

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. EUFRACIO LANSANG (ALIAS LEGASPI), DEFENDANT AND APPELLANT.

G.R. No. L-1187. January 25, 1949

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is an appeal by Eufracio Lansang alias Legaspi from a decision of the Court of First Instance of Pampanga finding him guilty as an accomplice in the murder of the deceased Pablo Libu and sentencing him to an indeterminate penalty of from four (4) years, two (2) months and one (1) day of prision correccional to twelve (12) years and six (6) months of prision mayor (should be reclusion temporal), with the accessory penalties provided for by law, to indemnify the heirs of Libu in the amount of P400 and to pay one-fifth of the costs.

The facts of this case as established by the evidence may be briefly stated as follows: During the Japanese occupation, about December 20, 1944, around nine o'clock in the evening, the appellant Lansang accompanied by four armed and masked men whose true names are not known but who were known by their respective aliases, namely: Vergara, Peter, Navarro, and Elson, went to the house of Pablo Libu in barrio Babaosican, municipality of Porac, Pampanga and asked for him from his wife Emilia de Ausen. She told the group that her husband was in the cane field boiling sugar cane syrup, whereupon Lansang and his companions went down the house to look for him but they met him a few yards from his house as he was coming home. They immediately caught him and tied his hands behind his back. Some of the men in the group again went up the house and took some clothes, blankets and a guitar belonging to Libu's family and then they all went to the neighboring barrio of Mitla of the same town of Porac, taking Libu along with them. On the road that same night, prosecution witness Pablo Galang saw and met them, including Lansang, and upon seeing Libu in their custody with his hands tied behind his back, pleaded with the group to release him because he was a good man, but said group particularly Vergara who was next to the prisoner and who was guiding his footsteps, refused to grant the request. From there, the party went to a certain place in the barrio of Iuitla where Libu was punched and clubbed to death by Vergara, Peter and Navarro while Elson and the appellant Lansang stood by about 30 meters away, presumably acting as guards or observers. Then Elson sent Peter and Lansang to get a shovel to dig a grave and after it was dug, all the members of the party lowered Libu's body into it and then covered it with earth, after which, they separated from each other after being warned by Elson not to squeal about the incident.

The disappearance of Pablo Libu remained a mystery until about the month of July, 1946, when Pablo Galang happened to mention to the widow Emilia de Ausen about his having met Pablo Libu and his captors on the road on the evening of December 20, 1944. Emilia or some close relative of the deceased filed a complaint with the Military Police in Tarlac and Lt. Felicisimo Z. Mostajo, MP-Detachment Commander had Lansang arrested for investigation. In the course of the investigation Lansang made statement (Exhibit "C") in the presence of the lieutenant and his two sergeants Vengua and Rosete, the original statement which was in the Pampango dialect being translated into English by Mayor Dizon of Porac. In said statement (Exhibit "C") the appellant narrated the

facts already stated, adding that he had been invited by his four companions to go to the house of Libu to get him for investigation because he was a notorious cattle rustler. Upon indication of and with the help of Lansang, the grave of Libu was located and dug, the bones inside recovered and later identified by Emilia de Ausen and Lansang himself as those of Libu. Dr. Pineda examined the skull and found a fracture in it, evidently caused by the clubbing that caused Libu's death.

Lansang and his four companions were charged with murder. Because said four companions were still at large, only the appellant was tried. During the trial, Lansang attempted to repudiate his written statement (Exhibit "C"), claiming that he had been tortured or otherwise maltreated by the Military Police soldiers. We are not inclined to seriously consider this claim of maltreatment designed to neutralize or nullify his written statement for the reason that said claim of Lansang on this point is not convincing, not only because of the flat denial made by Lieutenant Mostajo and because it turned out that a witness Jose de la Cruz presented by the defense to corroborate the claim of Lansang on the alleged maltreatment admitted that all that he knew about the alleged maltreatment was told him by Lansang himself because De la Cruz was not present in the room where the investigation and alleged maltreatment took place, but also because Exhibit "C" was presented and admitted by the court without any objection on the part of the appellant. Moreover, the only substantial difference between the story contained in Exhibit "G" and the testimony of the appellant during the trial is that, whereas in the affidavit (Exhibit "G") Lansang stated that he went to the house of Pablo Libu with his four companions upon invitation of said companions, in his testimony during the trial he would have the court understand that he joined the group composed of Peter, Navarro, Vergara and Elson and Libu their captive when they were already on the road, and that he accompanied them up to the place where Libu was killed, and this he did upon order of the group, with the threat that he would be killed if he refused.

There are several reasons why we cannot accept this story of the appellant. In the first place, the party of kidnapers composed of Peter, Navarro, Elson and Vergara would find neither reason, advantage nor necessity of ordering Lansang to accompany them merely to witness Libu being clubbed to death. On the contrary, to better hide the crime, it was more advisable to have no witness to the perpetration of the killing. In the second place, the widow Emilia de Ausen positively told the court during the trial that Lansang was one of the members of the group who went to her house inquiring for her husband, and that it was Lansang who asked her for her husband. In the third place, it is more reasonable to believe that Lansang, upon invitation, went with his companions to the house of Libu because said companions did not know Libu but that Lansang, knowing Libu, could identify him.

As we have already stated, the trial court found the appellant guilty only as an accomplice. While we are not averse to believing that Lansang may not have participated in the original plan and design to kidnap and later kill Libu, when he, Lansang, was invited to go to the house of the deceased to get and take him away, and at night, he knew or must have known what, eventually, was going to happen to the victim. During those times of danger and uncertainty, when a person was kidnaped by a band especially when the members thereof were armed and masked or otherwise disguised, and at night, almost always the result was that the person kidnaped was never heard from or seen again. Lansang must have realized this and yet, although without expressly agreeing to the kidnapping and killing of Libu, he, upon invitation of his companions went to the house of the victim, inquired about him, identified him, and helped the band in apprehending him and in tying his hands, and, later accompanied the party to the place where he (Libu) was clubbed to death while he (Lansang) stood by. In this connection, we are reproducing with, favor a pertinent paragraph from the decision of Judge Santiago, appealed from.

"It is obvious that although the accused Eufrazio Lansang took no direct part in the actual murder of Pablo Libu, he had co-operated in the perpetration of the crime on the latter's person by previous and simultaneous acts not indispensable to its consummation and for which he must be held criminally liable. He went with the

party to the victim's house, aided in tying the latter's hands and, while the crime was being committed, together with Elson, watched for what was transpiring or might occur."

Lansang might conceivably be held guilty as principal in this crime of murder as the Solicitor General says in his brief:

"From the evidence adduced, it is evident that although appellant Eufracio Lansang did not take a direct part in the actual slaying of Pablo Libu, he was present during the whole stage of its perpetration and had actively participated in the kidnapping of the victim. The presence then of the appellant at the time and place of the killing, his active participation in the kidnapping of the victim, together with the other circumstances surrounding the case show a community of criminal design and purpose and the existence of previous understanding between appellant and his companions that makes him guilty as a principal of the crime of murder (People vs. Mandagay, 46 Phil., 838)."

However, although the Justices who concur in the present opinion are convinced of the guilt of Lansang, the majority of them are of the belief that he should be held liable only as an accomplice. This seems to be the more reasonable and safer course. In case of doubt the courts should always give the accused the benefit thereof. Furthermore, contrary to the contention of the Solicitor General, there is reason to doubt that there was a community of criminal design and purpose as far as Lansang was concerned. According to his affidavit (Exhibit "C"), which is the main proof of his guilty participation, he had merely been invited to go to the house of Libu. As further evidence that he was, in all probability, not connected with the original plan to kidnap Libu and later kill him, according to the widow of the deceased, Emilia de Ausen, at her house that evening of December 20, 1944, while the four companions of Lansang were armed, and had their face covered with handkerchiefs, Lansang was unarmed, and did not cover his face and that was the reason why she recognized him; and at the moment that Libu was dubbed to death the appellant was 30 meters away.

Considering the gravity of the offense herein committed, the minimum prison sentence of four (4) years, two (2) months and one (1) day of prison correccional may well and should be increased as it is hereby increased to six (6) years and one (1) day of prison mayor. With this modification, the decision appealed from is hereby affirmed, with costs against the appellant.

Moran, C.J., Paras, Feria, Pablo, Perfecto, Bengzon, Briones, and Tuason, JJ., concur.

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