

EN BANC

[G.R. Nos. 131837-38, April 02, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. C2C
RODNEY T. DUMALAHAY, ALLAN A. HALASAN (AT LARGE),
REMEGIO FUENTES (AT LARGE), SGT. ROY HALASAN (AT LARGE),
ACCUSED.**

C2C RODNEY T. DUMALAHAY, ACCUSED-APPELLANT.

D E C I S I O N

YNARES-SANTIAGO, J.:

Accused were charged before the Regional Trial Court of Cagayan de Oro City, Branch 19, with two counts of Murder, committed as follows:

Criminal Case No. 6655 --

That on or about December 18, 1985, at about 8:30 in the evening, in the City of Cagayan de Oro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, principals, C2C Rodney T. Dumalahay, PC, Allan A. Halasan and Remegio A. Fuentes, conspiring, confederating together and mutually helping one another, with intent to kill and armed with an armalite rifle which they were then conveniently provided, did then and there willfully, unlawfully and feloniously kill Geronimo Layagon alias Loloy on board a Toyota Hi-Lux vehicle by then and there firing upon the victim several times with an armalite rifle, while the victim was seated on (*sic*) the running Toyota Hi-Lux vehicle, and driven by accused Rodney Dumalahay, thereby inflicting serious gunshot wounds on the victim, resulting to (*sic*) his instantaneous death.

That accused Sgt. Roy Halasan, PC, is an Accessory after the Fact of the said crime in that he assisted in the escape of the three principal accused by driving a Chimite B 150 vehicle stationed at Camp Alagar and towed the Toyota Hi-Lux vehicle used in the murder which bogged down after the killing near Agora Market, until the engine had started, well-knowing that the 3 principals accused killed the victim and he had seen the dead bodies inside the Hi-Lux vehicle when he towed the same and was given P1,000.00 from the money of one of the dead victim (*sic*).

That the commission of the said offense is accompanied by the following aggravating circumstance namely: abuse of confidence; nighttime obviously sought to facilitate the commission of the offense; treachery and evident premeditation.

Contrary to Article 248 in relation to Art. 14 of the Revised Penal Code.^[1]

Criminal Case No. 6656 --

That on or about December 18, 1985, at about 8:30 o'clock in the evening, more or less, in the City of Cagayan de Oro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, principals, C2C Rodney T. Dumalahay, PC, Allan A. Halasan and Remegio A. Fuentes, conspiring, confederating together and mutually helping one another, with intent to kill and armed with an armalite rifle which they were then conveniently provided, did then and there willfully, unlawfully and feloniously kill Antonio Escalante on board a Toyota Hi-Lux vehicle by then and there firing upon the victim several times with an armalite rifle, while the victim was seated on (*sic*) the running Toyota Hi-Lux vehicle, and driven by accused Rodney Dumalahay, thereby inflicting serious gunshot wounds on the victim, resulting to (*sic*) his instantaneous death.

That accused Sgt. Roy Halasan, PC, is an Accessory after the Fact of the said crime in that he assisted in the escape of the three principal accused by driving a Chimite B 150 vehicle stationed at Camp Alagar and towed the Toyota Hi-Lux vehicle used in the murder which bogged down after the killing near Agora Market, until the engine had started, well-knowing that the 3 principals accused killed the victim and he had seen the dead bodies inside the Hi-Lux vehicle when he towed the same and was given P1,000.00 from the money of one of the dead victim (*sic*).

That the commission of the said offense is accompanied by the following aggravating circumstance namely: abuse of confidence; of nighttime obviously sought to facilitate the commission of the offense; treachery and evident premeditation.

Contrary to Article 248 in relation to Article 14 of the Revised Penal Code.

[2]

The facts, as culled from the extrajudicial confessions of accused Rodney Dumalahay,^[3] Allan Halasan^[4] and Remegio Fuentes,^[5] are as follows:

On December 15, 1985, Constable Second Class Rodney T. Dumalahay was approached by Geronimo "Loloy" Layagon and Antonio Escalante asking if he knew where they can buy an M-16 Baby Armalite. Coincidentally, Dumalahay had such a firearm but he pawned it to Nanong Cagang sometime in August 1985 for P5,000.00. Dumalahay told Layagon and Escalante that he can buy the firearm for P18,000.00, and asked for a downpayment of P7,000.00. When Dumalahay tried to redeem the Baby Armalite, however, Cagang told him that the amount of his loan had reached P14,300.00, inclusive of interests. So, Dumalahay asked for an additional P7,300.00 from Layagon and Escalante. On December 18, 1985, Dumalahay was able to redeem the Baby Armalite from Cagang.

Driving a Toyota pick-up truck, Dumalahay fetched Allan Halasan and Remegio Fuentes at the house of Sgt. Roy Halasan, Allan's brother. He dropped off Fuentes at the Double "E" Batchoy restaurant where Layagon and Escalante were waiting. Dumalahay then drove around with Allan Halasan and gave him instructions to shoot Layagon and Escalante on board the pick-up truck when he heard the word, "*gen.*"

Dumalahay then drove back to Double "E" Batchoy and picked up Layagon, Escalante and Fuentes. Inside the truck, Dumalahay showed the Baby Armalite to Layagon and Escalante. They headed towards Agora, Lapasan, purportedly to get additional ammunition.

When they reached Gaabucayan Street, Allan Halasan heard Dumalahay utter the signal, "*gen*," so he immediately fired at Layagon and Escalante with the M-16 Baby Armalite. Dumalahay saw that Escalante was still alive and ordered Halasan to finish him off. The pick-up truck suddenly stalled near Agora Market. Allan Halasan went to Camp Alagar to ask for help from his brother, Sgt. Roy Halasan. Moments later, the brothers arrived in a Chimite B 150, an armored military vehicle. They towed the pick-up truck until its engine started. Then, Dumalahay drove the truck towards Cabula, where they dumped the dead bodies of Escalante and Layagon. It was already 11:00 in the evening.

At their arraignment, C2C Rodney Dumalahay, Allan Halasan and Remegio Fuentes entered a plea of not guilty. Sgt. Roy Halasan, on the other hand, has not been apprehended.

On October 7, 1997, the lower court rendered judgment as follows:

WHEREFORE, finding principal accused Rodney Dumalahay, Allan Halasan and Remegio Fuentes guilty beyond reasonable doubt of double murder of Geronimo Layagon and Antonio Escalante they are each hereby sentenced to double penalties of death one for the death of Geronimo Layagon and the other for the death of Antonio Escalante, plus all the accessory penalties provided by law. Each of them too is ordered to indemnify the heirs of Geronimo Layagon in the sum of P50,000, to pay them moral damages in the sum of P50,000 and exemplary damages in the sum of P20,000. Likewise, they are each ordered to indemnify the heirs of Antonio Escalante in the sum of P50,000, to pay moral damages in the sum of P50,000 and exemplary damages in the sum of P20,000.

They are also ordered to pay the costs of this case.

Since the accused Allan Hasalan and Remegio Fuentes are at large, let a warrant for their arrest issue.

The present custodian of Rodney Dumalahay is hereby directed to transport him to the higher authorities without delay.

The baby armalite rifle, which is the weapon of death, which is Exh. Q, is hereby confiscated in favor of the State.

SO ORDERED. ^[6]

During the trial of the cases before the court *a quo*, accused Allan Halasan and Remegio Fuentes escaped detention. They remain at large to this day. However, the trial court proceeded to try the case against them. Since the trial court had not acquired jurisdiction over the person of Sgt. Roy Halasan, judgment was not rendered against him.

In view of the imposition of the death penalty, these cases are now before us on automatic review pursuant to Article 47 of the Revised Penal Code, in relation to Section 22 of Republic Act No. 7659.

In his Appellant's Brief, accused-appellant Dumalahay argues that his extrajudicial confession is inadmissible in evidence because it was obtained by means of duress, and the lawyer who assisted him during the investigation was provided by the police. By way of defense, he alleges that he sold his Baby Armalite rifle to Antonio Escalante; that while they were on board the pick-up truck, the rifle, which was being held by Allan Halasan while seated in front of the double cab pick-up truck, accidentally went off and hit Escalante and Layagon, who were both at the backseat.
[7]

We are not persuaded.

The self-serving statements of accused-appellant Dumalahay is belied by the testimony of Atty. Manuel Ubay-ubay, the lawyer who assisted the three accused in their confession. He narrated that at 6:00 in the evening of May 28, 1986, he was fetched at his house by Rodney Dumalahay, Allan Halasan and Remegio Fuentes, together with CIS Agent Bernardo Cabillar, Staff Sgt. Basilio Mangubat and Napoleon dela Torre. The three accused wanted to engage his services in connection with the investigation of the deaths of Geronimo Layagon and Antonio Escalante. Atty. Ubay-ubay acceded and went with them to the CIS Office in Patag, Cagayan de Oro City. There, he assisted the three accused in giving their respective confessions to the police officers.
[8]

The sworn confessions of the three accused show that they were properly apprised of their right to remain silent and right to counsel, in accordance with the constitutional guarantee.
[9]

At 8:00 in the morning of the next day, the three accused proceeded to the office of Atty. Rexel Pacuribot, Clerk of Court of the Regional Trial Court of Cagayan de Oro City. All of the three accused, still accompanied by Atty. Ubay-ubay, subscribed and swore to their respective written confessions. Before administering the oaths, Atty. Pacuribot reminded the three accused of their constitutional rights under the Miranda doctrine and verified that their statements were voluntarily given. Atty. Pacuribot also translated the contents of each confession in the *Visayan* dialect, to ensure that each accused understood the same before signing it.
[10]

No ill-motive was imputed on these two lawyers to testify falsely against the accused. Their participation in these cases merely involved the performance of their legal duties as officers of the court. Accused-appellant Dumalahay's allegation to the contrary, being self-serving, cannot prevail over the testimonies of these impartial and disinterested witnesses.

More importantly, the confessions are replete with details which could possibly be supplied only by the accused, reflecting spontaneity and coherence which psychologically cannot be associated with a mind to which violence and torture have been applied.
[11] These factors are clear *indicia* that the confessions were voluntarily given.