

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. DIO DELMAS, DEFENDANT AND APPELLANT.

G.R. Nos. L-13107-08. November 29, 1960

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal by Dio Delmas, from a decision of the Court of First Instance of the City of Baguio, in Criminal Cases Nos. 1348 and 1349 of said court, convicting him, in the first case, of robbery with homicide, and, in the second case, of arson, and sentencing him, in the former to life imprisonment to indemnify the heirs of Hilario Holman in the sum of P6,120.40 and to pay the costs, and, in the latter, to an indeterminate penalty ranging from 8 years and 1 day of prison mayor to 14 years 8 months and 1 day of reclusion temporal to indemnify the heirs of said Hilario Holman in the sum of P19,136.50, and to pay the costs.

In the evening of November 10, 1956, the house of Hilario Holman, in the municipality of Tublay, Benguet, Mt. Province, was destroyed by fire. When the same was completely extinguished, early the next morning, the charred remains of a person, found in the debris, was identified by Mrs. Holman as those of her husband. An autopsy performed, immediately thereafter, disclosed the fact that the deceased had, among other injuries, a fractured skull and a stab wound penetrating the right lobe of the liver, and that Hilario Holman had, therefore, died of hemorrhage before his body was burned. Later that evening, Ernesto Luis, Miguel Paseti and Kinio Tibong were arrested. The following day, November 12, Ernesto Luis made an affidavit confessing that, after killing Hilario Holman and stealing P120.40 from the store in his house, he (Ernesto Luis), Miguel Paseti and Kinio Tibong: had set the aforementioned house afire in the evening of November 10, 1956. Subsequently, or on November 14, Miguel Paseti and Kinio Tibong subscribed and swore to similar statements, whereupon, two (2) complaints were filed, with the justice of the peace court of Tublay, against Luis, Paseti and Tibong, one for robbery with homicide and another for arson.

On November 15, 1956, said defendants made additional statements to the effect that they committed said crimes at the behest and under the direction of Dio Delmas, who promised to pay them for their services, but failed to live up to his word. Hence, said complaints were amended by including Dio Delmas among the defendants therein. When the four defendants appeared before said court for preliminary investigation, Luis, Paseti and Tibong pleaded guilty to the charge, whereas Delmas waived his right to said investigation. Hence, the records of both cases were forwarded to the Court of First Instance of Baguio, and, soon later, the corresponding informations for robbery with homicide and arson were filed with that court. Upon arraignment therein, defendants Luis, Paseti, and Tibong once again pleaded guilty to both charges, whereupon judgment was rendered convicting them of said offenses and sentencing them accordingly. Thereafter, the two cases were jointly heard, insofar as herein appellant, Dio Delmas, is concerned, with the result already adverted to.

The theory of the prosecution is set forth in the decision appealed from in the following language:

"It all supposedly began with the Appellant allegedly sending Miguel Paseti, a young man, 21 years of age, to

contact two other young boys Ernesto Luis and Kinio Tibong to tell the latter two that they were all going to kill Hilario Holman and that for this purpose they were all going to meet at the Tublay Dispensary that night of November 10, 1956. (testimony of Miguel Paseti, p. 69, t.s.n.) In accordance with such alleged instruction, Miguel Paseti went to see Ernesto Luis and Kinio Tibong and told them the message that they were going to kill Hilario Holman. (testimony of Ernesto Luis, p. 28, t.s.n.) The four of them supposedly met at the Tublay Dispensary that night, and after a brief conversation, they allegedly proceeded to Hilario Holman's house. Upon reaching the premises of the house of the victim, the Appellant allegedly hid with Miguel Paseti not himself wanting to appear before the victim and instead sent Ernesto Luis and Kinio Tibong to appear before the victim 'because according to him (Dio Delmas) Hilario Holman would not suspect the two of us' (Ernesto Luis and Kinio Tibong). (testimony of Ernesto Luis, p. 33, t.s.n.) The Appellant and Miguel Paseti allegedly waited for the victim outside of the house at the place where they were hiding outside of the house and when the victim went to loosen his horse and passed through where Appellant and Miguel Paseti were hiding, the Appellant allegedly hit the victim on the head with a bottle. The victim did not fall from the alleged blow with a bottle on his head and as a consequence, he still ran after Ernesto Luis and Kinio Tibong and wrestled with them. (testimony of Ernesto Luis, pp. 38-40, t.s.n.) After the victim was finally killed, the Appellant allegedly took care that the body was buried, having the body carried into the kitchen of the house and the house burned. And this was the only instance when the appellant allegedly went with the three confessed killers to commit a crime; that in fact, it was only when there was work to do and during cariao (native feast) that the three confessed killers would meet with the Appellant, (testimony of Miguel Paseti, p. 77, t.s.n. and Ernesto Luis, p. 62, t.s.n.) As regards the matter of protecting themselves from being discovered as the authors of the crime, all that the Appellant allegedly instructed the three confessed killers was that they should not mention and include the name of the Appellant as having been with them in the commission of the offense, (testimony of Ernesto Luis, p. 64, t.s.n.)"

Upon the other hand, appellant tried to prove the following: In the evening of November 10, 1956, he (Delmas) was in his house, with his wife, and one Assiston Tamang, when they noticed fire not far away. As he went to the scene of the conflagration and found that the house of the Holmans was burning, he began to call its owners, but none of them showed up or answered him. So he bade his son Sanchez, to proceed to the farm of the Holmans and notify them, while he (Delmas) and other neighbors, who had arrived in the meantime, tried to place the fire under control or to prevent it from destroying an adjoining house belonging to the same owners. Soon later, Sanchez Delmas came back with Mrs. Holman, who, upon inquiry by appellant, said that her husband had left their farm earlier that evening. Accordingly, Demias sent one Felix Martiriez to the house of Holman's father, but Hilario Holman was not there. Dio Delmas and some neighbors remained in the scene of the occurrence until the fire, was completely extinguished the next morning, when the charred remains of Hilario Holman were identified by his wife.

Apart from denying the acts imputed to him by the prosecution, Dio Delmas tried to prove, also, that the witnesses for the prosecution harbored ill-feeling towards him. However, the lower court found the evidence for the defense unworthy of credence and, relying upon the evidence for the prosecution, rendered the judgment of conviction appealed from. Hence the present appeal.

The prosecution maintains that, since the story given by its witnesses is inconsistent with that of appellant herein, the appeal hinges on the relative credibility of the testimonial evidence on record, and the findings thereon made in said decision should not be disturbed by this Court, owing to the decided advantage His Honor the trial Judge had in observing the behaviour of the witnesses in the course of their testimony. This is true, unless it appears that the lower court has overlooked or misunderstood some facts or circumstances of weight or importance in the disposition of the case. Upon a review of the record we are inclined to believe that such is precisely the situation obtaining in the cases before us.

To begin,with, the lower court was under the Impression that appellant had sent his son Sanchez Delmas to look for Mrs. Holman only, not for Hilario Holman, thus surmising that appellant must have known, before the arrival of Mrs. Holman, that her husband was inside the burning house. The record shows, however, that appellant bade his aforementioned son to locate, not only Mrs. Holman, but, also, her husband.

Secondly, when Mrs. Holman showed up that evening, appellant volunteered the information that he was the first person to reach the scene of the fire, after it had broken out. If appellant were guilty as charged, he would, in all probability, have omitted such detail, not only because it is an important link in the proof of his guilt, but, also, because it was not necessary for him to convey said information, particularly considering that other neighbors were, likewise, present in the place when Mrs. Holman came. In other words, it would appear as if appellant spoke to Mrs. Holman with a candor inconsistent with a guilty conscience. Indeed, he seemingly exerted earliest efforts to put the fire under control and remained in the scene of the conflagration up to the following morning, when the fire was completely extinguished.

Thirdly, it was appellant who took the trouble of reporting the occurrence to the chief of police in the morning of November 11, 1956. What is more, appellant accompanied the peace officer who arrested Luis, Paseti and Tibong later in the evening. It is highly improbable that appellant would have taken such step had he been the person who induced his aforesaid co-defendants to commit the crime charged.

Fourthly, on November 12, 1956, Ernesto Luis, and, on November 14, 1956, Miguel Paseti and Kinio Tibong, made affidavits admitting that the three of them had committed said crime. None of them mentioned appellant's alleged participation in the commission thereof, despite the fact that he had assisted in their apprehension. In this connection, the decision appealed from says:

"* * * The fact that originally they did not implicate Dio Delmas is explained by the fact that Dio Delmas did not pay them the price agreed and instead was with the party that arrested the three of them. It was then that the three of them realized that Dio would not carry out his part of the bargain—hence they talked."

However, Luis and Paseti testified that, early in the morning of November 11, they met appellant in a bus station, beside the highway in Tublay, and that he then informed them that the money intended for them had been consumed by fire in the house of the Holmans. In, other words when they made their affidavits on November 12, and 14, 1956, Luis, Paseti and Tibong already knew that appellant would not give them any money and that he had cooperated in their apprehension. Hence, their failure to implicate him in said affidavits cannot be due to the causes stated in said decision.

Lastly, it appears that appellant was, at the time of the occurrence, a municipal councilor of Tublay, and that, at that time, as well as prior thereto, there was afoot a move to have him replaced as municipal councilor by Lazaro Ike, one of the Witnesses for the prosecution. We note that the latter did not try to rebut either the evidence for the defense to this effect, or appellant's testimony regarding the ill-feeling or animosity of the main witnesses for the prosecution towards him.

In short appellant's guilt has not been established beyond reasonable doubt, for which reason, the decision appealed from should be, as it is hereby reversed and these two (2) cases are dismissed, insofar as appellant Dio Delmas is concerned, with costs de oficio. It is so ordered.

Paras, C.J., Bengzon, Padilla, Bautista Angelo, Labrador, Reyes, J.B.L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

Judgment reversed.

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