

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. FRANCISCO SEPILLO, ANSELMO SEPILLO, CEFERINO SEPILLO AND ANTONIO SILANG, DEFENDANTS AND APPELLANTS.

G.R. No. L-1115. April 30, 1948

Ponente: TUASON, J.

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TUASON, J.:

On September 28, 1944, Sabino Ilagan was seized by four armed men from his house in barrio Concepcion, Sariaya, Quezon, and taken to an uninhabited place where he was beaten to death with blunt instruments. In April 1945, after liberation, the grave in which his body is said to have been buried was reopened and one skull was found.

The four defendants are the men charged with the crime. According to Romana Manalo, Sabino Ilagan's widow, the four accused, each armed with a pistol or bolo, came at about 9 o'clock in the morning of September 28, 1944 looking for her husband. When she told them that her husband was inside the house, Francisco Sepillo called to him and Ilagan came down. After Ilagan came down, they bound his hands behind his back with a rope which Francisco Sepillo and Severino Sepillo picked up from a cart under the house. She as well as her husband pleaded that Ilagan's life be spared, telling them that they had many children. When she asked the accused where they were taking her husband, they told her that if she kept asking questions they would liquidate the whole family.

Segundo Dagos said that on September 28, 1944, as he was passing by the coconut kiln plant of one Fructuoso Palino, outside the inhabited part of barrio Concepcion, he heard screams and pleas for mercy. He peeped behind a stone or wall and saw Francisco Sepillo beating Sabino Ilagan with a piece of wood. Ilagan was on his feet and his hands were tied. In the meantime, Anselmo Sepillo was beside the victim pointing a revolver at the latter; Ceferino Sepillo, with a revolver in his hand, was at the north of his companions walking to and fro and switching his eyes in different directions, and Antonio Silang was holding a bolo. When Sabino Ilagan fell forward and groaned, he hurried home out of fear. He did not count the blows dealt on the offended party but they were successive.

Manuel Sasuya and Domingo Pagsuyuin declared that on the 28th of September 1944, at about 12 o'clock m., they were catching chickens to be killed at a wedding party when Anselmo Sepillo and Antonio Silang appeared and ordered them to get a shovel quickly. They asked the reason and were told that they were going to "excavate." Thereupon they fetched a shovel from Manuel Sasuya's house and were commanded to follow these two accused to a place south of a forest near Maanta river. On the bank of the river they came upon Francisco Sepillo, Ceferino Sepillo and the dead body of Sabino Ilagan, whose clothes were stained with blood. They were ordered to dig a grave, which they did with the shovel they had brought. The body of the deceased was lowered into the grave after which the grave was filled with earth. The grave was knee deep and the place was inundated in rainy seasons. It was Manuel Sasuya who pointed the place where Ilagan's remains were exhumed.

Tomas Jose declared that he was a relative of Romana Manalo and was a neighborhood association leader. On

September 24, 1944, Romana Manalo came to tell him that her husband had been kidnapped by Francisco Sepillo. That was about 3 o'clock in the afternoon. He told Romana to go home while he went to see Francisco Sepillo. In Francisco's house he found Francisco Sepillo, Anselmo Sepillo, Ceferino Sepillo and Antonio Silang eating and armed, and the accused asked him if he was a Japanese spy. He went to Romana Manalo's house and told her that her husband was not in Francisco Sepillo's house, and she exclaimed, "My God, where have they taken my husband!"

The accused put up an alibi. Francisco Sepillo testified that he was arrested as a guerrilla suspect on the 14th of September and confined in the municipal jail of Sariaya as a detention prisoner from that date continuously until the 28th of October of the same year.

To corroborate him, Victoriano Baldura, former chief of police of Sariaya since July, 1944, testified that Francisco Sepillo was kept in the municipal jail of Sariaya from September 13, 14 or 15 until after October 15th and that during his confinement the prisoner was not allowed to go out except to answer the call of nature. On cross-examination, he said that the name of this accused was not entered in the police blotter for the reason that this case "did not belong to the court"; that he consulted the court about the matter and was instructed that this prisoner's name was not to be put in the police blotter, although the police blotter, he admitted, was intended to contain the names of all persons arrested by the police; that the mayor gave him instruction that only persons accused in court should be included in the police blotter; that the mayor had the guerrilla suspects under his responsibility; that he had a separate list for guerrillas kept by the special policemen of the mayor, in which list the name of Francisco Sepillo appeared; that this list was taken along by the special policemen when they left.

Another witness, Silvestre Andal, undertook to corroborate Francisco Sepillo. According to Andal, on September 14, 1944, town feast of Sariaya, he attended the celebration with Francisco Sepillo. They went to see the cockfight at about 3 o'clock in the afternoon. Later he saw people fleeing and Francisco Sepillo was arrested and tied by three Filipino policemen. He followed to see where the policemen were going to take Francisco Sepillo, because Sepillo was his companion, going to the extent of asking Lauro Panaligan, one of the three arresting officers, the reason for Francisco Sepillo's arrest. Thereafter Francisco Sepillo was detained in jail for about one and a half months.

Antonio Silang, one of the defendants, swore that on the 28th of September 1944, he was in Malvar, Batangas, where he remained for 10 days from the 25th of that month to the 5th of October, having been taken to that municipality by Japanese as a forced laborer to work on a landing field. During that period he was not allowed to leave the place and was afraid to escape. He said there were many other laborers, including one companion of his from his barrio.

Jorge Manalo took the stand and said he and Silang were neighbors in 1944; that on the 25th of September of that year he, together with Silang and four others, was taken by Japanese to Malvar in a truck to work in an airfield; that they stayed continuously in that place for 10 days.

Ceferino Sepillo testified that on the 28th of September 1944, he was in barrio Bara, Lucena, whither he and his uncle Ignacio Macaraeg had evacuated because of existing confusion in their barrio. The Japanese and the guerrillas, he said, were continually patrolling that barrio. He did not return to barrio Concepcion until the month of April 1945.

Anselmo Sepillo testified that on the 28th of September, he was in the poblacion of Sariaya, having gone there on the 17th and stayed until the latter part of October. The reason, according to him, was that a policeman who had intervention "in the case of my father (Francisco) suggested that I and my mother stay in his (policeman's) house." He said that his father, Francisco Sepillo, was being suspected as a guerrilla.

The defendants set up an affirmative defense, namely, that other men and not they killed Sabino Ilagan. Nicetas Carrido testified that he saw Fidel Atienza, one Crispin whose surname he did not know, and Mariano Rustia kidnap Sabino Ilagan. He knew this because, he said, those men passed in front of his house. He later said the kidnappers were headed by one Capitan Paco. He went on to say that he knew what happened to Sabino Ilagan "porque cuando paso ese grupo encabezado por Capitán Paco y, como sabía yo de que ese era hombre terrible en nuestra localidad, tanto es así que cuando llegaba en nuestro sitio sacaba una persona, yo les seguí." He said he himself was a guerrillero, a second lieutenant. He went to report to his leader, Captain Gagasa, that the group of Capitan Paco had arrived. He and Gagasa hid to the woods and found Capitan Paco and other people. Sabino Ilagan was being tied to a tree. When Captain Paco saw Captain Gagasa, Paco said, "What are you doing here," and Captain Gagasa replied, "It is because of a neighbor of ours and we want to know why he has been brought here". He related that Crispin, one of the kidnappers, subjected Sabino Ilagan to a questioning about his alleged connection with the Japanese who frequented his house. In the midst of the investigation there came the news that the Japanese were on the way and Capitan Paco told Crispin to hurry up. Crispin drew his revolver but as he was about to fire at Ilagan, Captain Paco stopped him because the noise might attract the Japanese. Thereupon Crispin returned the revolver to its holster and stabbed Sabino Ilagan with a bolo in the neck. Capitan Paco reprimanded Crispin for his haste in killing Sabino. In reply Crispin said, "We can not do anything else, we are in a precarious situation; if we left him alive, our situation would be delicate." Whereupon Capitan Paco, addressing Captain Gagasa said, "We are sorry at not having been able to please you; but what can we do, you have already seen what happened." The witness and his companions departed and he did not know what happened afterward.

Emeterio Linapin said that Romana Manaio, Sabino Ilagan's widow, told him one day that her husband had been kidnapped by three guerrillas whom she said she did not know. He said she requested him to see where they were going to take her husband, so he closed the door of his house and hastened in the direction taken by the guerrillas. He caught up with the guerrillas but did not see Sabino Ilagan. The guerrillas in the house of Melquiades Perez included Capitan Paco, Lt. Mariano, Crispin and Fidel. He talked with Capitan Paco and the capitan told him, "It is all over."

Felino Acusar said that the last time he saw Sabino Ilagan was two years ago, in September 1944. Ilagan's hands were tied and he was being conducted by three persons. Shortly before that he had met these three persons on the road and been asked by them where Sabino Ilagan lived. He pointed the house and then stopped to watch what they were going to do. The men were carrying pistols and he knew only Crispin of the three. When the men came out from Sabino Ilagan's house, Ilagan was with them, his hands tied. He did not count how many persons there were. He followed them, hid himself behind a shrub, and saw Sabino Ilagan being tied to a tree. He was about 50 or 60 meters far from them. After Ilagan was tied Crispin gave him a blow with some thing which looked like a weapon. None of the accused were among the people he saw. He afterwards met Romana Manalo and told her what he had seen.

The questions at issue are reduced to the identity of the culprits and the credibility of the witnesses. A comparison of the two sets of evidence convinces us beyond doubt that the appellants are the authors of the crime in question. The prosecution witnesses' testimony has all the characteristics of veracity, which cannot be said of the evidence for the defense. And these witnesses have not been shown to have had any plausible cause falsely to prosecute the defendants for a capital offense and let unmolested the real perpetrators of the felony. This is all the more unlikely because Ceferino Sepillo is the husband of the complainant's sister and all the defendants were her neighbors if not also relatives. The fact that Francisco Sepillo was shot and wounded allegedly by Sabino Ilagan's brother and son shortly before the case at bar was instituted, as a result of which the two Ilagans are now under prosecution for frustrated murder, helps, if anything, to prove that Francisco Sepillo was one of those responsible for Sabino Ilagan's death.

Sufficient motive has been established for the commission of the crime by the accused. It has been shown that Ilagan and his wife had imputed to the defendants the theft of a cart and a sack of palay, as a consequence of which the relation between Ilagan and Francisco Sepillo, at least, became bitter. Ilagan and Francisco Sepillo at one time were only prevented from coming to blows by the intervention of a mutual friend.

Romana Manalo testified that Francisco Sepillo had been threatening to kill her husband for two months before he was kidnapped. The origin of the two men's enmity, she said, was that Antonio Silang and Anselmo Sepillo had stolen their cart and a sack of palay in June. She said she knew from conversations of the people in the barrio that these two defendants had stolen the cart and the palay and, besides, she found the empty sack which had contained the palay in the possession of Francisco Sepillo. On that occasion she told the family of Francisco Sepillo plainly that they were the thieves.

Atanacio Zara, a neighborhood association leader during the Japanese occupation, testified that in June 1944, Francisco Sepillo and Sabino Ilagan were about to exchange blows on the railroad track when he separated them; that in the afternoon of the same day he took them to the president of the neighborhood association for the purpose of having their differences settled, and they were apparently reconciled; that sometime afterward he heard that the two men were again on bad terms and so once more he tried to have them come along to the neighborhood president; that as they were starting to go, Francisco Sepillo told him, "No insista ya en arreglar, deje Vd. de que se acaba alguien", to which he, disappointed, replied that in that case he would resign, and he did that week.

Ceferino Sepillo is Francisco's brother, Anselmo is his son, and Antonio Silang is his nephew. It was natural that these men, by reason of their kinship with Francisco if not from actual, personal resentment against Sabino Ilagan, should have made a common cause with the former who, from all appearances, was the moving spirit in the nefarious deed.

We are not impressed by the argument that the enmity said to have existed between the now deceased and the defendants was not of such gravity as to prompt them to slay Ilagan. Neither do we share the theory that the appellants were not so foolish as to commit a horrible crime without taking any precaution to hide their identity.

While the incidents related by Romana Manalo and Atanacio Zara, under normal conditions, might not have driven men to take extreme measures, yet it is a matter of general knowledge that irresponsible people were prone to take human life for a more trifling affront or offense, real or imaginary, in those days. Those were days of disorder, chaos and confusion, when heinous crimes were committed openly and with impunity, especially in places outside the centers of population. The present case affords a concrete example of such state of affairs then; of the terrors which gripped the peaceful inhabitants and the helplessness or apathy of the authorities in coping with rampant lawlessness. Nobody dared arrest or complain against Ilagan's assailants. Ilagan's widow not only was afraid to bring the defendants to justice—she seemed even afraid to reveal their names except to people of her confidence, and in a whisper—but she moved to live in other places and did not return to her home in Sariaya until after the accused were safely in jail, when peace had been restored. The accused, like many other uninformed people, never in all probability imagined that conditions might change or, if they did, that old crimes would be dug up and law and justice vindicated.

This helps to explain why the defendants carried out their plan undisguised, in broad daylight and in the presence of his victim's wife, and why in interring Ilagan's body they summoned other men to aid them.

The court below did not err in refusing to give credit to the evidence for the defense. This evidence bears all the earmarks of untruth. It is replete with serious contradictions and improbabilities, as the court below has observed. And the trial judge noted that one of the men to whom the defendants impute the crime, Crispin, is dead and the

whereabouts of the rest are unknown. As to the alibi, the absence of Francisco Sepillo's name from the police blotter is conclusive refutation of Francisco Sepillo's alleged incarceration. The explanation for the absence is very unsatisfactory, to say the least. For the rest, the sole basis pressed upon our attention for the acceptance of the defense is the credibility of the defendants and their witnesses. There is not a single unimpeachable bit of proof or circumstance which directly or indirectly supports the purported alibi or the alleged slaying of the offended party by Paco and his men.

The last error assigned is the refusal of the court a quo to grant a new trial, which was sought on the ground of newly discovered evidence. The supposed new evidence was to consist of the testimony of one Emilio Villostas, who, like Nicetas Carrido and Feliciano Acusar, claimed to have witnessed Gabino Ilagan's killing by guerrillas under Capitan Paco. The court found that this evidence could have been discovered through due diligence. It said Villostas was a guard in the provincial jail when Francisco Sepillo was detained therein awaiting trial. Incidentally this fact leads us to doubt the truth of what this witness had to say. It is also evident that this witness' testimony, if he were allowed to testify, would be, at best, in conflict in one material respect with the testimony given by the other alleged eye-witnesses to the killing, in that according to Villostas he was captured with Ilagan by Ilagan's murderers and was to be executed with Sabino, whereas neither Nicetas Carrido nor Feliciano Acusar even mentioned Villostas as being among the people they allegedly saw. The court correctly said that, at any rate, Villostas' proffered testimony was not essential, being merely cumulative and corroborative offering no better guarantee of its truth than his veracity.

All the defendants have been found guilty of murder and sentenced to an indeterminate penalty of from 10 years 8 months and one day of prision mayor to reclusion perpetua, with the accessories of law; to indemnify the heirs of the deceased, jointly and severally, in the sum of P2,000, and each to pay a proportionate part of the costs. It is beyond doubt that the crime committed is murder and that the four appellants by common accord and in a concerted action took direct part in the execution of the crime. All are guilty as principals. As neither mitigating nor aggravating circumstances attended the commission of the crime, as the Solicitor General says, the appropriate penalty is *reclusión perpetua*. But the lower court was mistaken in giving the defendants the benefit of the Indeterminate Sentence Law. The provisions of this enactment do not apply to cases where life imprisonment is imposed.

With the elimination of the principal penalty below *reclusion perpetua*, the appealed decision will be affirmed with costs of this appeal.

Feria, Pablo, Perfecto, and Bengzon, JJ., concur.

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