

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE VS. DARIO ROLDAN, DEFENDANT-APPELLANT.

G.R. No. L-22030. May 29, 1968

Ponente: ANGELES, J.

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ANGELES, J.:

On appeal from the decision of the Court of First Instance of Aklan in Criminal Case No. 1768-K, finding the accused therein, Dario Roldan, guilty of the crime of Serious Physical Injuries (Art. 263, par. 4 of the Revised Penal Code), and imposing upon him the penalty of imprisonment ranging from FOUR (4) MONTHS, minimum, to ONE (1) YEAR and EIGHT (8) MONTHS, maximum, to indemnify the offended party, Manuel Apolonio in the sum of P2,000.00 with subsidiary imprisonment in case of insolvency, not exceeding one-third (1/3) of the sentence, and to pay the costs.

Accused was originally prosecuted in the court a quo under an Information for Serious Physical Injuries alleging as follows:

"That on or about the 10th day of August, 1962, in the poblacion of Kalibo, province of Aklan, Philippines, and within the jurisdiction of this Court, the said accused, with evident premeditation and without any provocation, did then and there willfully, unlawfully and feloniously attack, assault and box with his fist the person of one MANUEL APOLONIO, and thereby hit the latter on the right eye which at the time was covered with sunglasses, thereby breaking the sunglasses and inflicting injuries upon the person of the offended party, to wit:

- '1. Lacerated wound, infra-orbital, right;
2. Corneal laceration, right eye; and
3. Hematoma, palpebral and bulbar conjunctiva, right,'

which required medical attendance for not less than Sixty Nine (69) days as per attached medical certificate made integral part hereof, and incapacitated the said offended party from engaging in his customary labor for the same period of time; that as a consequence of the criminal act committed by the accused, the offended party has incurred damages in the sum of not less than SEVENTEEN THOUSAND (P17,000.00) Pesos.

"CONTRARY TO LAW."

On December 4, 1962, accused was arraigned under the forego-ing Information and, assisted by counsel, pleaded "Not Guilty" to the charge.

On January 31, 1963, counsel for the accused moved for a postponement of the trial on the ground that the accused would like to change his plea of 'not guilty' to a plea of 'guilty', and "would like to contact our witnesses to prove sufficient mitigating circumstances." The request was granted by the trial court.

On July 9, 1963, the prosecution filed an Amended Informa-tion containing substantially the same allegations in

the original Information, except that the amount of damages claimed was reduced to TWO THOUSAND (P2,000.00) PESOS. The said amended information was admitted by the trial court. Appris-ed thereof, accused was re-arraigned; and accordingly, he pleaded "guilty" to the charge in the amended information.

On October 5, 1963, the court below promulgated the aforementioned decision. On the same day, accused served notice of appeal.

Appellant has taken the position that the court below fell into error when it considered against him the aggravating circumstance of evident premeditation, contending that although the same was charged in the Information to which he pleaded "guilty", it was incumbent on the part of the prosecution to establish the said circumstance by competent evidence in a trial in order that he would not be deprived of his right to confront and cross-examine the witnesses against him, a right he could not have waived even if he had pleaded guilty to the Information.

Appellant's position is not well taken. When he pleaded guilty to the charge against him, it is understood that he did so fully cognizant of the consequences of his act; it must be presumed that he had carefully read beforehand the charge against him; and when he pleaded guilty thereto, he signified his admission of all the material facts alleged therein, including the allegation of the aggravating circumstance of evident premeditation (See, *People vs. Sabilul*, L-3765, June 21, 1951). This must be specially so when, as in this case, herein appellant, with the aid of counsel, had requested and been granted sufficient time to think over his desire to change his original plea of "not guilty" to "guilty", and in consideration of which the prosecution, with the apparent concurrence of the offended party, had reduced the damages claimed from P17,000.00 to P2,000.00. We find no suggestion in the record that herein appellant was beguiled into admitting his guilt by any promise from the prosecution, and We see no reason why herein appellant should have cause for lament simply because the trial court had considered the aggravating circumstance of evident premeditation against him.

But appellant contends that the lower court should have considered in his favor the mitigating circumstance of "voluntary surrender". We find no merit in this claim either. The record shows that herein appellant was also granted sufficient time to prepare for trial upon his own manifestation before the trial court "that he would like to contact witnesses to prove sufficient mitigating circumstances". There is no showing, however, that herein appellant offered any evidence to show the court that he had voluntarily surrendered, and he cannot be heard to complain that such mitigating circumstance was not properly considered in his favor. Moreover, from the record of the proceeding had before the Justice of the Peace Court of Kalibo, Aklan, which conducted the preliminary investigation of the case, and which is legally before the court, it appears that herein appellant surrendered only after the warrant of arrest issued by the said Justice of the Peace was served upon him, which cannot be considered as a "voluntary surrender". Consequently, the lower court was right in considering in favor of herein appellant only the mitigating circumstance of his "plea of guilt" which offset the aggravating circumstance of evident premeditation.

Finding the decision appealed from in accordance with law, the same is hereby affirmed, with costs against herein appellant.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.

Judgment affirmed.

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