

FIRST DIVISION

[G.R. No. 116486, January 29, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODRIGO MALIPUT Y REYES, UNDO DAPROSA Y WATIG ALIAS
"ALEXANDER JUMA WAN" AND JOHN DOE, ACCUSED-
APPELLANTS.**

DECISION

PADILLA, J.:

On the night of 7 April 1991, two (2) Chinese nationals, the spouses Chua Chun and Ho Tin, owners of Popong's Grocery situated at Consunji St., San Fernando, Pampanga, fell victims to a gruesome double murder.

The police found the body of Ho Tin lying prostrate near the side door entrance of the grocery, her hands hogtied at the back of her body with a plastic cord, her head covered with a rice sack and tied around her, neck.

Inside the nearby bathroom, Chua Chun's body was found bathing in a pool of blood, his throat visibly slashed which severed his carotid artery.^[1] His face bore, several incised wounds and, like his wife Ho Tin, his hands were hogtied at the back of his body by a plastic rope. At the scene, the police recovered the weapons presumably used by the malefactors; a screwdriver improvised into an ice-pick found near the body of Ho Tin,^[2] slivers of bloodstained broken glasses near the bathroom door,^[3] and a black cap.

In due time, the police established the suspects to be employees of the grocery. Two (2) teams were formed to track down the suspects. One (1) team immediately proceeded to the North Harbor in Manila to thwart a possible escape by the suspects, but this yielded negative results.

The other team, while traversing the Gapan-Olongapo road junction, chanced upon a male person who was suspiciously hiding behind some wooden boxes at a nearby marble store. When accosted, he gave his name as Rodrigo Maliput y Reyes and stated that he was an employee of Popong's Grocery, that he and his companion Alexander Jumawan were at the said place waiting for a passenger bus bound for Manila. Maliput then pointed to Daprosa who was then sixty (60) meters away. As the police team came closer, Daprosa (also known as Jumawan) suddenly darted toward the nearby cogonal area. It took a brief chase and two (2) warning shots before Daprosa gave himself up. Thereafter, Maliput and Daprosa were brought to and detained at the San Fernando Provincial Jail where they allegedly made separate confessions as to their motive for and participation in the murder of Chua Chun and Ho Tin.^[4]

Of the three (3) suspects, only Maliput and Daprosa were arrested and brought to

trial. The third suspect, known only as "Jun-Jun Reyes" remains at large.

On 3 June 1991, the provincial prosecutor of Pampanga filed the following information charging accused-appellants Maliput and Daprosa with double murder:

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"That on or about the 7th day of April, 1991, in the municipality of San Fernando, province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, with intent to kill, with treachery and evident premeditation use of superior strength, nighttime purposely sought to facilitate its commission, did then and therefore wilfully, unlawfully and feloniously assault, attack and use personal violence upon spouses Chua Chun and Ho Tin by clubbing them with hard objects on several parts of their bodies, thereby inflicting upon them mortal injuries that caused their immediate death thereafter.

CONTRARY TO LAW."^[5]

Both accused-appellants pleaded not guilty and underwent trial.

Tony Choi, a son of the victims, who stayed at the grocery's second floor, testified that on 7 April 1991, between 7-8 p.m., while he and his wife were having dinner, their two (2) maids Manang and Lita informed him that his parents were not in the office where they usually stay nor were they in any of the rooms in the second floor.

^[6]

Tony's wife then instructed the two (2) maids to look for the two (2) elders in the first floor but both maids refused, saying that they were afraid to do so, not only because it was dark downstairs but that something untoward might have happened to Tony's parents.

Tony decided to look for his parents and asked his wife to accompany him downstairs. Half way through the stairs, they were startled to see three (3) persons scampering out of the door that leads to an alley located beside the grocery.

Aided by the light coming from the fluorescent lamp of a jewelry and watch repair shop located across the said door,^[7] Tony Choi readily identified the three (3) men as Jun-Jun, who went out first, followed by Rodrigo Maliput and Undo Daprosa. The last two (2) were his employees while Jun-Jun was his former employee.

Instinctively, Tony Choi hurriedly went down to reach for the switch near the exit door and turned on the lights. Tony and his wife were shocked to see the gory scene before them- Tony's mother lying prostrate just below the stairway, her head covered with a sack and her hands hogtied at the back.^[8] A few meters across was a trail of blood that, led to the toilet. Tony proceeded thereto and found his father beside the toilet bowl, lying on a pool of blood.^[9]

Shocked and frightened, Tony's first impulse was to run outside the door to seek help from their neighbors. Tony shouted "Pete ro ri Tatang ku ampo i Ma ku" (kapampangan for "they killed my father and mother.")^[10] Tony's neighbors responded to his call and one of them named Cely volunteered to call the police.

Meanwhile, Tony promptly went to the apartment he maintains for his employees in Del Pilar St. (also in San Fernando) to check on the whereabouts of Maliput and Daprosa but they were not in the said place. When he went back to the grocery, people were already milling around the area together with the police who were conducting the investigation. The police informed Tony that his parents were already dead.^[11]

Police Cpl. Renato Cruz of the San Fernando PNP was the chief investigator at the crime scene. Following police procedures, he had the area secured to preserve any evidence that might be recovered therein. He examined the victims whom he found to be already dead. Thereupon, he summoned for a photographer to take pictures of the victims.^[12] At the crime scene, Cpl. Cruz recovered a screw driver improvised into an icepick^[13] near the dead body of Ho Tin; while near the door of the comfort room he recovered a piece of broken glass.^[14] Both the icepick and broken glass were marred by bloodstains of the victims. Cruz also found a black hat near the said door.^[15]

Cpl. Cruz further recounted that he asked Tony Choi for the names and addresses of all of Choi's employees in the grocery. Forthwith, he dispatched his men to fetch the said employees from the places where they lived and to bring them to the grocery for identification and questioning.

In the line-up that ensued, Tony Choi as well as the other workers informed Cruz that three (3) names in the list were not present thereat, namely, Alex Jumawan (also known as Daprosa), Rodrigo Maliput and a former employee named Jun-Jun. Cruz then ordered his men to locate Jumawan and Maliput in their known addresses. His men, however, came back empty handed, save for information obtained from neighbors they interviewed, i.e., that thirty (30) minutes before their arrival, Jumawan, Rodrigo Maliput and Jun-Jun were seen leaving together with all their belongings.

Acting on the information that Jun-Jun, one of the suspects, was residing at Malabanan, Angeles City, SPO4 Romeo Punzalan and his team proceeded to the said place but found the same padlocked. According to a neighbor they interviewed, Jun-Jun was last seen in the premises in the morning and had not returned.

With these developments, the team returned to San Fernando to resume their patrol work. Along the way, they received a radio message that two (2) suspicious-looking persons were seen near a marble store at the San Fernando-Dolores junction. Forthwith, they proceeded to the said area to investigate.

Arriving at the reported place, the team spotted a male person acting suspiciously and hiding himself behind some wooden boxes at the Bulacan Marble Store (near the junction).^[16] The team accosted him, asked for his name as well as his destination. The person replied that he was an employee of Popong's Grocery and

gave his name as Rodrigo Maliput. He said that he and his companion Alex Jumawan (Daprosa) were at the said place waiting for a passenger bus bound for Manila.^[17] According to Punzalan, he did not arrest Maliput but only "invited him for questioning." But when Maliput had already boarded the police jeep, a son of the victim arrived at the scene, pointed to Rodrigo Maliput and said "that is the said person."^[18]

Having thus been identified as one of the suspects in the killings, the police took Maliput along to search for his alleged companions. Along the highway going to San Fernando, they saw a person standing on the right side of the road going to Mexico, Pampanga. Maliput pointed him to the police as his companion named Undo Daprosa. According to Punzalan, as they got closer, Daprosa ran eastward towards the nearby cogonal area. SPO4 Punzalan promptly chased him but had to fire repeated warning shots before he was subdued.^[19]

Accused-appellants anchored their case on denial and alibi. Maliput testified that he did not report for work on the 6th and 7th of April 1991 since he was suffering from a headache. In the early evening of 7 April, Jun-Jun, a former employee of the grocery, paid him a visit urging him to join in the former's plan to kill Tony Choi. Jun-Jun apparently nurtured a grudge against Tony Choi in regard to an incident that happened two years before when Tony refused to give Jun-Jun two hundred pesos to be sent to his parents, claiming that Jun-Jun's employment agency still owed him some money. When Jun-Jun said that he would leave the grocery, Tony allegedly threatened Jun-Jun that should he persist, he would finish the latter (yayariin kita). Jun-Jun eventually left the grocery and worked in Angeles City for the next two years.

Maliput averred that when he and Jumawan refused to join Jun-Jun in his plan, the latter left but threatened them not to report to the police or else he would come back and kill both of them. Fearing for their lives he and Jumawan decided to pack their things and leave the house. They eventually found themselves near the Olongapo-Gapan road intersection near a local Bantayan (police sub-station). Maliput then thought that nothing untoward would happen to them since they were near the station where they could seek help if necessary until they could safely return to their house. They stayed in the said place until 3:00 a.m. the following day when they were arrested by the police and brought to the police station for questioning.

Jumawan (Daprosa) corroborated Maliput's testimony that the latter did not report for work on 7 April 1991. For his part, he averred that he had already left the grocery as early as 6:00 p.m. on that day after having his dinner ahead of his co-employees at the grocery's second floor where he saw the elder Chua Chun. When he arrived home, he saw Jun-Jun inside the house conversing with Maliput. He sat near, the two (2), and overheard Jun-Jun complaining to Maliput about his back salary.^[20] He didn't talk to Jun-Jun and it was only after the latter had left that Maliput told him about Jun-Jun's plan to kill Tony Choi and that Jun-Jun threatened to kill them should they report the matter to the police. He packed, his belongings and went with Maliput and, stayed at the Gapan-Olongapo road intersection from 8:00 p.m. until 3:00 a.m. the following day when they were arrested by the police.

Junawan (Daprosa) averred that the police did not read to him his rights, instead,