

34 Phil. 594

[G.R. No. 11506. July 22, 1916]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. PAICAOAN, DEFENDANT
AND APPELLANT.**

D E C I S I O N

MORELAND, J.:

The information in this case charges that the appellant, in company with other persons, murdered an Igorrote named Paiking. It does not state in what manner Paiking was killed or the circumstances under which the killing occurred. It is alleged that the murder was committed in or about the month of October, 1910, in the Mountain Province. The facts as stated by the trial court are as follows:

“By the evidence introduced it has been established beyond any reasonable doubt that Paiking was killed on or about the date set forth in the information; that the accused Paicaoan, at the head of the other men mentioned in the information, went to the house of Sadca, the father of the deceased, and by force and intimidation carried with them the person of Paiking, tied Sadca and his wife and announced to them that they had decided to kill Paiking because of his bad behavior towards them. That Paicaoan who had a piece of wood in his hands asked Sadca, the father of the deceased, to kill him himself with the piece of wood which he tried to hand to said Sadca. Upon Sadca’s refusal to act as proposed, Paiking was taken by Paicaoan and his companions to Cuplat, an old woman, who was also invited to kill Paiking. Cuplat having likewise refused to kill the deceased, he was taken to Donglayan who on being requested to do the killing also refused to obey the accused and his companions. Then the deceased was taken to a place named Sococ where the night was spent and then to Kaingyan where for the last time he was seen alive by Sadca, his father.”

The court says with respect to the death of Paiking:

“It is a fact that neither Sadca nor the other witnesses produced by the prosecution saw Paiking killed and that none of them testified as to who did the killing, but if we take into consideration the fact that Paiking was never seen again since the month of October, 1910, by his father or any other man in his rancheria at or near Cervantes, and the circumstances under which he was seen for the last time, no other conclusion can be reached but that as had been announced by Bugaoen, one of Paicaoan’s companions, to Sadca, that Paiking was killed by the accused Paicaoan and his companions.”

We do not believe that the conclusion of the learned trial court is entirely correct. When it is observed that nobody testified to having seen Paiking killed, and nobody testified that the accused killed Paiking, and nobody has even testified that Paiking is dead, it is difficult to reach the conclusion that a murder has been committed. The court not only found that the accused killed Paiking but that he murdered him. There is, however, no evidence showing the circumstances under which Paiking met his death, if it be conceded that he is dead. It is well established that qualifying circumstances must be as clearly proved as the homicide itself, before a finding that murder has been committed is proper. The absence and unexplained whereabouts of Paiking since 1910, standing alone, is not such proof of his death as would sustain a finding that he had been killed. Nor is the fact that the accused sought unsuccessfully to induce three other persons successively to kill Paiking proof of the fact that the accused himself killed Paiking. Indeed, that fact is offered by the defense as showing a circumstance in favor of the accused, inasmuch as it might be said, as it has been argued, to demonstrate that he did not feel that he himself ought to kill the deceased; but that, although he deserved death, it should come to him from the hands of some other person than the accused himself. While the facts presented might induce the belief that the accused made way with Paiking, they do not show that beyond a reasonable doubt.

We agree with the Attorney-General in his recommendation that the evidence is insufficient to sustain the conviction and that the accused should be acquitted.

The judgment of conviction is reversed, and the accused declared not guilty and acquitted of the crime charged. An order will be immediately issued ordering his release from imprisonment, without waiting the ordinary time required before a judgment of this court becomes final. So ordered.

Torres, Johnson, Trent, and Araullo, JJ., concur.

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