

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO QUIOSAY, DEFENDANT-APPELLANT.

G.R. No. L-10852. May 28, 1958

Ponente: PARAS, C.J.

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PARAS, C.J.:

Mauricio Quiosay and Romeo Quiosay (brothers) were charged with murder in the Court of First Instance of Davao. Upon being arraigned, Mauricio Quiosay pleaded guilty and was sentenced accordingly. Romeo Quiosay, who pleaded not guilty, was duly tried and convicted by the court. He has appealed.

There is no question that it was Mauricio Quiosay who hacked Bartolome Gamban with a sharp weapon called "pungkulay", causing the latter's head to be instantly severed from his body. Appellant's conviction was based merely on the fact that, as testified to by prosecution witness Aladino Gamban, a brother of the deceased Bartolome Gamban, while the latter was being chased by Mauricio Quiosay the appellant blocked Bartolome's way and struck his arms with a bolo. The trial court was of the impression that the appellant conspired with his brother Mauricio in the killing of Bartolome.

We cannot agree. Prosecution witness Aladino Gamban testified, that, after the appellant had stabbed Bartolome, he immediately ran away, so that when Mauricio Quiosay cut off the head of Bartolome, the appellant was no longer present. If the appellant had agreed with his brother Mauricio to liquidate Bartolome, instead of fleeing after he had stabbed the latter on the arm, he would have stayed and finished Bartolome by himself or with Mauricio. The mere act of the appellant in stabbing Bartolome Gamban, once cannot conclusively prove conspiracy. We are not convinced beyond reasonable doubt that there was such conspiracy.

It results that the appellant should be held answerable only for his individual act. There is no evidence, however, as to the nature and extent of the injury produced by the bolo thrust given by the appellant. Even so, assuming that said injury was serious, the corresponding penalty would be less than one-half of the period during which the appellant has been in detention since 1954.

Wherefore, the immediate release of the appellant is hereby ordered with costs against him. So ordered.

Bengzon, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Endencia, and Felix, JJ., concur.

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