

[G.R. No. 1902. March 14, 1905]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. LUDOVICO ISAIS ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

TORRES, J.:

In a complaint dated October 2, 1903, Ludovico Isais, Tranquilino Caguiat, Basilio Tolentino, Romualdo Lopez, and Alejandro Yutoc were charged by the provincial fiscal of Tarlac with the crime of frustrated murder. The complaint stated that the defendants did willfully, with treachery and premeditation, put into the food and water of nine soldiers of the Constabulary named Benito Sabado, Teodoro Luquias, Hermenegildo Pagaduan, Juan Ignacio, Mariano Obcena, Fermin Ramos, Jacinto Lopez, Domingo Partido, and Pedro Clemente, a sufficient quantity of poison to cause their death; that a few minutes after the soldiers had partaken of said food and while they were at the barracks in the barrio of San Miguel, Pinatabunan, town of Concepcion, Province of Tarlac, they all fell seriously ill, one after another, as a result of the food and drink of which they had partaken and which had been served to them by the defendants; that these nine individuals recovered only through the efforts of the physicians Prudencio Hernandez and Hugo Van Shuster and through the assistance rendered by Sergeant Jose Casado and Private Agapito Suarez; that the defendants performed all the acts sufficient to produce the death of the Constabulary soldiers aforementioned but that death did not result, independent of the will of the defendants; that all these acts were committed contrary to law.

The case was tried in pursuance of the aforesaid complaint and the court below sentenced Ludovico Isais to fourteen years and eight months

of *cadena temporal*, with the accessories, and Tranquilino Caguiat and Basilio Tolentino each to thirteen years of the same penalty, with the accessories, and to pay the costs; the defendants Romualdo Lopez and Alejandro Yutoc were acquitted, with the costs *de oficio*.

It is a fact fully proven in this case that between 6 and 7 o'clock on the evening of July 2, 1903, when Sergeant Jose Casado of the Constabulary, with ten soldiers who were patrolling the barrio, arrived at the barracks in the barrio of San Miguel, Concepcion, the defendant Ludovico Isais, lieutenant of the barrio, at the request of the first sergeant, offered, together with the other defendants Caguiat and Tolentino, some food to them; that a few minutes later the meal was served to the nine soldiers who remained in the barracks. Sergeant Casado and Agapito Suarez went to eat at the house of an inhabitant of the barrio; that the meal had been prepared by Mariano Arceo by order of the lieutenant and was brought over from the house of the former by Tranquilino Caguiat; that the water had been brought over in a vessel and delivered by Basilio Tolentino to Lieutenant Isais at the steps of the barracks. That seven minutes after the Constabulary soldiers partook of the meal they fell sick, one after the other, the tongues of some of them becoming swollen, and the majority of the soldiers became unconscious; that upon the return of Sergeant Casado and Private Agapito Suarez to the barracks they found their companions in the condition above stated. That they also found Lieutenant Isais, who was the lieutenant of the barrio, lying on a bamboo bench in the street outside of the barracks; that around the barracks there were a great number of people, about seventy or eighty, and that they were all armed with bolos and clubs; that the sergeant then, in a threatening manner, ordered them away from the barracks, that the sergeant immediately asked the lieutenant of the barrio for two carts, and half an hour later the carts came and the sergeant placed the nine sick soldiers in the carts and took them, together with the lieutenant of the barrio, to the town and gave an account of the occurrence to the municipal president and to the president of the board of health; that the latter immediately gave them some medicine which caused them to vomit, with the exception of two of the soldiers, who were unable to take the

medicine for the reason that their laws were set; that all of the soldiers were then taken to the hospital of the capital of the province, where they recovered after a few days.

It appears from the evidence adduced in the case and according to the statement of the president of the board of health that the Constabulary were poisoned and that the amount of poison which had been administered to them was sufficient to cause their death; that death would certainly have ensued had it not been for the medical assistance rendered to the soldiers, as the soldiers were ill and had lost consciousness; that some of them were suffering from delirium and the mouths and throats of all of them were parched, the eyes red, the beating of the heart was weak, and the circulation of the blood was very poor, and they only recovered after they had vomited. The provincial physician, Don Andres Catanhal, states that he is acquainted with the plant called *tarampunay*; that this plant was poisonous and the symptoms of poisoning from this plant were inflammation of the intestines, delirium—sometimes very marked—eyes red, dilated pupils, disorder of the muscles, drowsiness, loss of consciousness, and finally death. It also appears that the defendant Isais was acquainted with Felipe Salvador, the chief of the association known as “Santa Iglesia,” and that some time previous to the date of this occurrence he had been to Bugnot, where said chief and his band were encamped, and there he received instructions to poison the Constabulary soldiers. The poisoning which now has our attention was reported to Felipe Salvador by means of an inhabitant of the barrio. It also appears that a great many of the inhabitants of the barrio were affiliated with this association.

The fact of the understanding between Salvador and the Santa Iglesia has been established by Emeterio Payopa, who had been taken prisoner by said band. According to the witness for the defense, Fausto Cordero, it was known by many on the day of the occurrence that the Constabulary soldiers had been poisoned with *tarampunay* by the lieutenant of the barrio with the object of securing the guns of the victims; that the lieutenant of the barrio had told him so; that the defendants Caguiat and Tolentino had also told him before that about the

poisoning. The last witness, Basilio Tolentino, stated that he was the one who brought the water in a vessel and that when he arrived at the steps of the barracks Ludovico Isais took the vessel from him, and that when the latter was in the act of returning him the vessel he told him to throw away the rest of the water which it contained and that he did so; that Isais did not tell him the reason why he should throw the water away.

It is, then, undeniable that on the evening of July 2, 1903, an attempt to commit murder by poisoning was committed on the nine Constabulary soldiers; the guilty party made a beginning in the execution of the crime by direct overt acts in order to carry out same, and if he did not succeed in his purpose it was because of the timely aid rendered the victims and not because of his voluntary desistance. Had it not been for the measures taken by Sergeant Casado and the prompt medical attendance rendered, some, if not all, of the soldiers would have perished, according to the opinion of the physicians who attended them. These doctors affirm that the quantity of poison which the soldiers took was sufficient to cause their death. The liability of the lieutenant of the barrio, Ludovico Isais, becomes evident from the fact that he was affiliated with the band of Felipe Salvador and communicated with said chief; he had been to the camp of this band and received instructions regarding the perpetration of this crime; he was the one who put the poison in the water and the one who told Eusebio Tolentino to throw away the rest of the poisoned water, giving an account afterwards of this poisoning to the chief, Salvador. The failure to analyze the vomit of the soldiers said to have been poisoned does not constitute any defect in the evidence of the prosecution since in this case such analysis is rendered unnecessary because of the statements of the physicians who attended the soldiers. They corroborate each other in every detail. The nine policemen who took the water served to them by Isais arrived in the barracks in as good and healthy condition as Sergeant Casado and Private Suarez. The latter two, for the reason that they ate in a different place, did not fall sick, but the other nine, a few minutes after they had drunk of the water, began to feel sick and suffer from the terrible effects of the

poison, and those who took a larger quantity of the water felt the effects more than the others.

All of these facts, sufficiently proven in the case, produce on the mind a clear conviction that the nine soldiers were poisoned.

Tranquilino Caguiat was the only one who carried the meal after it was prepared from the house of Mariano Arceo, and it does not appear that the former poisoned it. It does not appear that the soldiers were poisoned by the said meal, but by the water which they drank.

Therefore, as the participation of the defendant Caguiat has not been sufficiently proven, he must be acquitted from the charges made against him. The case should also be dismissed as regards Basilio Tolentino, the one who brought the water, because he died in prison in this city.

In the commission of the crime which is now being prosecuted there is no aggravating or extenuating circumstance to be considered and, therefore, for this reason, the penalty prescribed by law should be imposed in its medium degree.

Therefore, by reason of the foregoing, we are of the opinion that the judgment below should be affirmed as regards the penalty imposed on Ludovico Isais of fourteen years and eight months of *cadena temporal*, with the accessories provided for in article 56 of the Penal Code, and the payment of one-third of the costs. The judgment should be reversed as regards the rest. Tranquilino Caguiat is hereby acquitted and the case is dismissed as regards Basilio Tolentino, with the remaining costs *de oficio*.

This case to be returned to the court below together with a certified copy of this decision and of the judgment to be rendered in accordance herewith. So ordered.

Arellano, C. J., Mapa, Johnson, and Carson, JJ., concur.

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