

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. FLORENCIO SANTOK, ACCUSED.

G.R. No. L-18226. May 30, 1963

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Defendant Florencio Santok having appealed from a decision of the Court of First Instance of Batangas convicting him of the crime of murder, with which he is charged, and sentencing him to an indeterminate penalty ranging from twelve (12) years of prision mayor to twenty (20) years of reclusion temporal, with the accessory penalties prescribed by law, to indemnify the heirs of Amando Fabul in the sum of P6,000.00, as well as to pay the costs, the records of this case were forwarded to the Court of Appeals which, in turn, certified the case to this Court, said Court of Appeals being of the opinion that, under the facts and the applicable law, the proper penalty should be life imprisonment.

It is not disputed that, while trying, as barrio lieutenant, to pacify several persons who were quarrelling near the cockpit in the barrio of Laiya, Municipality of San Juan, Batangas, on January 19, 1952, at about 7:00 p.m. Amando Fabul sustained a gunshot wound in the umbilical region, and died shortly thereafter in consequence of the resulting hemorrhage. The only question for determination in this case is whether defendant Florencio Santok is the author of the fatal shot.

In this connection, Jose Trillanes, principal of the Laiya Elementary School, and Simplicia Fabul a sister of the deceased, declared positively that they saw appellant Florencio Santok fire at him. Moreover, Amando Fabul's widow, Quirina Canuel-hereafter referred to as Mrs. Fabul-who was then in their small restaurant, in the vicinity of the scene of the occurrence, testified that, upon hearing the report of a gun, she rushed to her wounded husband, who told her that his assailant was defendant herein.

Upon the other hand, defendant would have us believe that he was then in the house of one Silvino Perez, in the barrio of Talahiban and Buhay na Sapa, about 22 kilometers away from the place of the shooting, and that the charge against him was filed three (3) years after the occurrence, because Mrs. Fabul had demanded from him the payment of a sum he allegedly owed the deceased and which he (defendant) refused to pay upon the ground that no such debt existed. The defense tried, also, to establish that the condition of Amando Fabul as he fell wounded was such that he could not have made the ante-mortem declaration testified by Mrs. Fabul, and that his injury had been caused accidentally by one of the civilian guards who accompanied him at the time of the occurrence.

His Honor, the Trial Judge, however, found the testimony of the witnesses for the defense, as well as its theory, unworthy of credence and we are satisfied that said finding is borne out by the evidence of record. To begin with, defendant's alibi is refuted by the affidavit, Exhibit G-made by him, on February 6, 1952, before Dr. Vicente Castillo, the then municipal mayor of San Juan, Batangas, and one of the main witnesses for the defense-stating that he (appellant) was in his house in Laiya at the time of the occurrence.

Secondly, said Dr. Castillo and Dr. Leon F. Cusi, President of the local sanitary division, asserted that, after

penetrating the body of Amando Fabul through the umbilical region, the lethal pellet had, in addition to perforating the mesenterium and small intestines, likewise, destroyed "both kidneys and artery and vena cava inferior," aside from fracturing the "anterior part of lumbar vertebra," and must have caused immediate unconsciousness and rendered it impossible for Amando Fabul to reveal to his wife the name of his aggressor. But, no autopsy having been made by said physicians, they could have had no personal knowledge of the internal injuries of the deceased. Moreover, it was established by the testimony of Dr. Pedro P. Solis-medicolegal officer of the National Bureau of Investigation-that, considering the location of the entry wound and its direction, as described in the medical certificate jointly issued by said witnesses for the defense-despite the fact that they had not jointly examined the deceased-some of the major organs above mentioned could not have been affected by the lethal pellet and Amando Fabul could have retained consciousness and his power of speech for sometime after he had been shot.

Thirdly, Mrs. Fabul could not have possibly resented defendant's refusal to pay a non-existing debt. Besides, even if the debt did exist, his alleged refusal to pay it could not have induced Mrs. Fabul to exonerate, in effect, the true killer of her husband, by falsely imputing the commission of the crime to defendant herein.

Fourthly, a ballistic expert declared categorically that the slug found in the body of the deceased could have been fired, not from any of the guns (grease gun and Thompson) of the civilian guards at the scene of the occurrence-apart from the inherent improbability of their shooting, in the umbilical region, the very barrio lieutenant whom they accompanied to back up his authority- but from a 45 caliber pistol such as that which defendant had.

Fifthly, in an effort to discredit Jose Trillanes, the defense introduced the testimony of Conrado Castillo - chief of police of San Juan, Batangas, during the incumbency of Dr. Vicente Castillo, as municipal mayor thereof - who said that, in the morning of January 20, 1952, Jose Trillanes told him (Conrado Castillo) in the Roman Catholic Church of Laiya, that he (Trillanes) knew nothing about the occurrence. It turned, out, however, that Trillanes is a Protestant, so that, as such, he could not have been in said Catholic church, aside from the circumstance that he had no reason to make the statement imputed to him by the aforementioned witness for the defense.

Sixthly, the nature of defendant's evidence merely tends to bolster up the theory of the prosecution-confirmed by His Honor, the Trial Judge-to the effect that the local authorities had been, for political reasons, indifferent or lukewarm in the apprehension and prosecution of the culprit, thus explaining why it became necessary for the family of the deceased to seek the assistance of the Philippine Constabulary, which assigned Sgt. Francisco N. Moral to investigate the matter about three (3) years later, thereby paving the way for the filing of the complaint herein on April 29, 1955.

Said Sgt. Moral testified that upon investigation shortly after the arrest of the defendant, the latter made the statement Exhibit A admitting, inter alia, that he had committed the crime charged at the instigation of one Lino Madlangbayan, who resented the refusal of Amando Fabul to turn over to him certain documents incriminating him in a case for rape, and that defendant, however, did not sign the statement alleging that he wanted to consult Madlangbayan first. This statement was the basis for the finding of the lower court of evident premeditation qualifying the crime committed as murder.

We do not believe, however, that this evidence is sufficient to warrant said finding, considering that the presence of Amando Fabul at the scene of the crime could not have been anticipated by the defendant. Hence, he is guilty merely of the crime of homicide, with the aggravating circumstance of the commission of the offense in contempt of the public authority, since the deceased was shot while in the performance of his official duty as barrio lieutenant. The penalty meted out in the decision appealed from being within the maximum range of the penalty

imposable for homicide, said decision is hereby affirmed, with costs against the defendant Florencio Santok.

IT IS SO ORDERED.

Bengzon, C. J., Padilla, Bautista Angelo, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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