

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLE, VS. VICENTE ROJAS, DEFENDANT-APPELLANT

G.R. No. L-3736. February 25, 1952

Ponente: PADILLA, J.

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PADILLA, J.:

At about 4:00 p.m. of 3 May 1943, while Maximo Daaco was up in a coconut tree sapping juice to be used for brewing tuba in the sitio of Caluwayan, municipality of Basey, province of Samar, he heard a gun report and saw Vicente Rojas run after Antonio Mendros and at a distance of five arm's length fire two shots at him, as a result of which the latter fell down. At about the same time, while Andre's Leuterio was up in a coconut tree engaged in the same kind of work as Maximo in the same place, he heard a gunshot followed by two shots and saw his brother Rufino followed by Vicente going toward his house, the-former carrying a firewood rod and the latter a revolver. Upon arriving there Vicente asked Andres' wife for her husband and she answered that he was up in a coconut tree. He lifted up his eyes and saw Andre's atop a coconut tree. He told him to come down. When Andre's was about to touch the ground Vicente commanded him to throw his knife away. Andre's did as he was told. Then Vicente said to them "Let us go." Vicente, who was still holding his revolver, drove Rufino followed by Andre's to a place where they found a dead man, 100 meters away from the house of Andre's. They were told by Vicente to carry the corpse which they dragged to a thicket because they could not carry it. At the place where the corpse was brought, Vicente placed his revolver in the holster, took a bolo from his waist and cut off the head of the cadaver, ordered them to bury the body, and at ten arm's length from where the body was buried Vicente himself buried the head. After burying the body and the head they returned to the house of Andre's. Vicente told Andre's that the dead person they buried was Antonio Mendros whom he had killed for having assaulted and battered his brother Asisclo Rojas. Vicente warned them not to reveal what they saw and did, for, if they did, he would liquidate them as well as their children and, if he could not kill them personally, he would have his soldiers under his command do the killing for him, advised them to return to Sagkahan, Tacloban, Leyte, their home, for they were in Caluwayan, barrio Osmeña, municipality of Basey, province of Samar, as evacuees, and promised to give them money. Then he asked them to bring him to Kinamatayan, three kilometers away from the place. They brought him by canoe to Kinamatayan and upon arriving there Vicente again told them to return to Leyte or, if they could not do so, to stay in his land in Kinamatayan promising to give them two sacks of palay and money, to support them and to give all what they needed. He then told them to return to their house and said to them that he and his father would call on them. The following day, Jose, the father of Vicente, told them not to reveal what they had seen and to return to Sagkahan, Tacloban, Leyte, and before proceeding to Sagkahan to drop in at his place where he would give them two sacks of palay and money.

Early in the morning of that day, at about 6:00 o'clock, Antonio Mendros asked permission from his father, Mauricio to go to the house of an aunt to ask her money. Not long after Antonio had departed; Vicente Rojas came to the house of Mauricio looking for Antonio. He was told that Antonio had gone out. Vicente asked Mauricio whether Antonio went on foot or by canoe but as Mauricio could not give him the information asked, Vicente went to the kitchen and looked for the paddle of the canoe, as he did not see it, he made the remark that

Antonio must have gone by sea and then departed. He went to Caluwayan and there met Andre's Leuterio. At about noon time both went to the latter's house and ate luncheon there after which Andre's took a nap and Vicente asked for a newspaper, went to a small shed used for cooking salt and there read the newspaper. On that occasion Vicente carried a .38 caliber pistol. When Andre's woke up at about 4:00 o'clock that afternoon he found Vicente had left.

On 11 May 1943, Mauricio Mendros was informed of the death of his son Antonio and of the place where his corpse was buried. He went there and found the headless body of his son. Later on, the head was also found buried 10 meters away from the body. On 13 May 1943 the body of the deceased was exhumed and three bullet wounds were found in the corpse: on the left chest, on the right chest and below the right ribs and a thrust wound on the back which pierced through from the back to the front. The day the body of the late Antonio was exhumed his father Mauricio was with Pio K. Tabunda, the justice of the peace, Fruto Colinares, the chief of police and the guerrilla soldiers under the command of Capt. Luciano Abia.

Upon this evidence the Court of First Instance of Samar found the defendant guilty of the crime of murder and sentenced him to suffer reclusion perpetua, civil interdiction for life, perpetual absolute disqualification, to indemnify the heirs of the deceased in the sum of P3,000 and to pay the costs. This is an appeal from that judgment.

Appellant sets up an alibi. He claims that during the whole day and night of 3 May 1943 he was in his house in Hagna where a santa cruz de mayo celebration or festival was held and helped prepare food for the visitors. Appellant also relies on affidavits previously signed by Andre's and Rufino Leuterio and Maximo Daaco who swore that Antonio Mendros had stolen P153 from Maximo Daaco's house; that as Antonio admitted he had stolen the sum, Vicente told them to bring him to town to be dealt with in accordance with law; and that on the way Antonio Mendros attempted to escape and for that reason he was shot by Rufino Leuterio.

The trial court gave no credence to the affidavits and the alibi set up by the appellant and believed the testimony of the three witnesses for the prosecution Andre's and Rufino surnamed Leuterio and Maximo Daaco. The testimony of Andre's and of his brother Rufino, and that of Maximo Daaco, who is related by blood to the herein appellant, being a second degree cousin of appellant's father, corroborate each other on the main facts and point to the appellant as the sole author of the death of the late Antonio Mendros. The assault and battery of Asisclo Rojas, appellant's brother, by Antonio Mendros was the motive, Maximo Daaco, appellant's relative, denied the story that the deceased had stolen P153 from his house and that on the way to the town of Basey the deceased attempted to escape and for that reason he was shot by Rufino Leuterio. He would not have testified the way he did, if it were not true that appellant had really killed the deceased. There was no reason why he had to testify against his relative. The evidence shows that there was evident premeditation.

The judgment appealed from is affirmed, with costs against the appellant.

Paras, Feria, Pablo, Bengzon, Tuason, Montemayor, Reyes, Jugo, and Bautista Angelo, JJ., concur.

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