

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
LADJABASAL MUKUNG, ISMUL SABDANI, SAKILI JUANI, AND
MUKSAN TAINDING, DEFENDANTS-APPELLANTS.**

G.R. No. L-2138. March 22, 1950

Ponente: OZAETA, J.

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OZAETA, J.:

What an irony of fate: A concerted wedding feast was supplanted by a coldblooded murder; in lieu of the bridal march, a funeral dirge; instead of a concord of two hearts in connubial bliss, a mutuality of repelling hatred.

The tragedy was enacted in this way in the sitio of Lugma, municipal district of Indanan, province of Sulu, on April 11, 1946: Moro Jawad Tahil and Mora Pindug were engaged to be married on said date, the matrimony having been concerted by the respective relatives of the contracting parties on condition that two days before the marriage the relatives of the bridegroom would deliver to the bride a dowry consisting of a cow and P20 in cash. This condition was not fulfilled, and the father of the bride called off the deal by taking his daughter to another sitio called Latib, where they resided. Hajari Saliddan, uncle-in-law of the girl, who took part in the negotiation, was suspected by the relatives of the prospective bridegroom as being instrumental in frustrating the proposed union. So on the afternoon of April 11, 1946, Moro Jawad Tahil, accompanied by Ladjabasal Mukung, Ismul Sabdani, Sakili Juani, Muksan Tainding, and two other Moros named Unga and Ismula, all armed with rifles and krises, called at the house where Hajan was staying in Lugma and, after asking him to come down, they subjected him to a volley of shots, as a result of which he was fatally wounded in the head and other parts of the body and died instantly.

The killing was witnessed and testified to by Salip Harija, the widow of the deceased; Moro Dagsaan, in whose house the deceased was staying; and Amatul Mora, a neighbor of Dagsaan. The first two of these witnesses testified that the four appellants fired simultaneously at the deceased.

There is no question as to the killing and hardly any as to the motive that impelled it.

The four appellants herein, who were convicted below of murder and sentenced to life imprisonment, are nephews of Jawad Tahil, the disappointed bridegroom-to-be. The complaint for murder originally filed by the constabulary in the justice of the peace court was against seven persons, namely, the four appellants herein and Moros Unga, Ismula, and Jawad; but the last three, not having been apprehended, were dropped (improperly) by the fiscal from the information filed by him in the Court of First Instance. The version of the defense is briefly as follows: As Moro Jailani (the relative of Jawad who intervened in the marriage proposal) could not procure a cow up to the date he had agreed to deliver it, he sent Moro Mohamad Hasim to Hajan Saliddan to tell him that he would deliver P70 in lieu of the bovine and P20 in cash. Hajan Saliddan rejected the proposition in anger. However, as Hasim did not return to Jailani because it was already late, the latter was ignorant of the rejection; and on the afternoon of the following day, that is to say, on April 11, Jailani, accompanied by the four appellants herein and the three original accused who had not been apprehended, went to Hajan Saliddan bringing the dowry of P70 with the

intention of going ahead with the marriage. But as they were nearing the house of Dagsaan, Hajan fired at them with a Garand rifle, hitting the accused Muksan Tainding. In retaliation Unga (the accused who had not been arrested and who at the time of the trial was reported to be dead) fired his carbine at Hajan "until all the bullets in that clip were finished. Hajan fell and those persons that came with rae scattered in all directions." (Testimony of Jailani.) According to the defense Unga was the only one who carried a carbine and that all the rest carried crises and barongs.

We believe the trial court did not err in ruling out the version of the defense as unworthy of credence. To show that he was wounded by the deceased Hajan Saliddan, the accused Muksan Tainding showed to the court during the trial "a scar on the right upper arm 4-1/2 inches in length, about 2-3/4 inches in width." He also showed "a scar purporting to be a thru-and-thru wound on the left thigh about 1 inch in diameter." As to the scar on the right upper arm, it is obvious from its size and shape that the wound could not have been caused by a bullet. Moreover, it was proven by the prosecution in rebuttal that the scars exhibited by Muksan were the result of wounds inflicted on him by the Japanese soon after the arrival of the liberation army in Jolo.

Mohamad Hasim testified that he went back to the house of Jailani early in the morning of April 11 to report that Hajan had angrily rejected his proposal, and that he found Muksan already wounded. That is not true, for it is not disputed that the encounter occurred on the afternoon of said date.

The defense also tried to prove that on account of the attack by the deceased on Muksan, Counselor Sabdani, brother of Moro Jailani, complained to Captain Maut of the Constabulary and that the latter promised to investigate the case. It results, however, from the evidence for the prosecution in rebuttal that no such complaint was presented by Sabdani and that the only complaint received by the constabulary regarding the case was that presented by the relatives of the deceased to Captain Maut immediately after the commission of the crime.

The crime committed is murder qualified by treachery and aggravated by the fact that it was committed in band. The mitigating circumstance of lack of instruction may be appreciated in favor of appellants. Hence the prescribed penalty should be imposed in the medium degree, which is reclusion perpetua.

The judgment is affirmed, with costs.

Moran, C.J., Pablo, Bengzon, Padilla, Tuason, Montemayor, and Reyes, JJ., concur.

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