

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. GEORGE E. RICE, DEFENDANT AND APPELLANT.

G.R. No. L-1585. February 10, 1949

Ponente: PERFECTO, J.

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PERFECTO, J.:

Appellant is accused of having denounced and caused the arrest of Maria Salome Escudero Holland, then in the active service of the Intelligence Corps of the Escudero Guerrilla Unit in Sorsogon, who was detained by the Japanese Military Police in Fort Santiago for three months, from July 31 to November 3, 1944.

The trial court found appellant guilty of treason and sentenced him to life imprisonment with the accessory penalties prescribed by law, and to pay a fine of P10,000 and the costs.

Maria Salome Escudero Holland testified that appellant and his wife were boarders in her house at 943-N Raon, Manila, since October, 1943. In the latter part of 1944, "I received threats from the accused if I will continue bothering his wife," saying "that if I ever bother his wife, I will crawl under his feet." At 10 o'clock on the night of July 31, 1944, "members of the Japanese Military Police came over to the place where I live and put me, my two cousins, and a girl friend, under arrest, and brought us that same night to Fort Santiago." Others arrested were Rosalina Bola-Escudero, Remedios Ferrer and Julia Bootes. "At Fort Santiago I was taken for investigation several times, and tortured and made to suffer physically and mentally by the Japanese." "The accused was kept in a special room in Fort Santiago for five days, later on he was released to look for more persons to be complicated in my case." During those five days she saw the accused "once," but several times during the last month of her stay in Fort Santiago, "when he was confronted with me to reiterate his statements or accusations against me." She was accused by appellant of having a guerrilla outfit in Manila, of housing runners carrying messages to her uncle Salvador Escudero, governor of Sorsogon and guerrilla leader, of being pro-American, of helping American prisoners of war, of passing news to guerrillas and changing American treasury warrants for the benefit of guerrillas and American prisoners; in the investigation, Rosalina Escudero, Remedios Ferrer, Julia Bootes, and two Japanese, the investigator and the interpreter, were present. As the witness had been suspicious of the accused, she gave him three months to vacate her house, and when he refused, he brought the case to the court. It is true that she engaged in guerrilla activities and appellant must have suspected her. The accused reiterated "all his accusations against me and he insisted that I was telling a lie." She was released on November 3, 1944. When she returned to her house, she found it in bad shape. "My belongings as well as my husband's, and all the belongings of my cousins and my friend, were sold by Mr. and Mrs. George Rice, including my money which, he said, was with him for safekeeping." She does not remember the exact amount of her money which came to the possession of appellant. It was between sixty and eighty pesos. The value of her belongings was more than P2,000 (Philippine Currency). "The Japanese Military Police gave me an aparador and a bed belonging to the wife of the accused." The latter sold it and the proceeds were delivered to the Japanese Military Police "who, in turn, gave it to me." When appellant accused her "he was giving very vague evidence of the accusations."

Rosalina Escudero declared that she was among those who were arrested with the witnesses on July 31, 1944 and

kept confined at Fort Santiago until released on November 3, 1944. According to her, at Fort Santiago, appellant was brought before her and her cousin Maria Salome Escudero Holland, and he tried to induce said cousin to admit that she was changing treasury warrant notes, that she allowed Jose Amor to stay in her house and that she and Mrs. Cooper had sent packages of clothes, food and cigarettes to American prisoners at Cabanatuan. She also testified that appellant stayed at Fort Santiago for five days and after said period, he was sent out to look for Jose Amor and Mrs. Cooper.

Jose Amor testified that he was a courier carrying messages between Salvador Escudero, the guerrilla chieftain of Sorsogon, and his brother in Manila, Judge Manuel Escudero, about guerrilla activities, and in coming to Manila he used to stay in the house of Mrs. Holland.

Judge Manuel Escudero, the last witness for the prosecution, testified that for security measures, instead of meeting Jose Amor in his house, he used to meet him in the house of his daughter, Mrs. Holland. Months before the latter's arrest, Mrs. Holland advised him of her differences with the accused and, on his advice, her daughter filed in May, 1944, with the Municipal Court of Manila ejectment proceedings against the accused, to compel him to vacate the house in which he and his wife were living with Mrs. Holland at 943-N Raon, Manila.

The evidence for the defense has shown that appellant is the son of an American citizen and a Filipina. His father was confined by the Japanese in the Sto. Tomas concentration camp since 1942 until released by the American forces of liberation.

Appellant testified that he was born in Cadiz, Negros Occidental, and never left the Philippines except when he studied for two years in Hongkong. When the Japanese came, he was in Davao and transferred to Manila in August, 1942, to live in the house of his mother-in-law. In 1943 he transferred to the house of Mrs. Holland. He was a guerrilla engaged in allied intelligence work. As member of the Allied Intelligence Bureau since the early part of 1943, he was under the command of Vicente Alvarez, Jr. His work was to find the number of planes that were arriving at Nielson Airfield. In July, 1944, he was arrested by the Japanese Military Police for his activities in exchanging emergency notes. Also arrested with him were Maria Salome Escudero Holland, Lina Holland, Judy Bootes, and another. He was confined in Fort Santiago and released only on November 7, 1944. He had not been a spy of the Japanese and it is not true, as testified by Rosalina Escudero and Maria Salome Escudero Holland, that he caused the arrest of the latter. He was investigated in Fort Santiago, where he was confined first in a dungeon and after a month in a regular cell. When he was released on November 7, he went to meet Vicente Alvarez, Jr. who brought him first to the hospital for calcium injections and then to the mountains of Bosoboso to join the ROTC. While in Fort Santiago, he did not know if the other prisoners who were arrested with him were also investigated, implying denial of the alleged confrontation with them by the two lady witnesses for the prosecution.

Captain Enrique H. R. Avila, Philippine Army, testified that he was acquainted with the accused since December or November, 1943, when he was sent to Manila by Major Villamor to command the Allied Intelligence Bureau and to do espionage work for the Southwest Pacific Area of General MacArthur. Villamor was then in Negros Occidental and the witness communicated to him information by radio transmitter. There was a hideout of secret intelligence men at Dapitan, where the witness used to meet Vicente Alvarez, Jr., usually accompanied by the accused, who was one of the intelligence men of Alvarez.

After a careful consideration of the evidence, we have come to the conclusion that it does not justify a finding of guilt beyond reasonable doubt. It is hard to believe that appellant, himself a guerrilla, and whose father was during the Japanese occupation confined in the Sto. Tomas University concentration camp, could have denounced and caused the arrest of Maria Salome Escudero Holland, another guerrilla operative. The testimonies of the witnesses

for the prosecution to the effect that appellant was confined in Fort Santiago for only five days, cannot be more believable than the testimony of appellant that he was confined up to November 7, 1944, that is, he was released four days after Maria Salome Escudero Holland and companions were released. We are inclined to believe that appellant was arrested by the Japanese because of his guerrilla activities, the same as Maria Salome Escudero Holland.

The fact that months before the arrest there was a misunderstanding between them to the extent that they had a court litigation, might have induced Mrs. Holland to suspect that appellant caused her arrest, but her suspicion is not borne out by the facts. Her testimony and that of Rosalina Escudero that appellant was released five days after the arrest cannot be believed because both witnesses could not be possibly in a position to have a knowledge of said alleged release, when they were confined in their respective cells from where they could have not seen those who were released by the Japanese. No competent evidence whatsoever has been presented to show that appellant has been actually out of Fort Santiago from his arrest on July 31, 1944 up to his release on November 7, 1944.

The appealed decision is reversed, appellant acquitted, and he shall be released immediately upon promulgation of this decision.

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

CONCURRENTE

PABLO, M.:

En la noche del 31 de Julio de 1944, a eso de las 10:00, varios soldados japoneses arrestaron a Maria Salome Escudero Holland en su casa en Manila, juntamente con Rosalina Escudero, Remedios Ferrer y Judy Bootes. Todas fueron llevadas a la Puerte de Santiago en donde estuvieron detenidas por tres meses y tres dias. Maria y Rosalina fueron investigadas varias veces para comprobar si es verdad que Maria se dedicaba a ayudar a las guerrillas, segun denuncia.

Maria Salome Escudero declaro lo siguiente:

"Q. You said the accused was present six or seven times during the period you were being investigated by the Japanese; did the accused take any participation or not in that investigation?—A. The accused was asked to reiterate all his accusations in front of me.

"Q. What did the accused do when he was asked to reiterate all the accusations against you in your presence?—A. He reiterated all his accusations against me and he insisted that I was telling a lie."

Esta declaracion esti corroborada por Rosalina Escudero.

"Q. What did your cousin, Mrs. Maria Salome Escudero Holland say with respect to the charges made by the accused when he was confronted with you and your cousin?—A. Of course she denied.

"Q. And when your cousin, Mrs. Maria Salome Escudero Holland denied the charges, what did the accused do or say, if he said anything?—A. He was coaching her to admit them. He said to her, in this manner, and these words: 'Come on, Sally, you were doing all that, you better admit them, so that I can help you'."

Del testimonio de Maria y Rosalina se desprende que el acusado fue quien denunció si no, no le hubiera ordenado el japonés que reiterase sus acusaciones en presencia de las detenidas.

Maria era la dueña de la casa, una habitación de la cual ocupaba el acusado, como inquilino. Por las personas que el acusado recibía en su habitación, Maria le suplico que la desocupara concediéndole 90 días para buscar otro

local. Como el acusado no atendia esta suplica, Maria le demando por desahucio y en 22 de Junio de 1944 se dicto sentencia contra el ordenandosele a desalojar la habitacion dentro del termino de 90 dias. Al mes siguiente, fue arrestada Maria con sus tres compañeras. No hay duda que el acusado quiso vengarse por la orden de desahucio. En vez de ser lanzado judicialmente, el acusado se valio del medio mas facil disponible entonces: el arresto y confinamiento de su casera. Y el se quedo en la casa libremente, a sus anchas. Pero es esto suficiente motivo para que se llegue a la conclusion de que el acusado es culpable del delito de traicion? Este delito se comete contra el Estado, contra el Commonwealth, ayudando a sus enemigos. No hay prueba alguna de que el acusado haya ayudado a los soldados japoneses en el exterminio de las guerrillas, ni consta que haya denunciado a las compañeras de Maria que habian ayudado tambien a las guerrillas y a los americanos concentrados. El sabia que Judy Bootes ayudaba a los americanos que estaban concentrados en Cabanatuan y en Sto. Tomas, y no la denunció. De esto se deduce que no quiso obstaculizar la campaña de resistencia: solamente quiso eliminar a Maria de su casa para que no fuese el lanzado judicialmente. El movil, pues, era puramente personal contra su casera y no contra las guerrillas, ni contra los americanos concentrados porque uno de ellos era su padre. Si el acusado tuviera la insana intencion de hacer fracasar esa campaña de resistencia, hubiera denunciado tambien a Vicente Alvarez Jr., con quien operaba para transmitir informaciones a la Intelligence Bureau al mando del Major Villamor, y el daño causado hubiera sido incalculable.

Por tanto, voto por la absolucion del acusado.

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