

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. LUIS TARUC, ET AL., DEFENDANTS, CENON BUNGAY ALIAS CENON BUNGUE ALIAS RUFING, DEFENDANT AND APPELLANT.

G.R. No. L-18308. April 30, 1966

Ponente: DIZON, J.

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DIZON, J.:

Appeal taken by Cenon Bungay, alias Cenon Bungue alias Rufing, from the decision of the Court of First Instance of Pampanga in Criminal Case No. 2053 finding him guilty beyond reasonable doubt of the crime of murder, and sentencing him to suffer the penalty of reclusion perpetua; to indemnify the heirs of Fr. Teofilo Limlingan in the sum of six thousand (P6,000.00) pesos, without subsidiary imprisonment in case of insolvency, due to the nature of the penalty imposed; and to pay the proportionate costs of the proceedings.

The information filed with the above-named court charged Bungay, Luis Taruc alias Kas. Ipe, Jose Mutuc alias Fred and Gonzalo Labo alias De Lara with the crime of murder committed as follows:

"That on or about the 10th day of July, 1946, in the municipality of Apalit, province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above named defendants, conspiring and confederating with Felipe de la Cruz alias Martinez, Pedro Macapagal alias Roque, Apolonio Pafigilinan alias Commander Tang-gol, Fortunato Nocum alias Mike, Eladio Nocum alias Medina and Mariano Pangilinan alias Alaska, who are now dead, and mutually aiding one another, at night time purposely sought to better accomplish their common design and with evident premeditation, use of superior strength, craft and aid of armed men, did then and there wilfully, unlawfully and feloniously take away Father Teofilo Limlingan, then parish priest of Balucuc, Apalit, Pampanga, from his convent under the pretext that a couple who had just eloped desired to be urgently united in lawful wedlock, and once the said Father Teofilo Limlingan was with the accused and their companions and far from being made to solemnize a marriage ceremony, the said accused, in the furtherance of their conspiracy and with the deliberate intent to kill, wilfully, unlawfully and feloniously brought the said Father Teofilo Limlingan to an isolated place in Balucuc, Apalit, Pampanga, and once there, said Father Teofilo Limlingan with both hands tied was shot by the said accused with firearms inflicting upon said Father Teofilo Limlingan gunshot wounds which caused his death immediately thereafter."

Upon motion of the Assistant Provincial Fiscal, the court dismissed the case against Luis Taruc and Gonzalo Labp, on the ground of lack of sufficient evidence in the case of the former, and in that of the latter because he had been killed previously in an encounter with the military authorities. As defendant Jose Mutuc was still at large at the time of the trial, the case proceeded only against Bungay who had pleaded not guilty. After the court had rendered judgment of conviction against axsa Bungay appealed.

At about 10:00 or 11:00 o'clock in the evening of July 10, 1946, appellant went to see Francisco Diaz, a resident of sitio Dungan, Balucluc, Apalit, Pampanga, and a member of the HMB (Hukbong Mapagpalaya ng Bayan) organization, from where both went to sitio Caingin of the same barrio. There they joined a group composed of Pedro Macapagal alias Roque, Miguel Simbulan, Felipe de la Cruz, Gonzalo Labo and one alias Maning.

Macapagal and Simbulan—who were apparently the leaders of the group—told them that Father Tedtio Limlingan should be kidnapped and killed because he had abused two women. All those present, with the exception of Diaz and one Justo Ortiz, readily agreed to the proposition. Angered by the objection of the latter two, Simbulan threatened to liquidate them, thus silencing both. Simbulan then led the group to the convent of the chapel of barrio Balucuc (Apalit, Pampanga) to fetch Fr. Limlingan. Upon arriving thereat, Simbulan, appellant and another member of the group, called for the unsuspecting priest, telling him that there was a couple who eloped and wanted to be married. When the convent door opened, the trio immediately went upstairs and, after a while, Simbulan came down carrying with him the priest's two long robes (hibitos), which he ordered Diaz and Ortiz to dispose of in Baliwag, Bulacan, so as not to cast any suspicion on them for the liquidation of the priest. Shortly thereafter, appellant and another member of the party, came down the convent with Fr. Limlingan, whose hands were tied behind his body, and they took him to a fishpond located in the same barrio where he was shot by Jose Mutuc. Thereafter his body was dumped into the fishpond and covered with water lilies.

Upon being informed of the disappearance of Fr. Limlingan, Lt. Belvis, with some PC soldiers and the then municipal mayor of Apalit, Pampanga, Dr. Emilio Pascual, went to said fishpond in search of the remains of the priest, but they failed to find them because the fishpond was filled with water. In view of this they went to see Marcos Reyes, the owner of the fishpond and requested him that, should he find said remains, to report the matter to the barrio lieutenant.

One day in March 1947, while Marcos Reyes and his companions were emptying the fishpond of its water, a boy who was with them reported having found some bones. When Reyes and his companions went to the place indicated by the finder they found the skeleton still intact, with the belt and buckle around its waist and the rope still tying the hands behind the body. The discovery was reported to the barrio lieutenant who rushed to the place. Upon his arrival, one Jose Bondoc volunteered to pick up the remains and placed them inside the box left by Mayor Emilio Pascual in the possession of Reyes. The remains, as well as the belt and buckle, were identified by Marcos Reyes and Felicidad L. Yumul, a sister of Fr. Limlingan, as belonging to the priest.

First contention of appellant is that the prosecution evidence failed to establish the corpus delicti. It would seem, however, that he simply means that the body or cadaver of the deceased priest was not actually found. It should be borne in mind that corpus delicti means the fact of the crime; that a crime has actually been perpetrated, and does not refer to the body of the murdered person nor the object robbed or stolen from the owner. In the present case, that the crime charged was actually committed was clearly established by the positive testimony of not less than three witnesses present when the murder was committed. On the other hand, the prosecution evidence, particularly the testimony of Felicidad L. Yumul, a sister of the deceased priest, shows that the skeleton found in the fishpond was that of the said priest. Thus she testified that her brother was a tall person, and the skeletal remains appear to be those of a tall person (Maglalang transcript, p. 3, session of December 15, 1959). She also asserted that her brother, the murdered priest, in his lifetime had three upper right gold molars (Ibid, p. 4) and that he also wore a belt with a buckle with the initials T. G. L., and this appears to be the buckle found with the remains discovered in the fishpond.

Next contention of appellant is that the evidence of record is not sufficient to convict him beyond reasonable doubt. We find no merit in this contention because appellant's guilty participation in the kidnapping of Father Limlingan—which was perpetrated for the purpose of murdering him—was fully established by the testimony of three eye-witnesses, namely, Francisco Diaz, Justo Ortiz and Troadio Nocom, the substance of which has been reproduced heretofore. We have carefully examined the record in search of any fact or circumstance sufficient to discredit their testimony, but we found none. While it is true that both Diaz and Ortiz formed part of the party who kidnapped Father Limlingan but were not charged in the information filed in the lower court, this was

evidently due to the fact that when Simbulan gave the order to kidnap and liquidate the priest, they objected to the plan and did nothing thereafter to help accomplish the crime. We believe, therefore, that they told the truth when they revealed the guilty participation of appellant Bungay in committing the offense charged. Upon the other hand, the defense evidence has not established any ill motive on their part sufficiently serious to induce them to falsely testify against him in this case.

Lastly, it is appellant's claim that the lower court should have acquitted him on the ground of double jeopardy, it appearing that he had previously been convicted of rebellion coupled with multiple murder, arson and robbery. This is also untenable.

An examination of the information filed in the case for rebellion, with murder and arson (Exhibit 1, folio of exhibits) shows that the murder subject of the present case is not one of those included therein and for which appellant had been sentenced to death.(Exhibit 2, folio of Exhibits). Besides, the evidence here shows that the motive for the murder was that appellant and his companions thought that Father Limlingan had abused some women under his religious influence; so arrogating unto themselves a power that they did not possess, they found him guilty thereof, without trial, and carried out the execution of their judgment. There is no question, therefore, that appellant is not entitled to invoke the defense of double jeopardy.

Wherefore, the appealed decision being in accordance with law and the evidence, the same is hereby affirmed, with costs.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Regala, Makalintal, Bengzon, J.P., Zaldivar, and Sanchez, JJ., concur.

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