statement of Norberto was taken in the Provincial Jail in the presence of several provincial guards and Sgt. Herminigildo Paguirigan. After the statement was taken, Norberto was brought to the Office of the Provincial Fiscal where Norberto signed and swore to the truthfulness of its contents before Asst. Provincial Fiscal Napoleon R. Flojo.[58]

Municipal Judge Elias Pilar of Bacarra, testified that the four accused, accompanied by P.C. soldiers, went to his office

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[55] pp. 146-159, t.s.n., Vol. I.

[56] Exhibits "H" and "H-1", translation.

[57] pp. 194-198, t.s.n., Vol. I.

[58] pp. 51-58, t.s.n., Vol. I.

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in the morning of June 29, 1968, and the accused signed in his presence and swore before him to the truthfulness of their respective statements.[59] The accused voluntarily signed their respective statements, and there were no indications whatsoever of their being forced to sign those confessions. Judge Pilar saw the victim Dominga Domingcil *Vda. de* Acosta slap the face of Anastacio Salcedo outside of his room.[60] Those affidavits were sworn to before him in the morning of June 29, 1968, while the complaint was filed that same afternoon.[61]

Another victim, Benjamina Domingcil, sister of victim Mrs. Dominga Domingcil *Vda. de* Acosta, testified that on June 28, 1968, at about 4:30 p.m. she saw accused Anastacio Salcedo, together with three companions, at the Shell gasoline station, north of the Far East Bank Building of Laoag City. They were standing close together, and Norberto Salcedo was then holding a *buri* bag.[62]

The defense's version of the incident admitted the presence of the four accused in the house of the victims-spouses Acostas on June 28, 1968, allegedly for Anastacio Salcedo to ask for his agreed commission of ₱50 for the sale of a cow belonging to the Acostas. The four accused denied the robbery, and denied that they raped Dominga on that occasion. Such version, supported by the testimony of the four accused, follows:

Accused Anastacio Salcedo was requested by victim Juan Acosta to look for a buyer of his cow for ₱450, with the promise that he would give ₱50 to the former, if a buyer could be found. Anastacio Salcedo did find a buyer in the person of one Faustino Tangonan from Sinait, Ilocos Sur, who bought the cow for ₱450 a week before the incident. On June 28, 1968 about noontime, accused Anastacio Salcedo casually met his three co-accused

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[59] Exhibits "A", "B", "C", "D", "A-1", "B-1", "C-1", "D-1" - translations.

[60] p. 21, t.s.n., Vol. I.

[61] pp. 3-24, t.s.n., Vol. I.

[62] pp. 460-464, t.s.n. Vol. I.

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at a market place for livestocks (dayo) in Barrio Sta. Cruz, Sinait, Ilocos Sur. They went to Laoag City to see a movie. After they left the movie at about 5 p.m., and after taking some refreshments in a store nearby, they proceeded to the waiting place for buses going to Sinait, their hometown. While waiting for their ride, Anastacio Salcedo saw Benjamina Domingcil, sister-in-law of Juan Acosta. Anastacio Salcedo remembered that he had not yet collected his fifty peso commission for the sale of Juan Acosta's cow. Anastacio proposed to his three companions that they first go to Barrio Buyon, Bacarra for he wanted to collect his commission. They all agreed, so they proceeded to the house of the Acostas at Bacarra where they arrived after dark. Juan Acosta invited the four accused to his house. After the usual amenities, Anastacio told Juan his purpose, but Juan answered that he had no more money. Anastacio told Juan that he needed money and pleaded that he be given an advance of ₱30. Juan insisted that the money was already spent, and told Anastacio that even if he searched the house he would not find any. Although Anastacio declined to do so, the wife of Juan opened a box containing washed clothes and invited the four accused to look, but they did not mind her.

Anastacio with Ernesto and Pepito started to leave the place, passing this time through the *batalan* leading to the stairs near the kitchen. As soon as the three reached the *batalan* they heard a gun report and they ran away. They noticed that Norberto was left behind. They waited by the road and when Norberto appeared he told the three of them that he killed Juan because the latter grabbed and took away from him (Norberto) his gun and afterwards fired it at him two times. Norberto said he grabbed a pair of scissors which he saw nearby and when he saw Juan pointing Norberto's own gun at him, he stabbed Juan twice with the scissors and after Norberto recovered his gun, he ran away.[63]

A scrutiny of the conflicting versions of the prosecution and the defense, together with the evidence presented to support

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[63] pp. 654-675, 741-755, 797-808, 612-625, t.s.n., Vol. II.

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them, clearly shows that the version of the prosecution is the credible one. The testimonies of eyewitnesses Estrella Acosta and Mrs. Dominga Domingcil *Vda. de* Acosta were given in a simple straightforward manner, mentioning details of the incident that could not have been merely concocted, indicating sincerity in narration of events during the incident, indicative of truth as to what actually happened.[64] The ten year old Estrella Acosta showed remarkable intelligence in her narration of events during the direct examination and survived the cross examination by clinging to the veracity of her version in the sequences of events she observed on the night of June 28, 1968.[65] Likewise, Mrs. Dominga Domingcil *Vda. de* Acosta never wavered in her narration of what happened during that night when she was subjected to a searching cross-examination.[66]

The narration of the incident coming from both eyewitnesses coincided and are consistent with each other. They are clear and of logical sequence.

When Mrs. Dominga Domingcil *Vda. de* Acosta was asked to explain her statement appearing on Exhibit "4", taken on June 29, 1968, the day after the incident, that her husband was shot, while the autopsy report showed that he was stabbed, she stated that on June 29, 1968, she was still in a state of shock and as she heard two shots and later saw her husband Juan dead, she assumed that he was shot. Anyway, she realized her mistake, and told the Municipal Judge of Bacarra about it, but she was told that the mistake could be corrected when Dominga testified in court.

The confessions of the accused[67] cannot be totally ignored even if they repudiated all of them on the ground of alleged extraction by force and intimidation, because the narrations

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[64] pp. 268-317, t.s.n., Vol. I; pp. 465-506, t.s.n., Vol. II.

[65] pp. 320-415, t.s.n., Vol. I.

[66] pp. 506-585, t.s.n., Vol. II.

[67] Exhs. "A", "B", "C", "D", "A-1", "B-1", "C-1", "D-1".

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contained in them coincide with the narration given by the eyewitnesses Estrella Acosta and Dominga *Vda. de* Acosta. The details contained in these confessions could not have been known to the P.C. investigators before whom they were given, taking into consideration that they were given on the morning of June 29, 1968, immediately after the apprehension of the four accused at 2 a.m. of the same morning, and within 24 hours after the crime was committed at dusk of June 28, 1968. It is likewise difficult to believe that the P.C. investigators could have concocted events and fabricated evidence against the accused in such a short time.

The contention of the accused that they were maltreated and forced to sign the confessions Exhibits "A", "B", "C", and "D" cannot be given credence. The P.C. investigators apprehended the accused at 2:00 a.m. of June 29, 1968. The same morning of June 29, 1968, the sworn statements of the four accused were taken, and before noon said statements were subscribed and sworn to by the accused before the Municipal Judge of Bacarra. The accused could not show any medical certificate about the supposed physical injuries they suffered. They admitted that there were many persons present when they were apprehended and investigated. The Municipal Judge of Bacarra did not notice any intimidation against the four accused. On the contrary they all voluntarily signed their confessions and swore to them before the Municipal Judge. The P.C. investigators, Sgt. Mariano Visaya and Sgt. Herminigildo Paguirigan merely performed their duties as such when they took down the statements of the accused on June 29, 1968. The trial court observed "that the respective signatures of the accused in their separate extrajudicial confessions appear to be continuous and stable, indicating that they were made by firm hands."[68] The trial court was correct when it stated that even if the confessions of the accused are disregarded, sufficient evidence exists to establish the prosecution's version of the crime.

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[68] pp. 50-51. *Rollo.*

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The version of the defense that accused Norberto Salcedo alone stabbed and killed in self-defense Juan Acosta during the incident because the latter grabbed Norberto's gun, fired twice, and was pointing the gun at him, is completely unbelievable. That version is based on the lone testimony of accused Norberto Salcedo while the version of the prosecution is based on the testimony of eyewitnesses Estrella and Mrs. Dominga Domingcil *Vda. de* Acosta. It is very difficult to believe that Juan Acosta in the presence of his family and for no known reason at all, would suddenly grab the gun of Norberto Salcedo and fire twice at close range without hitting anybody. It is likewise incredible that Norberto Salcedo would just suddenly find a pair of scissors and use it to stab Juan. Evidence is very clear that when the body of Juan was found in the room his hands and feet were tied.

The evidence for the prosecution proves the guilt of the accused beyond reasonable doubt. All the accused are guilty of robbery with homicide and rape as charged. The crime is punishable under paragraph 1, Article 294, Revised Penal Code, the rape committed on the occasion of the crime being considered an aggravating circumstance.[69] The other aggravating circumstances proven present in the crime are: dwelling, for the crime was committed in the dwelling of the offended parties without the latter having given any provocation; night time, the accused having purposely sought it to realize the crime with ease; by a band, the accused being more than three who were all armed; and craft, the accused having pretended to be P.C. Rangers in order to gain entrance into the house of the offended parties. No mitigating circumstance was proven.

WHEREFORE, the decision dated November 26, 1969 in this case, being in accordance with law and the evidence, is affirmed in all respects, with corresponding proportionate costs against the accused.

SO ORDERED.

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[69] *People vs. Cand*, 85 Phil. 743; *People vs. Bacsa*, 104 Phil. 136; *People vs. Mongado, et. al.*, 28 SCRA 642, 651-652.

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

Fernando (C.J.) and *Abad Santos, JJ.*, did not take part.

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

EN BANC

[G.R. Nos. L-33604-05. October 30, 1979]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **JESUS G. RUIZ and ALFREDO GUNO,** *accused-appellants.*

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; WITNESSES; CREDIBILITY; MERE RELATIONSHIP OF THE PROSECUTION WITNESSES TO THE VICTIM DOES NOT NECESSARILY VITIATE THEIR OTHERWSE CREDIBLE TESTIMONIES NOR DOES IT IMPAIR THEIR POSITIVE AND CLEAR TESTIMONIES.— The fact that Libertad is the sister of the deceased Sgt. Bito does not necessarily make her a biased witness. The prevailing jurisprudence on the matter is that mere relationship of the prosecution witnesses to the victim does not necessarily vitiate their otherwise credible testimonies nor does it impair their positive and clear testimonies.

2. ID.; ID.; TESTIMONY; *FALSUS IN UNOS, FALSUS IN OMNIBUS*; APPLICATION.— The cited maxim deals only with the weight of evidence and is not a positive rule of law or of universal

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