1 Phil. 222

[G.R. No. 530. April 16, 1902]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. BERNABE SANTOS, DEFENDANT AND APPELLANT.

D E C I S I O N

LADD, J.:

The defendant was convicted of murder in the Court of First Instance of Manila and sentenced to death. The case is before this court on appeal and in consultation.

On the night of the 15th of August, 1900T the defendant and three other men, all armed with revolvers and daggers, broke into the house of Lorenzo Laopoco, in Tondo, tied Laopoco and his son-in-law, Norberto Anacleto, and after committing various acts of violence upon Anacleto's wife and the other persons in the house, and taking some jewelry and money, left the house, carrying with them Laopoco. These facts were satisfactorily established by the evidence of Anacleto and his wife. There was no direct evidence as to what occurred after the robbers left the house, but immediately thereafter Anacleto and his wife heard Laopoco cry out for help, saying that the robbers were going to kill him, and upon opening the window and looking out they saw him lying on the ground and around him or in the act of leaving the spot the defendant and his companions, including several who had not entered the house. Laopoco was taken into the house, and was found to be covered with wounds inflicted with daggers, in consequence of which he died in about three weeks.

Upon these facts the defendant is clearly guilty either of homicide or, if the constitutive circumstance of *alevosia* is present, of murder. The prosecuting attorney is of the opinion that this circumstance has not been shown, and that the crime is therefore to be regarded as simple homicide, and asks that the judgment of the court below be modified in accordance with that view.

The ground upon which the prosecuting attorney bases this opinion is that "it has been

impossible to show clearly the means, methods, and manner which the criminals availed themselves of for the purpose of perpetrating the crime. No one was present when the deceased was attacked by them, nor does it even appear from the record whether he was or was not bound when the wounds from which he died were inflicted upon him. These are data which must of necessity be proved in order to legally determine whether the circumstance of *alevosia* is present."

The facts showing *alevosia* as a generic or qualificative circumstance may, under the Spanish system of evidence in criminal cases, be established by the same kind and degree of proof as the main facts upon which the guilt of the accused is predicated. (Judgment of the supreme court of Spain of January 22,1878, fifth conclusion of law; the provisional law for the application of the provisions of the Penal Code in the Philippine Islands, par. 52.) In neither case are "mere presumptions" or "arbitrary deductions from hypothetical or presumable facts" admissible. (Judgment of the supreme court of Spain of October 7, 1871.) In both cases, if the inference of guilt rests solely upon circumstantial evidence, such evidence must be "grave and conclusive," and "the conviction which the combination of such evidence produces must be such as to leave no room for reasonable doubt as to the criminality of the accused in the ordinary and natural order of things." (Provisional law above cited.) If there were anything in these rules inconsistent with the new law of criminal procedure fixing the degree of certainty with which the guilt of the accused—that is to say, every element constituting his guilt—is to be proved, and prescribing the nature of the evidence which must be employed for this purpose, the principles of the latter law would prevail. It is clear that under that law no discrimination is made between direct and circumstantial evidence in any case, and that the only requirement is that the guilt of the accused be proved by relevant evidence, the best of which the case is susceptible, and beyond a reasonable doubt. (General Orders, No. 58, sees. 57 and 59.)

It is true that in the present case there was no ocular evidence that the deceased was bound at the moment when the fatal wounds were inflicted. And it is also true that the two witnesses for the prosecution who saw him while he was lying on the ground after the stabbing have omitted to state whether he was at that time bound or not. But it has been proved that he was bound in the house, and while it is of course barely possible that his captors may have released him before putting him to death, the only reasonable conclusion, "according to the ordinary and natural order of things," is that he remained bound until their purpose was accomplished. It is not easy—indeed, it is almost impossible—to conceive any reason why he should have been liberated in the short interval that elapsed between the time he was taken from the house and the time he was killed. We are of the opinion,

therefore, that the evidence is entirely sufficient to show that the crime was committed with *alevosia* as defined in article 10, No. 2, of the Penal Code.

The aggravating circumstance of article 10, No. 15, is clearly present, the crime having been committed in a band. We are of opinion that no generic extenuating circumstances are present, and that, in view of the nature of the crime and the circumstances of the accused, the circumstance of article 11 can not properly be considered in his favor.

The result is that the judgment of the court below must be affirmed with costs.

Arellano, C. J., Torres, Cooper, and *Willard, JJ.,* concur.

Mapa, J., dissents.

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