

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. MAUTI LINGCUAN AND MAMANTUK MAUTI, DEFENDANTS AND APPELLANTS.

G. R. No. L-3772. May 13, 1953

Ponente: TUASON, J.

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TUASON, J.:

Mauti Lingcuan and Mamantuk Mauti, father and son and appellants, were charged with the crime of murder, it being alleged that in company with Lomangcolob Dimaocom, who was still at large, they shot and killed Gadungan Mantar on March 31, 1949, in barrio Madaya, Municipality of Dansalan, Province of Lanao.

It appears that about 9:00 o'clock on the evening of the above-mentioned date, Gadungan Mantar was sewing or weaving in her home when gunshots rang out outside the house and one of the bullets struck her in the back, from the effects of which she died three days later in a hospital or clinic to which she had been taken after being wounded. The rest of the family had gone to bed for the night but they were still awake or were awakened by the firing.

Two of these, Tiburon Mantar and Macapanton Macadaag, claimed to have identified the accused as two of three assailants. They testified at great lengths and gave minute details of the clothings of the assailants and of the guns they carried.

In brief, they said that upon hearing the shots and Gadungan's screams for help, Tiburon Mantar grabbed his gun and flashlight and jumped down the house followed by Macapanton Macadaag; that on the ground Tiburon switched his flashlight and both recognized Mauti Lingcuan, Mamantuk Mauti and Lomangcolob; that Mauti Lingcuan was carrying a rifle and a revolver, Mamantuk Mauti a carbine, and Lomangcolob a shotgun; that Mauti Lingcuan is Mamantuk Mauti's father, Lomangcolob the husband of Mauti Lingcuan's sister, and Lomangcolob's daughter is one of the wives of Mauti Lingcuan. Both stated that the strangers were running and they, witnesses, were not able to catch up with them.

Indirect or circumstantial evidence was furnished by Moslem Ayo and Pangandaman Dimapunong. The first, inspector of an electric company in Dansalan, testified that in the afternoon of March 31, 1949, he met Mauti Lingcuan at the public market in Bangolo, Dansalan, and had a conversation with this accused. He declared that he had bought electric posts from Mauti Lingcuan and the latter requested him on that occasion to pay the balance of the purchase price, which was P10, telling him that Namir Mantar (deceased's father) had filed a criminal complaint against him and, being the (district) mayor, he was ashamed. Ayo said that Lingcuan told him that he was pressed for money and was going to kill Namir Mantar or his daughter, Gadungan, or his wife, Babai, if the witness did not pay him. The witness further said that he cautioned Lingcuan and informed Tiburon Mantar on the road near the electric plant of lingcuan's threat, and blamed Tiburon after the murder for not taking heed of his warning.

Pangandaman Dimapunong testified that after going to bed in Dilay on March 31, 1949, he heard gunfires and the

peal of agongs and, with Mama sa Bukid who had told him to get ready, he rushed towards Papandayan from where the firing and the sound of alarm came. He swore that upon reaching the bridge in Somioran he and Mama sa Bukid heard footsteps of running men, whereupon he and his companion hid behind a bush; that from their hiding place, at a distance of about three brazas, they saw Sultan sa Dimagaling (Mauti Lingcuan), Lomangcolob and Mamantuk Mauti pass; that he heard the Sultan tell Mamantuk to hurry; that the two accused and Lomangcolob were carrying firearms although he could not tell what kind of firearms they were because he was scared and the three men were running. He also said that he and Mama sa Bukid proceeded to Papandayan where Gadungan had been shot, and told the people they found there that they had met the two accused and Lomangcolob; that Amai Macapado asked if the assassins could still be overtaken and they answered no. The witness stated that Dilay where he lived was about four kilometers from Papandayan.

The defense is alibi and a great amount of testimony was introduced to support it. It is not deemed necessary, however, to burden this decision with a recital of the defendant's evidence. The result of this appeal rests primarily upon the credibility of the witnesses for the prosecution and it is to this that we will address ourselves presently.

Captain Mamarinta Lao of the Philippine Constabulary, a prosecution witness who made an ocular inspection of the place of the crime and its surroundings, expressed serious doubts that Tiburon Mantar and Pangandaman Dimapunong were able to identify the assassin or assassins, while counsel for the appellants believes that these witnesses could at the most have seen, but not recognized, three men fleeing, and only imagined that the culprits were the accused and Lomangcolob because upon these they pinned their suspicion. To this we agree.

There is no apparent justification for doubting Moslem Ayo's and Pangandaman Dimapunong's veracity, however. Related to Mauti Lingcuan, as he declared, and not to the deceased's family, Ayo's natural leaning should have been more on the side of the defendants than of the government. There is every reason to believe that in testifying against the defendants he was motivated by no other consideration than sense of duty and due regard for his oath.

Incidentally, this relationship and intimacy between Lingcuan and Ayo may well explain why the former let the latter into his feelings of resentment against Namir Mantar. That he could be so indiscreet and imprudent as to bare to others, even relatives, his desperate plans against Namir will not appear strange if one stops to remember that he belongs to a race noted for its daring and little regard for consequences, is illiterate (he signs his name with a thumbmark), and had been prosecuted once for murder although acquitted by the Supreme Court. Besides, it would seem that Lingcuan did not tell Ayo that he wanted or was going to kill Namir with cool deliberation, but spoke his mind in a sudden impulse or outburst of temper as he unburdened himself of his grievances and bitterness against the man who he thought had been persecuting him and put him to shame.

Like Moslem Ayo, Pangandaman Dimapunong was closer to the accused than to the deceased's family which was not even his neighbor. This witness said that Lingcuan is his father's second cousin and Lomangcolob his distant relative, and refers to the former as his uncle and to Mamantuk as brother. His testimony moreover rings true, free from any marks of falsehood or exaggeration. His statement that he recognized the accused even though there were only stars to illuminate the place was not at all improbable. Knowing the defendants intimately, it was not impossible for him to tell them from others by their heights and the shapes of their bodies and by their movements and voices, even if he did not distinctly see their facial features.

In the light of the antecedents between the Lingcuan and Namir Mantar, Moslem Ayo's and Pangandaman Dimapunong's testimony sustains beyond reasonable doubt the appellant's conviction by the lower court. It is an admitted fact that Mauti Lingcuan had recently been charged with estafa by Namir Mantar and was in consequence kept in jail until he put up a bond, and that this case (which was later dismissed in the Court of First

Instance on motion of the Provincial Fiscal on the ground that the subject of the complaint was simple debt) was still pending in the justice of the peace court when the crime at bar was perpetrated.

For a last word, Lomangcolob's flight almost immediately after the present case had been temporarily dismissed is not without significance as proof of guilt; and this proof applies by logical inference to the appellants as well as Lomangcolob. The two defendants and Lomangcolob belong to the same family; it is expressly admitted that there were three assailants, and there is no suggestion that Lomangcolob had anything against the deceased's family other than his father-in-law's grudge against Namir Mantar. Lomangcolob's escape, therefore, considered in relation to these circumstances rightly lends credence to the theory that the three men who were seen running and carrying firearms were Lomangcolob and the defendants. It is of interest to recall in this connection that the fleeing men whom Pangandaman Dimapunong saw were heading in the direction of the defendants' barrio and that it does not appear that there were other people who had any cause to attempt against the life of Namir Mantar's family.

A licensed firearm of Lingcuan's was seized and examined and was found, so it is inferred from the prosecution's silence on the result of the ballistic examination, not to have been fired recently. But this negative finding does not prove one thing or another, for the assailants were provided with more than one gun.

Mamantuk Mauti was found to have been only 15 years of age when he committed the crime but he must be at least 19 years old now. Under the ruling laid down in *People of the Philippines vs. Estela et al.*, G. R. No. L-1753, April 12, 1950,[*] this appellant is no longer entitled to the benefits of Article 80 of the Revised Penal Code as amended by Republic Act No. 47. It was held in that case that the accused minor, who had reached the age of 18 at the time of the trial, had no right under the above-cited provisions to be placed under the custody of a charitable or correctional institution. Judge Guevara, a member of the Committee which revised the old Penal Code, is also of the opinion that Article 80 is "applicable only to those offenders who are under eighteen (now sixteen), not only at the commission of the offense, but also at the time of the trial against them." (Revised Penal Code by Guevara, Fourth Edition, p. 190).

The alternative, as also laid down in *People vs. Estela et al.*, *supra*, is application of case No. 2 of Article 68 by which "upon a person over fifteen and under eighteen years of age, the penalty next lower than that prescribed by law shall be imposed."

Wherefore, the appealed decision condemning Mauti Lingcuan to reclusion perpetua and to pay P2,000 as indemnity to the heirs of the deceased and committing Mamantuk Mauti shall be sentenced to an indeterminate penalty of from six years of prison mayor to 14 years, 10 months and 20 days of reclusion temporal, and both defendants shall jointly and severally indemnify Gadungan's heirs in the sum of P6,000. It is so ordered, with the costs of both instances against the appellants.

Paras, C. J., Feria, Bengzon, Montemayor, Reyes, Jugo, Bautista Angelo and Labrador, JJ., concur.

[*] 47 Off. Gaz.; 86 Phil. 104.

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