

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VALENTINA VILLANUEVA ET AL., DEFENDANTS, VALENTINA
VILLANUEVA, DEFENDANT-APPELLANTS.**

G.R. No. L-4110. November 26, 1952

Ponente: BENGZON, J.

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BENGZON, J.:

Valentina Villanueva and her sister Potenciana Villanueva were accused of parricide in the Court of First Instance of Rizal, the victim being Melquiades Fulgado, husband of the first. After due trial, Potenciana was acquitted; but Valentina was convicted and sentenced to life imprisonment plus indemnity. Hence this appeal.

Facts. Shot in the back early in the morning of June 17, 1949, Melquiades Fulgado died immediately in his home in Tanay, Rizal, where he lived with his wife Valentina.

Between 4 and 5 o'clock that morning, Sevilla Custodio and Felicidad Alfonso were attracted by the cries of Valentina, their houses being about 25 meters away. Sevilla, hurried to the house of the appellant and found the latter crying over the dead body of her husband, while her sister Potenciana was in the dining room breast-feeding her baby. Valentina asked Sevilla to fetch some clothes of the deceased in the former's store. He did as requested, and then left, Felicidad also repaired to the house and found Valentina and Potenciana hurriedly dressing the corpse with a sando undershirt. Helping the two sisters put on the pants she discovered some blood on the hands of the dead man. She inquired about it and the accused replied that Melquiades, had vomited blood.

Advised about the death, Florencia Porcioncula, mother of the deceased, came hurriedly and, upon her arrivals was informed that Melquides had died of heart attack. Florencia suggested that the cadaver of her son should be embalmed and that the burial should take place on the following day to such suggestions the accused agreed. Florenciana then requested a friend of the deceased, a certain Mariano Pascual to have Dr. Dominador Peleo perform the embalming and the latter gave Mariano a note for Dr. Santos asking for the necessary embalming fluid. Having secured the chemical, Mariano delivered It to Valentina. Later, Potenciana informed Florencia that Doctor Peleo had told her not to proceed to the embalming[1]. So Melquedes remains were buried unembalmed, in the afternoon of the same day.

The day after the burial, Doctor Anihin and Felicidad Alfonso, neighbors of the deceased, visited Leonora Fulgado, sister of Melquiades and told her that before the death of her brother they "heard a shot and also the cry of Valentina" Suspecting that Melquiades had been the victim of foul play, Leonora reported the matter to the mayor, who accompanied her to the office of the provincial fiscal of Pasig, Rizal. They were advised to refer the case to the NBI (National Bureau of Investigation). The matter was also reported to the Chief of Police of Tanay, Rizal, who conducted an investigation on June 22, 1949, in which Valentina made the written statement, (Exhibit B) that her husband had died of tuberculosis.

The National Bureau of Investigation took a hand, and proceeded to the exhumation of the body on June 29. Dr. Enrique de los Santos, Chief, Medico-legal Division of the NBI conducted the examination of the corpse. In his

Report No. 49-4, Exhibit G, Dr. Santos stated that death was due the bullet having entered at the back. The exit wound was found on the left chest.

An ocular inspection of the house of the deceased was made by Doctor Santos and the Chief of Police after the exhumation. They noted that there was a new bamboo slat under the bed where Melquiades used to sleep, markedly different from the rest of the flooring. The accused was asked as to who had changed it and she answered that she had. But when asked why, Valentina refused to answer. Signs of recent excavations on the ground just below the bed were also noticed by the Chief of Police and digging into the ground he found a bullet. Further excavations yielded the clothes worn by the deceased at the time of his death which were buried outside the yard. Lorenzo Sunico, Chief, Forensic Chemistry Division of the Bureau of Investigation made an examination of such clothing, and submitted a report saying:

"The white sharkskin shirt was found torn at the sides and heavily sheared with blood. A gunshot hole measuring 1 x 1.5 cm. was found at the back, 35 cm. from the collar and 26 cm. from left, side seam. The edges are irregular and did not show evidence of burning or powder tattooing. Traces of nitrates were found present near the edges of the hole.

"The undershirt, heavily smeared with blood was found torn at the shoulders and front side. A gunshot hole, measuring 4 cm. in its widest diameter was found in front, 13 cm. from the arm hole and 16 cm. from neck. Another hole measuring 0.9 cm. x 1.0 cm., was found at the back, 22 cm. from the neck. Both holes did not show evidence of burning or powder tattooing. Nitrates were found present around both holes.

"The absence of burning and powder tattooing indicate a gunshot range of more than eighteen (18) inches." Exh. H p. 27, rec. of exhibits.)

There is evidence that when informed about the proposed exhumation Valentina pleaded with her mother-in-law to prevent it. And apparently in an effort to save herself, she voluntarily appeared on June 28, before Captain Benedicto T. Poteneiano of the Phil. Constabulary to declare under oath that her husband had not died a natural death, but had shot himself.

The accused Valentina Villanueva did not present any evidence on her behalf.

Discussion. There is no room for doubt that Melquiades Fulgado was shot dead in his home that night. The insinuation that he had really died by his own hand is disproved by the testimony of Doctor Santos who concluded that considering the location and direction of the gunshot wound - entry left side of the back and the exit on the left chest - "it could not have been self-inflicted".

The only question to decide in this appeal is the identity of the criminal. The prosecution was not able to produce an eye-witness to the crime. Yet the circumstances of record clearly and positively point to Valentina as the author of her husband's death, (1) The death-dealing slug which was recovered under the house, proceeded from the .38 caliber pistol of the deceased which had always been kept in the family's wardrobe. Of course such firearm was available only to Melquiades and Valentina. (2) At the time of shooting only two adult persons were in the house with Melquiades. The appellant and her sister Potenciana, but the latter was asleep. (3) Valentina at first said her husband had died of heart attack. Later she declared he had died of tuberculosis. And when she learned that the body would be examined, she swore he had committed suicide. (4) All the time before the burial she took measures to hide the wounds and the blood. (5) She tried to prevent the exhumation. (6) She hid the clothes her husband had worn, in order to avoid discovery of the bullet holes and bloodstains. (7) She changed the bamboo slat that had been smashed by the bullet - again in order to prevent discovery of signs of violence, (8) There is evidence she knew how to handle a pistol. (9) There is also a rumor in town that she had illicit relations with a person named De Dios. The sickly condition of her husband and the disparity in their ages, she was 25, he

was 40 lend color to such, rumor, (10) She had gone with such man on excursions to Baguio.

Confronted with all this damning evidence, Valentina chose to declare nothing in court.

It is argued that appellant did not need a bullet to dispose of her husband because Dr. Peleo declared he had informed her Melquiades would expire soon of tuberculosis, in a matter of days. But Dr. Peleo was not sincere. He was evidently trying to cover up his imprudence - to say the least - in making it appear in the death certificate Exh. A that Melquiades had succumbed to such disease. As a matter of fact Dr. De los Santos asserted that judging from the condition of Melquiades' lungs, his tuberculosis was not advanced.

As to Valentina's sorrowful behaviour, the Solicitor-General says, it could have been plain remorse or just an act.

Now, is the evidence at hand sufficient to affirm the verdict of guilt? We think so. In several instances convictions were sustained even upon lesser amount of circumstantial Bearing in mind that the most important indication of guilt is the appellant's attempts to conceal the crime, the following may be cited for purposes of comparisons:

"The prisoner was charged with the murder of his wife by arsenical poisoning. The defense was suicide. He had been married twelve years, lived happily with his family, and had an excellent character, and although empty arsenic paper was found in his pocket, his explanation was reasonable, and he was away from home at the time when his wife was first taken ill, while others had opportunities of administering the poison. There was little or no motive shown for the crimes and had the case rested there, the prisoner would probably have been acquitted. But it was proved that soon after the wife's death, he took 'a purse cut of her pocket, and pretended to discover a letter written by her to her sister-in-law which amounted to a confession that she had taken her own life. There was evidence that this letter was in the prisoner's own handwriting, and it was inconsistent with the woman's-dying-statements and with other circumstances in the case. He was convicted and before execution confessed both the murder and the forgery. (Reg v. Beamish Warwick Winter Assizes, 1661, coram Wills, J. See Times, December 19th, 1861. Ann. Reg. 1861, p.250.' (Wills on Circumstantial Evidence 7th Ed. p. 154.)

"That accused purposely kept the searchers away from the place where the body was found and, while the search was being made, left the others, and removed the body from where it originally lay to a place of greater concealment a short distance away, is strong evidence of guilt. Lillystrom v. State (1911) 146 Wis. 525, 132 N.W. 132.

"Similarly, concealment of homicide by failure to report it, and by leaving the body of the deceased in a place where it would be found some hours later by other persons, is strong evidence of guilt. Hedger v. State (1911) 144 Wis. 279, 128 N. W. 80" (A. L. R. p. 1229).

In another case John Donellan was tried for the murder, by poisoning, of his brother-in-law Sir Theodosius. Before the poisoning, although the victim was in good health the prisoner several times stated to others that Sir Theodosius was sick, and immediately after tile poisoning, he hurriedly cleaned the bottles from which the poison had been taken. The report of this prosecution reads in part:

"On taking, the draught on this occasion he (Sir Theodosius) observed that it smelt and tasted very nauseous, and Lady Boughton remarked that she thought it smelt very strongly like bitter almonds. x x within half an hour after taking the draught he died. Lady Boughton ran down stairs to give orders to a servant to go for the apothecary, who lived about three miles distant; and in less than five minutes the prisoner came into the bedroom, and after she had given him an account of the manner in which Sir Theodosius had been taken, fee asked where the physic-bottle was, and she showed him the two bottles. The prisoner then, took up one of them and said, "Is this it" and being answered "Yes" he poured some water out of the water-bottle, which was near, into the phial, shook it, and then emptied it into some dirty water which was in a wash hand basin. Lady Boughton said, "You should not meddle with the bottle" upon which the prisoner, snatched up the other bottle

and poured water into that also, and shook it, and then, put his finger to it and tasted it Lady Boughton again asked what he was about, and said he ought not to meddle with the bottles; on which he replied he did it to taste it, though he had not tasted the first bottle the prisoner ordered a servant to take away, the basin, the dirty things, and the bottles, and put the bottles into her hands for that purpose she put them down again, on being directed by Lady Boughton to do so, but subsequently, while Lady Boughton's back was turned, removed them on the peremptory order of the prisoner. x x x

When Lady Boughton, in giving evidence before the coroner's inquest, related, the circumstance of the prisoner having rinsed the bottles, he was observed to take hold of her sleeve, and endeavor to check her and he afterwards told her that she had no occasion to have mentioned that circumstance but only to answer such questions as were put to her and in a letter to the coroner and jury, he endeavored to impress them, with the belief that the deceased had inadvertently poisoned himself with arsenic, which he had purchased to kill fish. x x x

Mr. Justice Bullar, in his charge to the jury, called their attention to the suddenness of the death immediately after the administration of the draught to the opinions, of the medical witnesses, that there was nothing to lead them to attribute death to any other cause than that draught; to the prisoner's misrepresentations as to the deceased's state of health at a time when he reappeared to others to be in good health and spirits, to his contrivances to prevent the examination of the body, and emphatically to the fact of his having rinsed out the bottle from which the draught had been taken, 'which', said the learned judge, 'does carry with it strong marks of knowledge by him that there was something in that bottle which he wished should never be discovered'; and, finally, to his attempts, to check the witness who spoke to that circumstance while giving-her-evidence before the coroner. The prisoner was convicted and executed (Shorthand Report by Gurney, 1781. See p. 40, supra.)." x x x (Wills on Circumstantial Evidence 7th Ed. pp. 396, 397, 399, 400)

Judgment. Wherefore, the decision finding this appellant guilty of parricide, and sentencing her therefore, should be affirmed, and it is hereby affirmed with costs. So ordered.

Paras, C. J., Pablo, Padilla, Montemayor, Jugo, Bautista Angelo, and Labrador, JJ., concur.

[1] Dr. Peleo denied having said so.

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