

## **PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. LUCAS CANITAN, ET AL., DEFENDANTS, BALTAZAR CAUSI, DEFENDANT AND APPELLANT.**

*G.R. No. L-16498. June 29, 1963*

Ponente: PADILLA, J.

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### **PADILLA, J.:**

Lucas Canitan, Baltazar Causi and Felipe Cordon are charged with the crime of murder in an information filed by the Assistant Provincial Fiscal of Iloilo, committed as follows:

That on or about September 24, 1951, in the municipality of Janiuary, province of Iloilo, Philippines, and within the jurisdiction of this court, said accused, conspiring and working together, all armed with ginunting, and knives with evident premeditation, treachery and with a decided purpose to kill, taking advantage of the nighttime to better realize their purpose did, then and there willfully and unlawfully and feloniously, attack and stab Roque Estrada with their knives, thereby inflicting upon the latter multiple wounds on the head, chest and abdomen, with intestines protruding therefrom, and which wounds caused the death of said Roque Estrada.

Contrary to law, (crim. case No. 3078)

After trial, the Court of First Instance of Iloilo found Lucas Canitan and Baltazar Causi guilty as principals of the crime of murder and sentenced each of them to suffer the penalty of reclusion perpetua, the accessories of the law, to indemnify the heirs of the deceased Roque Estrada, jointly and severally, in the sum of P5,000 and to pay the costs. Felipe Cordon was found guilty as an accessory to the crime and was sentenced to suffer an indeterminate penalty of from one year and one day of prison correctional to six years, one month and eleven days of prison mayor, the accessories of the law, to indemnify the heirs of the deceased Roque Estrada in the sum of P1,000 without prejudice to his subsidiary liability for the indemnity imposed upon the principals. From said verdict and sentence, only Baltazar Causi appealed (G. R. No. L-6197). Because of the loss of stenographic notes, by resolution of 6 April 1956 this Court remanded the case to the lower court for retrial and judgment. After retrial, the court, presided over by Hon. Roberto Zurbano, found Baltazar Causi guilty of the crime of murder and sentenced him to suffer the penalty of reclusion perpetua, the accessories of law, to indemnify jointly and severally with Lucas Canitan the heirs of Roque Estrada in the sum of P5,000 and to pay one-third of the costs. Baltazar Causi again appealed from the last verdict and sentence (G. R. No. L-13184). Because of the loss of the stenographic notes for the second time, by resolution of 18 February 1958 this Court remanded the case to the lower court for trial. On 24 November 1959 the court presided over by Hon. Arsenio Nañawa, found Baltazar Causi guilty as principal of the crime of murder and, taking into consideration the two aggravating circumstances of treachery and relationship by affinity, sentenced him to suffer the penalty of death, the accessories of the law, to indemnify the heirs of the deceased Roque Estrada in the sum of P6,000 and to pay one-third of the costs. From the verdict and sentence Baltazar Causi has appealed.

It appears that on 24 September 1951, at about 5:00 in the afternoon, Lucas Canitan called on Baltazar Causi in

the latter's hut at barrio Dabong, Janiuay, Iloilo. Both drank tuba and after some drinks they plotted to kill Roque Estrada, because while Lucas Canitan was in Guam, Marianas Islands, he was informed by one Claudio Alfaras that his (Canitan's) wife and Roque Estrada had illicit relations and that the latter had been bragging of his sexual prowess by telling people in the locality of his having had carnal relations several times with Canitan's wife. On his part Baltazar Causi harbored an ill feeling towards his brother-in-law, because the latter abandoned his wife Sofia Causi (appellant's sister) and their three children, aggravated by Estrada's dishonoring appellant's younger sister Saturnina Causi who gave birth to a child. Estrada went to live with another woman in Antique and then abandoned her also and during all the time he was away wandering from place to place, his children and wife were supported by her parents. A little later, Felipe Cordon joined the two in drinking tuba and after some drinks Canitan and Causi invited Cordon to go with them, to serenade. Accepting the invitation, Cordon was asked to borrow the banjo in the house of Julio Seniego (Exhibits A, B and C). At about 8:00 o'clock p.m., Baltazar Causi, Lucas Canitan and Felipe Cordon left the hut for the purpose of serenading but upon reaching the place of Silvestre Mamon in the same barrio, Lucas Canitan armed with a jungle knife and a flashlight told his companions to wait for him downstairs as he was going up the house (Exhibit A). The two heard Canitan ask Mamon who were the people in the house, to which question the latter answered: "it is me." Further insisted on telling who else were in the house, Mamon said "Pare Roque (Estrada) is also here." (Exhibits B and C). Canitan immediately searched for Roque Estrada with his flashlight. Thus were heard by Cordon (Exhibit B) as scuffle and struggle ensued between Lucas Canitan and Roque Estrada for the possession of the jungle knife but the latter failed to wrest it from his assailant (Exhibit C). A few moments later Roque Estrada leaped from the house followed by Lucas Canitan, the latter chasing, the former who tried to escape. Canitan and Causi ran after Estrada until Canitan caught up with Estrada and stabbed him and as the latter fell, Causi struck Estrada's forehead with his (Causi's) bolo (ginunting). Canitan knelt on the prostrate body of his adversary lying on his back and kept on stabbing until Roque Estrada expired (Exhibits A and B). When he thought his victim was already dead, Canitan asked Cordon to help carry away the body which the three buried about knee deep in an isolated muddy place near a stream not far from the place where the victim was killed.

After burying the deceased the three repaired to the house of Espiridion Suresca. In the evening of 25 September 1951, a police team headed by Cpl. Engada arrested Causi and Canitan in the barrio and in the course of the inquiry made by the peace officers both admitted their participation in the death of Estrada. Cordon was also apprehended, and upon being asked who had killed the deceased he answered that Baltazar Causi and Lucas Canitan had killed the deceased. The following morning, 26 September 1951, the peace officers brought the suspects to the place where they said they had buried Roque Estrada and upon instruction of the police the body of the deceased was exhumed, placed in a hammock, loaded in a truck by Canitan and Causi and brought to the municipal building of Janiuay, Iloilo. On that same day, 26 September, Dr. Amadeo B. San Diego, president of the Sanitary Division of Janiuay, Iloilo examined the cadaver of the deceased and certified the following:

- Body in odorous condition, death occurred more than 36 hours on examination,
- Multiple stab wounds in the head, chest and abdomen.
- Intestines protruding from the big stab wound on the abdomen.

The above findings were due to external violence with the use of sharp instruments. Immediate cause of death were (was) shock and hemorrhage. (Exhibit D).

He testified that he had examined the cadaver of the deceased Roque Estrada at the municipal building of Janiuay, Iloilo, after the exhumation on 26 September 1951 and that the immediate cause of death was hemorrhage due to multiple stab wounds on the head, chest and abdomen; that the two kinds of wounds that caused the death of the

victim could have been produced by two instruments a bolo (ginunting) and a jungle knife—which could not be produced during the third trial; that the death of the victim was due mainly to the stab wound in the abdomen which caused the intestines to protrude; and that the wounds in the chest and abdomen were caused by thrusts of a sharp-pointed instruments, and on the head, by the blade and not the point of a sharp-pointed bladed instrument (ginunting), as a bolo that would produce an "elongated with margin clean cut" wound caused by slash and not by thrust or piercing.

Nicolas A. Lutero, Justice of the Peace of Janiuay, Iloilo, testified that before the appellant, Felipe Cordon and Lucas Canitan signed their respective affidavits Exhibits A, B and C) he translated the contents thereof in their local dialect and made them understand that by signing said papers they would be admitting the contents thereof as well as their guilt; that they signed without bodily harm, force or violence being inflicted upon them particularly upon appellant Baltazar Causi.

The appellant denied having taken part in the killing of his brother-in-law Roque Estrada. His co-defendant Felipe Cordon, who with Lucas Canitan was convicted but did not appeal, corroborated the testimony of the appellant that the latter, had taken no part in the killing of Roque Estrada.

The denial by the appellant of conspiracy with Lucas Canitan and participation in the killing of his brother-in-law cannot be given credence in view of the clear and convincing confession of his guilt in his affidavit (Exhibit A), signed four days after the commission of the crime. Autopsy findings show that the various wounds in the chest, abdomen and head were caused by two different weapons and that their size, nature and positions were not inflicted by only one person. The president of the sanitary division of Janiuay, Iloilo, who had performed the autopsy of the cadaver of the deceased, testified that the wounds inflicted in the chest and abdomen were caused by sharps-pointed instrument thrust through the body while those in the head were produced by bladed instrument caused by slashing producing an elongated wound with clean cut margin (Exhibit D). Besides, when appellant was investigated by Cpl. Engada immediately following the killing, he admitted that he used the bolo (ginunting) in killing Estrada while Lucas Canitan who owned the jungle knife used it in stabbing Roque (Exhibits A and C).

The scheme to kill Estrada was plotted and decided by the appellant and Canitan at about 5:30 in the afternoon of 24 September 1951 and it was past 8:00 in the evening of that day when the slaying was done. It is then apparent that the qualifying circumstance of evident pre-meditation preceded the commission of the crime.[1]

The aggravating circumstance of treachery cannot be taken into account for there is nothing in the evidence to show that the appellant and his co-defendants employed means, methods or forms in the commission to insure its execution and without risk to themselves. The fact that the deceased and Lucas Canitan struggled for the possession of the latter's knife before the former leaped from the house to escape followed by the latter negates the attendance of this circumstance. Except an admission by the appellant that the deceased was his brother-in-law, relationship by affinity should not be deemed to aggravate the crime in the absence of evidence to show that the offended party is of a higher degree in the relationship than that of the offender.

There being no mitigating nor aggravating circumstance, the penalty to be imposed, as is hereby imposed, is the medium period or reclusion perpetua.

The rest of the sentence appealed from is affirmed, with costs against the appellant.

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

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[1] People vs. Bangug, 52 Phil. 87.

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