

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. SALIP JULMAIN, ALIMPONOS HADJA AND INSAN-IN HADJA, DEFENDANTS AND APPELLEES.

G.R. No. L-1996. May 30, 1949

Ponente: PERFECTO, J.

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PERFECTO, J.:

In an order issued by Judge Pablo Villalobos, presiding over the Court of First Instance of Sulu, on October 31, 1947, it was declared that said court has no jurisdiction over this case and ordered its dismissal with costs de oficio and the immediate release of the accused, and, at the same time, the transmittal of a certified copy of the complaint and supporting affidavits and of the amended information to the provincial fiscal and city attorney of Zamboanga for such action as he may deem proper to take.

The information in this case, dated August 28, 1947, reads as follows:

"The undersigned provincial fiscal accuses Salip Julmain, Alimponos Hadja and Insan-in Hadja of the crime of murder, committed as follows:

"That on or about the 19th day of January, 1947, in the seas between Zamboanga and Sulu Provinces, while the said accused were navigating on a vinta from Zamboanga City to Luuk, Province of Sulu, Philippines, and within the jurisdiction of this Court, the said accused with one slip Minsola, who is not yet apprehended, with malice afore-thought, conspiring together and helping each other and with deliberate intention to take the life of Moro Aye, did then and there, wilfully, unlawfully, feloniously and suddenly and treacherously attack the latter with a spear, ax and paddle wounding him on his left breast and on the forehead both wounds being necessarily mortal, and being the direct and immediate cause of death of Moro Aye, after which his dead body was thrown overboard. All contrary to law."

It appears, however, according to the affidavits upon which the prosecution was initiated, that the alleged crime of murder was committed in the seas between Zamboanga city and Basilan Island while both the deceased and the accused were enroute to the Island while both the deceased and the accused were enroute to the Island of Jolo on an unlicensed or unregistered vinta. Because of the crime, widow Ulka Aye and her children landed from the same vinta at Pangasaan, Basilan Island, although the vinta was chartered to carry them from Zamboanga to Kambing, Luuk, Sulu.

Section 14, paragraph 3, Rule 106, upon which the trial court issued the order in question reads as follows:

"(c) Where an offense is committed on board a vessel registered or licensed in accordance with the laws of the Philippines, in the course of its voyage, the criminal action may be instituted and tried in the proper court of the first port of entry or of any municipality or province through which the vessel passed during such voyage."

The trial court declared that the above quoted provisions are not applicable to the present case because the vinta in question was unregistered or unlicensed and, therefore, the scene of the crime must be considered as an ordinary

place and that, even assuming that the reglementary provisions above quoted may be applied, it appearing that the vinta stopped at Pangasaaan, BAsilan Island, under the jurisdiction of the Court of First Instance of Zamboanga, the latter is the one competent to try the case.

After a careful consideration of the undisputed facts of this case for the purposes of the appeal, and of the applicable law, we find no error in the appealed order. The vinta in question was unregistered or unlicensed and, therefore, is not wihtin the purview of section 14, paragraph c, of Rule 106, which contemplates a vessel registered or licensed in accordance with law. It appearing that the crime was committed in waters within the jurisdiction of the Court of First Instance of Zamboanga, the latter is the proper court to try the case. And, even if the vinta in question were licensed or registered, it appearing that the ifrst port of entry of the vinta was Pangasaan, Basilan Island, under the jurisdiction of said court, there cannot by any dispute that the case should be tried in Zamboanga. The appealed order is affirmed.

Ozaeta, Paras, Feria, Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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