

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. ALIPIO RAGSAC, DEFENDANT AND APPELLANT.

G.R. No. 42425. January 25, 1935

Ponente: VICKERS, J.

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VICKERS, J.:

The appellant was tried in the Court of First Instance of Pangasinan on a plea of not guilty to an information for murder alleging:

"Que en o hacia el 24 de mayo de 1934, en el Municipio de Villasis, Provincia de Pangasinan, Islas Filipinas, y dentro de la jurisdicción de este Juzgado, el acusado arriba nombrado, aprovechandose de la ocasión en que Bartolomé Macaso estaba profundamente dormido en su propia casa, voluntaria, ilegal y criminalmente, con alevosía y premeditation conocida mató a dicho Bartolomé Macaso. Con infracción de la Ley."

Upon the termination of the trial the lower court found the appellant guilty of the crime charged, and taking into consideration the mitigating circumstance of the voluntary surrender of the defendant to the authorities, sentenced him to suffer an indeterminate sentence of not less than twelve years of prison mayor and not more than seventeen years of reclusion temporal, to indemnify the heirs of the deceased in the sum of P500, and to pay the costs.

Appellant's attorneys make the following assignments of error:

"I. By making an inference from another inference, the lower court erroneously held that the accused attacked the deceased while the latter was lying asleep on a bamboo bench, when the evidence is clear, strong and convincing that the deceased having robbed defendant's property, the accused could kill him in immediate vindication of his property and of his own life.

"II. Well-knowing that the prosecution presented no eyewitness to the manner the accused killed the deceased, the lower court, by giving to the testimony of the deceased's widow more significance than it really deserved, was induced erroneously into discrediting the defense notwithstanding all the circumstances attending point out conclusively to the truthfulness of the defendant's testimony as corroborated by his witnesses.

"III. The lower court erred in finding the defendant guilty of the crime of murder upon mere inferential, speculative and circumstantial evidence despite the fact that the accused fully justified his killing of the deceased."

On the 24th of May, 1934 Bartolomé Macaso was living with his wife, Romana Lorenzo, in the barrio of San Bias, in the municipality of Villasis, Province of Pangasinan. After they had eaten supper that evening, Bartolomé Macaso went downstairs and lay down on a bamboo bed on the ground under the house. A little later when Romana Lorenzo went downstairs, she saw her husband lying on the bed. She went upstairs again and began to make some cigars. When she had finished five cigars, she heard the sound of blows coming from the place where her husband was lying. She got up and peeping through the door saw the defendant, Alipio Ragsac, standing beside the bed on which her husband was lying. The defendant had a bolo in his right hand. When she saw the

defendant, she screamed, and the defendant immediately went away. Romana Lorenzo ran to her husband and found that he was dead. His body was horribly mutilated. It was between six and seven o'clock in the evening when Bartolome Macaso was killed.

Romana Lorenzo went immediately to the house of the chief of police of Villasis and told him that her husband had been killed by Alipio Ragsac. The chief of police told her to go to the municipal building and get two policemen. She sent two nephews to call the policemen, and when they came back and informed her that the two policemen had started for her house by another road she returned home, accompanied by the chief of police. In the meantime the defendant had gone to the municipal building and surrendered himself to a policeman named Hermenegildo Uico. He delivered a bolo to the policeman, and said that he had killed Bartolome Macaso because the latter had stolen his trunk which contained money.

The police found the deceased Bartolome Macaso lying on the bamboo bed, as related by Romana Lorenzo. There was blood on the bed and under it, but no blood stains were found in any other place. The body of the deceased was taken to the municipal building, and it was examined the next day by Dr. Lorenzo Pangalangan, who found thereon the following wounds:

"1. Una herida transversal, desde la cara hasta la parte posterior de la oreja izquierda, mide 6 pulgadas de longitud por 2 pulgadas de profundidad.

"2. La segunda herida es tambien transversal, desde la cara hasta la parte posterior de la oreja izquierda de cinco pulgadas de longitud por 2 pulgadas de profundidad.

"3. La tercera herida que tambien es transversal, tiene 6 pulgadas de longitud por 2 pulgadas de profundidad. "Estas tres heridas tienen la misma direccion y terminan en un mismo sitio; pero tienen origenes distintas en la cara y luego en el fondo de la herida se pueden levantar dos colgajos de tejidos que son rasgos de los 3 golpes o heridas ya descritas.

"4. Otra herida transversal desde el nivel del angulo externo del ojo izquierdo va y termina en la porcion mastoidea del temporal: mide 4 y 1/2 pulgadas de longitud por 2 pulgadas de profundidad.

"5. Otra herida de 6 pulgadas de longitud por 2 pulgadas de profundidad; esta herida es casi de direccion transversal, de adelante hacia atras; fracturando la porcion orbicular del frontal, parietal y occipital.

"6. Otra herida oblicua en relacion de la cara, esto es; desde la nariz se dirige hacia arriba y un poco hacia afuera, de 8 pulgadas de longitud por 2 pulgadas de profundidad. Esta herida destruye completamente el ojo izquierdo, fracturando los huesos propios de la nariz y el frontal.

"7. Otra herida de 6 pulgadas de longitud por 2 pulgadas de profundidad; su direccion es de adelante y hacia atras; en esta herida se ha fracturado el parietal izquierdo y parte del occipital y en el fondo se ve el cerebro lesionado.

"8. Otra herida de 4 pulgadas de longitud y en el fondo se ve el cerebro lesionado y esta herida empieza en el frontal y va hacia atras y termina en el parietal izquierdo que lo fractura completamente

"9. La oreja izquierda se ha dividido en 5 partes, debidos a la proximidad de las heridas ya descritas.

"10. En el dorso de la mano izquierda y al nivel del tercer metacarpo, hay una herida incisa de un centimetro de longitud por medio centimetro de profundidad, esta herida es de direccion transversal en relacion del eje mayor de la mano.

"11. En la primera falange del dedo medio (mano izquierda) otra herida de un centimetro de longitud por un centimetro de profundidad. Tambien en la primera falange del dedo auricular (mano izquierda) hay otra herida de un centimetro de longitud por un centimetro de profundidad y en la primera falange del dedo indice (mano

izquierda) tambien hay una herida de un centimetro de longitud por un centimetro de profundidad. Todas estas heridas tienen un mismo nivel y al parecer fue un solo golpe el que las produjo.

"12. En el antebrazo izquierdo y en su porcidn media y cara posterior, otra herida de 4 y ½ centímetros de longitud por un centimetro de profundidad. Esta herida es transversal en relación con el eje mayor del antebrazo.

"13. En el brazo izquierdo, porcidn media y cara posterior, hay una herida punzante de 2 centímetros de profundidad [longitud] por 1 y ½ centímetros de profundidad.'

On the morning of May 25th the chief of police and a lieutenant of the constabulary found a trunk in a clump of bamboos about twenty meters from the house of the deceased. The trunk was open when it was found. It contained a sheet and some old clothes for women and old papers.

The defendant admitted at the trial that he inflicted upon Bartolome Macaso the wounds that caused the latter's death, but contended that he acted in self-defense: That when he returned home from work that evening he heard his mother shouting "thief", "thief", and that when he saw her she told him that Bartolome Macaso had just carried off his trunk; that he ran after Bartolome Macaso, but could not overtake him; that soon after he passed through a gate in the fence surrounding the house of Bartolome Macaso, the latter attacked him with a bolo; that he fled towards the house of Bartolome Macaso, pursued by the latter, and that in the fight that followed he succeeded in striking Bartolome Macaso several times with his bolo; that the latter then walked to the bamboo bed and lay down and died; that he, the defendant, went immediately to the municipal building of Villasis and surrendered himself to the police. Defendant's story as to the theft of the trunk was corroborated by the testimony of his mother. Another woman, whose testimony is not convincing, testified to hearing defendant's mother crying "thief", "thief.

Whether the trunk of the defendant was stolen or not, we are satisfied that his story as to the circumstances under which he killed Bartolome Macaso is a mere fabrication. The lower court found that the trunk in question was not stolen by the deceased, but was taken to the place where it was found by some one else. The evidence shows that this trunk was so heavy that the defendant, who is twentytwo years old, could barely lift it to his shoulder. It is passing strange that the deceased, who was sixty-seven years old, could run off so fast with this trunk that the defendant could not overtake him. In the second place, it appears from the evidence that when the defendant surrendered himself to the police he was wearing a white Chinese undershirt and short white trousers, and that his clothes were clean; that there were stains of blood on the undershirt. Romana Lorenzo, who impresses us as a trustworthy witness, did not hear any sound of a fight between her husband and the defendant. If a fight had taken place, as the defendant contends, Romana Lorenzo could not have failed to become aware of it while it was in progress. Defendant's story as to the alleged fight rests upon his own uncorroborated testimony. It does not appear that he told the policeman to whom he surrendered that he killed Bartolome

Macaso in self-defense, but merely said that he was able to kill Bartolome Macaso, who had stolen his trunk, nor does it appear that any bolo belonging to the deceased was found in or near the place where the fight is alleged to have taken place. Finally the numerous mortal wounds on the body of the deceased clearly prove the falsity of defendant's story, and leave no doubt in our minds that Bartolome Macaso was attacked and killed while lying on the bamboo bed.

It is true that the evidence does not show any motive for the commission of the crime, unless it was the theft of the trunk, but lack of motive is not proof of innocence; and if it were true that the deceased had stolen the trunk, that fact would not in any way justify the action of the defendant.

The assignments of error are without merit, and the conviction of the appellant must be affirmed, with a slight

modification of penalty. The appellant is sentenced to suffer an indeterminate sentence of not less than twelve years of prision mayor and not more than seventeen years, four months, and one day of reclusion temporal, and to indemnify the heirs of the deceased in the sum of P1,000. As thus modified, the decision appealed from is affirmed, with the costs against the appellant.

Avanceña, C.J., Street, Abad Santos, and Hull, JJ., concur.

Judgment modified.

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