

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. GALBON IJAD AND SAKILAN MUSLIM, DEFENDANTS.

G.R. No. L-14456. October 31, 1961

Ponente: PADILLA, J.

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PADILLA, J.:

Galbon Ijad, Sakilan Muslim and Jimlani Abdusalim were charged with the crime of robbery in band with multiple homicide. Of their alleged confederates mentioned in the information, Aliol (Muslim) is dead and Alibasa Aukasa and two others, whose true names are unknown, have not then been apprehended. After preliminary investigation conducted by the Judge of the Municipal Court of Zamboanga City, the three named defendants were bound over to the Court of First Instance, where the City Attorney filed the information charging them with robbery in band with multiple homicide under the provisions of article 294 of the Revised Penal Code. Upon arraignment Jimlani Abdusalim entered a plea of guilty and Galbon Ijad and Sakilan Muslim, a plea of not guilty. During the arraignment all three defendants were assisted by counsel de oficio appointed by the Court. After Jimlani Abdusalim had entered a plea of guilty the Court, considering his plea of guilty as a mitigating circumstance and applying the provisions of section 106 of the Administrative Code for Mindanao and Sulu, sentenced him to suffer the penalty of 10 years, 8 months and 1 day of prision mayor, to indemnify the heirs of the offended party in the sum of P3,000 and to pay the costs. Trial of the two defendants who had entered a plea of not guilty proceeded and thereafter the Court rendered judgment finding them guilty of the crime charged and sentencing them to suffer the supreme penalty of death, to indemnify the heirs of the deceased victims at the rate of P6,000 each victim, or the total sum of P36,000, the accessory penalties and to pay the costs. In imposing the penalty of death, the Court found the following aggravating circumstances: (1) evident premeditation, (2) treachery, (3) night time, (4) the crime was committed in the dwelling of the victims, (5) disregard of respect due the victims on account of sex and/or age and (6) extreme cruelty, and no mitigating circumstance to offset any of them.

The case is now before this Court for review of the judgment rendered by the Court of First Instance of Zamboanga, pursuant to the provisions of section 9, Rule 118, of the Rules of Court.

Early in the morning of 6 February 1957, patrolman Omekting of the Zamboanga City Police Department, assigned to the police precinct in Labuan, Zamboanga City, reported to the police headquarters that the family of Aisami Ragain of Bato Lampon had been massacred. Police lieutenants Pedro Basilio and Reyes, chief of the secret service, together with four detectives and uniformed policemen repaired to the scene to investigate. Upon arrival at the place, they saw Ansima, the wife of Aisami Ragain, their four minor children and his nephew dead. With the help of a photographer from Pichay Studio, they took pictures of the house from outside (Exhibit S), and from the inside showing Ansima, her son Muslim near her and two other children (Exhibit T), the same victims at another angle (Exhibit T-1), two other children, a male and a female (Exhibit U) and all of the victims (Exhibit V & X), lying dead and the kitchen utensils and appliances belonging to the household (Exhibit Y).

Dr. Purita M. Fernandez, medical officer in the Zamboanga City Health Department, conducted a post mortem

examination of the victims and signed certificates of death where she enumerated and described the wounds sustained by each and every victim, as follows:

Esniya, 6 years of age, female:

- (1) Wound slashed, 3 inches long below the right clavicle near the sternum.
- (2) Wound chopped, 4 inches long, lower jaw fracturing the mandible.
- (3) Wound slashed avulsing ear, left. (Exhibit M.)

Momen, 4 years of age, female: Decapitating chopped wound. (Exhibit N.)

Marahael, 8 years of age, male: It had 3 stab wounds on the head, left. First wound fracturing the skull involving parietal side of brain. Another wound continuous with the first involving face, left, and a lower stab wound also continuous with the second, left lower jaw. Hemorrhage, secondary. (Exhibit O.)

Muslim, 1½ years of age, male

- (1) Wound, slashed, 6 inches long, right front, parietal slashing brain.
- (2) Wound, slashed, 6 inches long cutting cervical, right. (Exhibit P.)

Ansima, 32 years of age, female, more or less in the 9th month of pregnancy:

- (1) Chopped extensive wounds multiple.
 - (a) Eight nape involving base of brain
 - (b) Occipito-temporal region, right
 - (c) Shoulder, right 6 inches long (Exhibit Q)

Arasan, 12 years of age, male:

- (1) Chopped wound, extensive, 8 inches long, auricular region cutting base of brain.
- (2) Two wounds, incised, 2 inches long, dorsum hand, right and base of left thumb.
- (3) Sliced wounds, parietal region, 2 inches in diameter. (Exhibit R.)

According to her the wounds inflicted on the six victims were caused by sharp bladed instruments and their death was due to acute shock secondary to hemorrhage (Exhibits M to R, inclusive); that when she arrived at the scene at about 9:45 o'clock in the morning of 6 February 1957, the bodies were already in a state of decomposition; and that the victims could have been killed about twelve hours before her arrival, that is, between 8:00 o'clock and 9:00 o'clock in the evening of the previous day, 5 February 1957.

In the course of the investigation police officer Federico Montesa found the dead body of Aliol Ramin, a relative of the victims, near the house Aisami Ramin. During the post mortem examination, a bullet wound in his body and blood stains in his clothes, which turned out to be the blood of the victims, were found. Also the clothes in his body were ascertained to belong to Ansima, Aisami Ramin's wife. From these the police authorities concluded that Aliol Ramin was a member of the band that perpetrated the crime against the wife, children and nephew of Aisami Ramin. The police officers questioned a neighbor of the victims and Galbon Ijad, Zamblai, Abdul Sain and his father, who came from Jolo, and then residents of Lawigon, whom they suspected of having something to do with the crime. Believing that pirates or sea robbers had perpetrated the crime and that the Philippine Constabulary authorities could expeditiously solve the case because they could extend their investigation beyond the jurisdiction of Zamboanga City, the Mayor asked the help of the Philippine Constabulary. He sought the aid of Captain Decoroso Santos, commanding officer of the 91st PC Company, stationed in Zamboanga City.

On 12 February 1957 Captain Santos received a letter from the Mayor of Zamboanga City asking his help in the

solution of the case. With Galbon Ijad as a suspect, Captain Santos took over the case from the police authorities of Zamboanga City. On 13 February 1957 he had the suspect apprehended and brought to his headquarters. After being questioned, the suspect admitted that he was one of those who committed the crime. He named Jimlani Abdusalim, Sakilan Muslim, Aliol and two unknown Yakans as his companions and confessed that he hid the "barong" he used in stabbing one of the victims in the house of Alibasa Aukasa, his brother-in-law, in Malandi, Labuan, and gave him his share of the loot (Exhibits K & 1). Whereupon Captain Santos, Sergeant Ramon Manuel, Corporal Unilongo and Corporal German Jalon together with Galbon Ijad repaired to Alibasa Aujasa's house in Malandi to get them. Upon arrival at the house of Alibasa Aukasa, with the permission of his wife, they searched the premises and found the scabbard of Galdon's "barong" about 25 yards away from the house (Exhibit A) and recovered the following looted items, namely, two moro pants, 2 moro blankets, 1 malayo dress, 1 white cap for hadji (copia), 1 piece of black cloth, 1 gasket cover of Petromax (Exhibits B, B-1, C, D, E, F, G) belonging to the victims. Afterwards captain Santos and his party together with Galbon Ijad returned to his headquarters and put in writing Galbon's confession (Exhibits K & L). He further stated in his confession that his share in the loot consisted of some clothes, mixed men's and women's clothing, a ten peso bill and a lady's ring. The confession, which was in the form of question and answer, was subscribed and sworn to on the same day, 13 February 1957, by him before Judge Edmundo S. Pinga after it was translated to him by Hadji Caril in the Joloano dialect (Exhibits K & L).

On 16 February 1957, after Jimlani Abdusalim was apprehended, Galbon Ijad was again interrogated by Captain Santos and he identified the "kris" or "kalis" Jimlani had during the commission of the crime. On 19 February 1957 he subscribed and swore to a written statement to that effect before Judge Edmundo S. Pinga (Exhibit Z).

During the investigation of Galbon Ijad on 13 February 1957, Captain Santos learned that Moro Sakilan had escaped to Basilan City. He sent six of his men under the command of Sergeant Galvez and Corporal Jalon to Basilan City to apprehend the escaped suspect. After he was apprehended and brought to Zamboanga City, on 20 February 1957 Captain Santos investigated him and he confessed to his participation in the commission of the crime. According to him his companions were Galbon, Jimlani, Alibasa, Pawing, Aliol and a Yakan whose name he did not know; that it was a "barong" he used in killing one of the victims who died instantaneously; that he remembers Pawing was armed with a "kris" on that occasion; and that together with the latter and the unnamed Yakan he brought to the mountains one trunk belonging to the victims which he had not opened (Exhibit L). The confession, which was also in the form of question and answer, was subscribed and sworn to on the same day, 20 February 1957, before Judge Edmundo S. Piña.

Testifying for the prosecution, Aisami Ragain identified the articles recovered by the PC authorities. The two pants are his, the cap belongs to his son who at that time was learning to read the Koran, the spare part of Alkolite lamp is his, the piece of black cloth, which is a remnant of the dress worn by his wife when she was interred, belongs to his wife and the "copia" made by his wife is his. The nine heads of chicken at P1.50 a head, or a total of P13.50, were not recovered anymore.

Both defendants deny complicity in the commission of the crime and repudiate their respective confessions (Exhibits K, 1, and L). Galbon Ijad swears that on the night of 5 February 1957 and in the morning of the next days he was at home; that in the morning of 6 February 1957 he was at home making a fish trap; that he had no personal knowledge of the incident that happened in Bato. Lampon during those two days but had information about it from people coming from that place; that he came to know Captain Decoroso Santos on the day he was arrested and brought to his headquarters in Zamboanga City; that he was investigated by many persons whose names he did not know and maltreated by two of them; that he was hit with the butt of a rifle on the left rib and with the fist on the back and chest; that as a result of the maltreatment he sustained a broken rib on the left; that

everytime he was maltreated he passed out and was revived by pouring water on him, that after several maltreatments he was told to confess to the commission of the crime so that his life would be spared; that because he wanted his life spared he did what he was told to do; that the next day he was accompanied by four PC soldiers to Judge Piñga in his chambers where he was made to sign the statement, Exhibit K & 1; that on the way to Judge Piñga's chambers the soldiers advised him to sign the confession in the Judge's presence otherwise he would be maltreated again; that because he was afraid to be maltreated again, he signed the statement Exhibits K & 1; that when he was asked by Judge Piñga whether the contents of the statement were true, he answered in the affirmative because Captain Santos, who investigated him, was present at a distance of about 1-½ meters away from him; and that he informed his lawyer about the maltreatment he suffered at the hands of the PC soldiers but his lawyer did not have him examined by a physician and did nothing about his complaint.

Sakilan Muslim also claims that he was maltreated by the PC soldiers to extract from him the confession, Exhibit L; that when he was brought to Judge Piñga in his chambers to sign the statement, he was accompanied by three PC soldiers; that he affirmed to Judge Piñga the truth of the contents of the statement, Exhibit L, because of their presence.

Testifying on rebuttal, Captain Decoroso Santos denies that the defendants had been maltreated personally by him or by any of his soldiers to extract from them their respective confessions. He states that he would never allow his men to maltreat detention prisoners for the purpose of extracting a confession from them for it would put in bad light the whole organization to which he belongs; that the defendants' confession had been freely and voluntarily given by them; and that had it not been so, he would not have found in and taken the articles from the house of Alibasa Aukasa, Galbon Ijad's brother-in-law, which formed part of the loot.

Testifying also on rebuttal, Judge Edmundo S. Pinga of the Municipal Court of Zamboanga City, before whom the defendants subscribed and swore to their respective confessions, swears that before the defendants signed them, he informed them of their constitutional rights and that they could not be compelled to testify against their will; that pursuant to the instruction of the Secretary of Justice he ascertained that the investigating officer was not present while the defendants were before him to sign their respective confessions; that he interpreted and explained to them the meaning and import of their statements; and that they never complained to him that they had been maltreated by the PC authorities.

Captain Santos and Judge Pifiga appear to be disinterested persons and neither bear the defendant's ill-will nor harbor any personal motive that would prompt them to testify falsely against the defendants and jeopardize their life and liberty.

On the other hand, the defendants have lied in their testimony. Earlier on direct examination Galbon Ijad testified that Captain Santos was present when he affixed his thumbmark to the statement, Exhibits K & 1, before Judge Piñga but later affirmed that only his co-defendants were present, and finally, on cross-examination, he swore that only PC soldiers were close to him at that time. On his part Sakilan Muslim said that Captain Santos was not present but his soldiers were, when he affixed his thumbmark to the statement, Exhibit L. Who of them told the truth and which of the contradictory statements of Galbon Ijad is correct cannot be ascertained. Moreover, if it is true that the defendants had been maltreated by PC authorities, why did they not inform their lawyer of such maltreatment when he visited them in jail for the first time? That should have been the first impulse of the defendants to have a retraction of their confession aside from obtaining medical aid for Galbon Ijad who allegedly suffered a broken rib. Counsel de oficio denies having been told by Galbon Ijad that he had been maltreated by the PC authorities when he visited him in jail for the first time. The conclusion that may be drawn from these falsehoods and inaction is that they had earlier voluntarily confessed to their guilt when they were overcome by remorse of conscience and repudiated later.

The recovery of the loot consisting of 2 moro pants, 2 moro blankets, 1 malayo dress, 1 white cap for hadji (copia), 1 piece of black cloth, 1 gasket cover of Petromax (Exhibits B, B-1, C, D, E, F & G) belonging to Aisami Ragain and his family and of the scabbard of the "barong" (Exhibit A) belonging to Galbon Ijad, from the house of Alibasa Aukasa, the former's brother-in-law, is a strong evidence of his guilt. And the refusal of Sakilan Muslim to look at the gruesome pictures of the dead victims and the scene of the crime (Exhibits S, T, T-1, U, V & X) betrays his guilt.

Of the articles taken from the inmates of the house, stated in the information, to wit: "1 pants; 1 black coat; 1 shirt; 1 white spotted shirt; 1 gold coin; 1 silver peso; 2 bracelets; 2 gold rings; 1 pair gold earrings; 6 moro Pants; 6 Blankets; 5 sablays; assorted clothes for children; 1 cooking pan; 6 plates, porcelain; 4 saucers, porcelain; 9 heads chicken and money in the amount of P100.00 or a total amount of P670.50," none except Exhibits B, B-1, C, D, E, F and G, has been recovered. These recovered and identified articles should be ordered returned to the owner. However, the loss of nine heads of chicken, valued at P1.50 a head or P13.50 in all, which have not been recovered, has been established by the testimony of Aisami Ragain. He should, therefore, be indemnified by the defendants in that amount. The loss of the rest of the articles and cash in the sum of P100, mentioned in the information, allegedly robbed by the band, except P10, has not been established. Aisami Ragain in his testimony made no mention of the loss of the rest of the articles and cash in the amount of P100. Only in his confession (Exhibits K & 1) Galbon Ijad made mention of a P10 bill and a lady's ring, as part of his share in the loot, but the value of the ring has not been proved. The defendants, therefore, cannot be made to account for them except for P23.50, or to indemnify the owner in their equivalent value.

As to indemnity, the judgment under review is modified by ordering the return of the articles marked Exhibits B, B-1, C, D, E, F and G and the lady's ring to the owner; and the appellants to indemnify Aisami Ragain in the sum of P23.50, the total value of the unrecovered nine heads of chicken and the P10 bill. As to penalty, for lack of sufficient statutory number of votes, the defendants are sentenced to suffer reclusion perpetua, the accessories of the law, and to pay the proportionate costs in this instance and in the Court below.

Bengzon, C. J., Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Paredes, Dizon, and De Leon, JJ., concur.

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