

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
CLIMACO DEMIAR, DEFENDANT AND APPELLANT.***G.R. No. L-15130. May 31, 1960*

Ponente: BARRERA, J.

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Appeal[1] from the decision of the Court of First Instance of Cebu (in Crim. Case No. V-4961), convicting appellant Climaco Demiar of the crime of parricide and sentencing him to suffer an indeterminate penalty of from 10 years and 1 day of prision mayor, as minimum, to 17 years, 4 months, and 1 day of reclusion temporal, as maximum, to pay indemnity in the sum of P4,000.00 to the heirs of the deceased Pilar Edaño, and to pay the costs.

It appears that appellant Climaco Demiar and his wife lived in the same house with his mother Pilar Edaño in the sitio of Lacaron, barrio Tambongon, San Remigio, Cebu. At about noontime on Friday, August 5, 1955, appellant who was a gambler, accompanied by his wife, went to the market place at barrio Tambongon, Cebu. At about 1:30 p.m., after the spouses left, Pacita Catanda, 12-year old daughter of Trifona Demiar, Pilar Edaño's daughter, went to the house of her grandmother (Pilar Edaño), as she used to do, with a brother and a sister. Appellant returned shortly before sunset and, finding that his mother, Pilar Edaño, had not prepared any food, reprimanded her. The latter explained that she was not able to cook their food, because she had been very busy grinding corn. Appellant thereupon became angry and began to choke his mother, making her and Pacita Catanda scream. The screams and shouts attracted the attention of Trifona Demiar who was living in a house nearby, about 30 yards away. Trifona immediately went to the house of her mother, whereupon she saw her brother, appellant herein, choking their mother Pilar Edaño, near the stove in the kitchen. Trifona Demiar then and there told appellant to release their mother. Appellant did as he was told and went upstairs.

Like Trifona, Meliton Magdadaro, barrio lieutenant of Tambongon, whose house was only about 15 yards from that of Pilar Edaño, was also attracted by the shouts for help and the commotion in the house of the latter. He immediately went to said house, and inquired what the commotion was all about. Pilar Edaño, who was then sitting near a stove, speaking in a guttural voice which could hardly be understood, told Magdadaro that she had been choked by her son, herein appellant, who did not pity her.

Pacita Catanda, Trifona Demiar, and Meliton Magdadaro, noticed that the face of Pilar Edaño, who had always been in good health and doing a lot of household chores previously, became bluish.

After the choking by appellant, Pilar Edaño could no longer swallow any food, nor drink water, due to her swollen neck. Her physical condition deteriorated, until She died 3 days after the incident.

It appears, likewise, that after Pilar Edaño was choked by appellant, Trifona Demiar tried to call a doctor, but appellant prevented her from doing so, threatening her with death, if she ever called a doctor.

After Pilar Edaño's death, a daughter of hers, named Santas Demiar, arrived from Tabuelan, Cebu, and learned of the cause of her mother's death. On August 10, 1955, accompanied by Trifona Demiar, Meliton Magdadaro, and

Ciano Bacare, Santos Demiar reported the incident to the chief of police of San Remigio, Cebu. Acting upon the report, said chief of police cited appellant to appear before him. During the investigation conducted by the chief of police, appellant denied having choked his mother Pilar Edaño. He claimed that he only held her shoulder, and she fell to the floor; that on that occasion, he tried to tell his mother to keep quiet, as he was then quarrelling with his wife. Appellant's wife, however, when questioned by the chief of police in the presence of appellant, admitted that her husband (appellant) choked his mother. Likewise, during the investigation, when the chief of police and the Justice of the Peace of San Remigio asked questions, appellant cried and asked for forgiveness from his sisters and begged them to discontinue the case against him. While he was under detention in the municipal building at San Remigio, after the corresponding complaint for parricide was filed against him by the chief of police on August 11, 1955, he sent a letter (Exhs. A and A-3-A) to his brother-in-law, Lope Mayol, husband of Santos Demiar, asking him, among other things, for forgiveness and pity, and requesting his sisters to withdraw the complaint against him.

On the witness stand, appellant denied that he choked his mother, Pilar Edaño, the deceased, and stated that she died of ill-health and high-blood pressure. His version, corroborated by his brother, Bernardino Demiar, and sisters, Priscila Demiar and Dominga Demiar, is as follows:

That he is the youngest son of the deceased Pilar Edaño, who, during her lifetime, lived with him at Lacaron, barrio Tambongon, San Remigio, Cebu; that his deceased mother was sickly, and suffered from high blood pressure; that she went to Masbate, sometime in May, 1955, to visit her sons and daughters residing there; that while his deceased mother was in Masbate in the house of her daughter Dominga Demiar, she fainted 5 times due to high blood pressure; that she was sickly when she returned to appellant's place at Lacaron, Tambongon, San Remigio, Cebu; that sometime in the afternoon of August 5, 1955, she had an attack of high blood pressure, lost consciousness, and remained unconscious, until the next day when Bernardino Demiar, Trifona Demiar, Meliton Magdadaro, and some neighbors came and tried to revive her; that she regained consciousness in the morning of August 8, 1955, and remained conscious for about half an hour; that after bequeathing her rings, earrings, necklaces, and other pieces of jewelry to appellant, she again lost consciousness and never regained it; that the accusation against him is false, malicious, and fabricated by his sister Santos Demiar and her husband Lope Mayol, who bore a grudge against him, because he opposed the mortgage of a land belonging to their mother; that after appellant was detained, Santos Demiar and her husband mortgaged the land to Juanito Pepito for P250.00; and that later, the spouses had the house of appellant demolished and appropriated the materials thereof.

Appellant's claim that his mother's death was due to natural sickness and that she died of high blood pressure, cannot be sustained in the face of the direct and positive testimonies of Pacita Catanda, the 12-year old grandchild of the deceased Pilar Edaño and niece of appellant, and Trifona Demiar, appellant's sister, which are corroborated by those of Meliton Magdadaro, appellant's cousin, and Telesforo Pestano, chief of police of San Remigio, who investigated appellant. An examination of the testimony of Pacita Catanda, who actually saw the choking of her grandmother, the deceased Pilar Edaño, by appellant, discloses that said witness, although a child of tender age at the time she took the witness stand, was intelligent enough to convey what she perceived on the date in question. We are in entire accord with the following observations of the trial court on the point.

"The Court finds no reason to doubt the credibility of Pacita Catanda. She has been examined with reference to her ability to understand the nature of an oath and the Court has observed that she is possessed of sufficient intelligence and discernment to justify it in accepting her testimony with full faith and credit. Her answers to the questions propounded to her were prompt, straight-forward, responsive to interrogatories, and devoid of evasion or any semblance of shuffling. Pacita Catanda is a niece of the accused and there is nothing in the record to show that she has been induced or in any manner impelled by any ulterior motive to testify falsely against the accused. The Court, therefore, believes that her testimony is admissible in evidence against the

accused. Needless to say, an intelligent child is as a rule the best witness in the world. (People vs. Bustos, 45 Phil., 9; People vs. Alembra, 55 Phil., 578.)"

But apart from Pacita Catanda's testimony, there is the testimony of Trifona Demiar, appellant's sister, who also saw appellant choke their mother.

The defense, however, contends that the trial court erred in relying upon the allegedly unreliable testimony of Pacita Catanda, and the supposedly improbable testimony of Trifona Demiar. Appellant points to an apparent contradiction in Pacita Catanda's testimony, who, on cross-examination, stated that she did not see appellant in her grandmothers house, while on direct examination she said that she saw appellant choke her grandmother in the latter's house. Suffice it to say, that the trial court, which observed and sized up said witness, gave credence to her testimony, not only because it is rational, but also because it is intelligible as well. In respect of appellant's contention that his sister Trifona Demiar could not have heard the screams and shouts of her mother at a distance of 60 yards, suffice it also to state that said witness heard, not only her mother's screams, but also the shouts of her daughter Pacita Catanda. Besides, it is a matter of common knowledge that barrios are free from the noises that obtain in large and busy communities, so much so that a light noise is easily heard at far distances.

The testimony of Meliton Magdadaro corroborates those of Pacita Catanda and Trifona Demiar, and leaves no room for doubt that appellant did, in fact, choke the deceased Pilar Edaño. This witness stated that his attention was attracted by the shouts and screams coming from Pilar Edaño's house. He went there to investigate, and was told by Pilar Edaño that she was choked by her son, appellant herein, who did not pity her. Added to this, is the behavior of appellant who, during the investigation and in the presence of the chief of police and the justice of the peace, cried and asked for forgiveness from his sister. Too, while under detention, appellant wrote a letter (Exhs. A and A-3-A) to his brother-in-law, Lope Mayol, seeking forgiveness from his sister and asking them to testify that their mother (the deceased Pilar Edaño) died a natural death. Appellant's behavior, is evidently incompatible with his protestations of innocence. As correctly observed by the trial court:

"If it is true that the accused did not choke his mother, there was certainly no necessity for him to induce his sister Santos Demiar to just declare that their mother died of illness. This letter, in effect, bolsters the testimony of the witnesses for the prosecution that the accused, in truth and in fact, choked his mother on the afternoon in question."

Appellant's claim that the charge against him is false, malicious, and concocted by his sister Santos and her husband Lope Mayol, who allegedly bore a grudge against him, because of his opposition to his proposal to mortgage the land of their mother Pilar Edaño, does not deserve any serious consideration. It appears that the land in question was sold by the deceased to the spouses Lope Mayol and Santos Demiar on September 4, 1954 (Exh. B), and appellant himself was one of the witnesses to the sale. The money realized from the sale was used to defray the marriage expenses of appellant and his wife. Granting for the sake of argument, that Lope Mayol and his wife were actuated by ulterior motives, there is no showing that the other witnesses, like Pacita Catanda, appellant's niece; Trifona Demiar, appellant's sister; Meliton Magdadaro, appellant's cousin; and Telesforo Pestano, chief of police, had any motive to falsely impute so grave a crime as parricide to appellant. On this point, the trial court said:

"The witnesses of the prosecution, Pacita Catanda, Trifona Demiar, Meliton Magdadaro, and Chief of Police Telesforo Pestaño, appear to be disinterested witnesses in this case. No evidence whatsoever has been presented to show any reason or motive why these witnesses should have testified falsely against the accused. In the absence of such evidence, the logical conclusion is that no such improper motive existed, and that their testimony is worthy of faith and credit. (People vs. Macalindong, 76 Phil., 719; 43 Off. Gaz., 490.) Between the positive testimony of the witnesses for the prosecution and the mere denials of the accused, greater weight

must necessarily be given to that of the former. (People vs. Barbano, 76 Phil., 702, 43 Off. Gaz., 478.)"

It is also contended for appellant that the trial court erred in admitting appellant's letter to his brother-in-law Lope Mayol (Exh. A) and that there is nothing in the letter which would show that appellant admitted his guilt. Appellant argues that, instead of considering said letter as evidence indicative of his guilt, the trial court should have considered it in his favor, because he disclaimed therein his guilt. But if appellant therein asked forgiveness from his sisters and begged them to discontinue the case against him, and tried to induce them to testify that their mother died of natural illness and not of strangulation, we fail to see why said statements could not be taken as an admission of appellant's guilt. As to the argument that said letter should have been considered in appellant's favor, it may be stated that self-serving statements made extra-judicially cannot be admitted as evidence in favor of the person making them, although the incriminating statement is evidence against him. (People vs. Piring, 63 Phil., 546.)

It is finally contended that the trial court erred in convicting appellant of the crime of parricide, in the absence of evidence that the cause of the deceased's death was the result of strangulation; that no expert witness was presented to testify on the cause of her death; and that possibly the deceased had died of another cause and not due to the act of appellant. It is argued that the trial court should have given credence to the defense version that the deceased was a sick woman, suffering from high blood pressure, which may have caused her death. But, as already stated, there is direct and positive, fully-corroborated testimony, that before the choking incident, the deceased Pilar Edaño was enjoying normal health, and did the daily household chores such as, fetching water, grinding corn, cooking food, and splitting firewood; that after appellant choked her, she became seriously ill; that from the time she was strangled, she could not swallow food or drink water; and that she died 3 days later, without recovering from the effects of the strangulation. From these facts, it is safe to conclude, in the absence of proof to the contrary, that the deceased's death was the direct and natural consequence of the injuries inflicted on her by appellant. (People vs. Reyes, 61 Phil., 341.) Considering that appellant had choked the deceased, thereby inflicting injuries upon her, he is responsible for all the consequences of his criminal act, the death of said deceased, which resulted as a consequence of such injuries. Well-settled is the rule that a person is responsible for the direct, natural, and logical consequences of his criminal or unlawful acts. (U. S. vs. Brobst, 14 Phil., 310; People vs. Cagoco, 58 Phil., 524; People vs. Martin, 98 Phil., 18 and other cases.)

The crime committed by appellant is parricide (Art. 246, Revised Penal Code), the deceased victim of his criminal act being his legitimate mother, which crime is punishable with reclusion perpetua to death. As correctly held by the trial court, appellant is entitled to the mitigating circumstance of lack of intent to commit so grave a wrong (Art. 13 [3], id.). We do not agree, however, that the mitigating circumstance of obfuscation, or a circumstance of analogous nature should be considered in his favor. As pointed out by the Solicitor General, the failure of appellant's deceased mother to prepare food for him while he was away gambling, leaving her at home to do the household chores for him, gave him no justification to lose his temper and strangle her to death. The penalty imposed by the trial court is, therefore, modified to that of reclusion perpetua, which we hereby impose on appellant.

Modified as above indicated, the judgment of the trial court is hereby affirmed, in all respects, with costs against the defendant appellant Climaco Demiar. So ordered.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, and Gutierrez David, JJ., concur.
Reyes, J.B.L., J., on leave, took no part.

[1] Originally appealed to the Court of Appeals, but certified to us on January 28, 1959 by said court, on the

ground that the imposable penalty is reclusion perpetua.

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