

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE-VS. JULIAN MACION, ET AL., DEFENDANTS,

G.R. No. L-7027. August 30, 1955

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

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This is an appeal, taken by defendants Julian Macion and Mariano Alonzo, from a decision of the Court of First Instance of Cavite, convicting then, as well as Macario Hernandez, of the crime of murder and sentencing each to life imprisonment, with the accessory penalties provided by law, to, jointly and severally, indemnify the heirs of the deceased Buenaventura Giron in the sum of P6,000, without subsidiary imprisonment in case of insolvency, and to pay the costs.

While Buenaventura Giron was in the ground floor of his house, in the barrio of Wawa, municipality of Rosario province of Cavite, on November 28, 1951, sometime after 4:30 a.m., getting palay with which his nephew Rodelio Perea was to feed his (former's) ducklings, a shot rang out. As Perea threw himself upon the ground and looked towards the place from which the report came, he saw appellant Julian Macion, about two (2) meters away, holding a pistol, which he fired a second time. Thereupon, Macion ran away, followed by appellant Mariano Alonzo, who appeared to be nearby. Their co-defendant, Macario Hernandez, approached Giron, then sprawled on the ground, face upward, hit him, several times, on the face, with the butt of a revolver, and then fled. Thereupon, Perea tried to succor Giron, but the latter was already dead with a gunshot wound, which affected the heart and the left lung.

When the provincial Fiscal repaired to the scene of the killing, soon later that morning, at about 8:00 a.m., Perea named said defendants as the authors of the crime, although with the request that, in the meantime, this information be withheld from the public, for fear of reprisals from the culprits. The next day, Perea went to the office of the provincial fiscal and, in addition to confirming what he had: (Perea) said the day before, gave the details of the event in question.

Furthermore, Perea was corroborated partly by the wife of the deceased, namely, Justina Tabar, who testified that, as she rushed down to the ground floor of their house, immediately after hearing a gun report, she saw appellants, Macion and Alonzo running towards the beach. She, likewise, declared that, sometime before the occurrence, Giron had quarrelled with Alonzo owing to political differences, and that Macario Hernandez harbored ill-feelings towards Giron, the latter having refused to lend money to Hernandez.

Upon the other hand, Macion and Alonzo set up their respective alibi. The first would have us believe that he

spent the whole evening of November 28, 1951, in his house at Abad Santos street, in Tondo, Manila, and that he had never been in the barrio of Wawa, Rosario, Cavite. Alonzo, in turn, declared that he was in the house of his mother in Wawa, Rosario, early in the morning of November 28, 1951, when Buenaventura Giron was shot nearby, or about twelve (12) meters away.

After a careful and thorough analysis of the evidence introduced by both parties, the lower court, presided over by Honorable Antonio G. Lucero, Judge, rendered a 44-page decision, rejecting appellant's pretense, as unworthy of credence, and finding that their guilt and that of Macario Hernandez has been established beyond reasonable doubt. Commenting on said decision, appellants' counsel de oficio had the following to say:

"The decision of the trial judge, the Hon. Antonio G. Lucero was too detailed and exhaustive and even touched on each and every witness of the prosecution and defense as each testified on the witness stand; and a perusal of the same show that it is simple and yet well written as reflected by the findings of facts which I find no discrepancy with the evidence adduced during trial. Under such circumstances, I cannot find valid defenses which may be put by the accused Julian Macion and Mariano Alonzo as to merit serious consideration of this Honorable tribunal. The alibis put up by the accused were flimsy and doubtful and cannot stand the scrutiny of a critical appraisal when placed side by side with the evidence of the prosecution.

"WHEREFORE, your petitioner respectfully prays this Honorable Court to relieve him as attorney de oficio in the interest of justice and fairness to the accused Julian Macion and Mariano Alonzo for the reasons stated above." (Record, pp. 159-140.)

We cannot but agree with this appraisal of the decision appealed from, which is amply supported by the record.

Realizing, evidently, the overwhelming strength of the evidence against them, appellants have filed a motion for new trial, upon the ground that, during their detention in the National Penal Institution, they met Ernesto Rivera and Jimmy Bruma, who are serving therein their respective sentences for robbery; that Rivera admitted, and so stated in an affidavit attached to said motion, as Annex A, that he is the one who shot Giron, in Rosario, Cavite, where he went accompanied by Jimmy Bruma; and that this has been confirmed by Bruma, whose affidavit was also attached to said motion as Annex B. Subsequently,, appellants filed a supplement to said motion for new trial, alleging that Jimmy Bruma had given assurances to the effect that he could locate the gun with which Rivera had allegedly killed Giron. Still latter, appellants filed a supplemental motion for new trial, stating therein that an unnamed person had asked them in September, 1954, to sign a joint affidavit implicating one Fabian Oliva, a policeman of Maragondon, Cavite, as tho person responsible for the death of Giron.

We have given a great deal of thought to those motions for new trial and the affidavits aforementioned and, after mature deliberation, we have reached the conclusion that the motions should be denied for:

1. Appellants were positively identified by Rodelio Perea and Justina Tabar, none of whom have any possible motive to implicate Macion, a resident of Manila, whom they know well, for he had been seen frequently, together with appellant Alonzo, and their co-defendant Hernandez, going to the stores in Rosario, Cavite, to drink wine. Although said witnesses for the prosecution are related to Giron, who was a political enemy of Alonzo, it is worthy of notice that, according to Perea, the fatal shot was fired by Macion, not by Alonzo, and it was Macario Hernandez, not Alonzo, who hit Giron several times, on tho face, with the butt of a revolver. Again, Justina Tabar stated that, upon descending the stairway of her house, she merely saw appellants running away. Obviously, if said witnesses for the prosecution were bent on wreaking vengeance upon Alonzo, regardless of his alleged innocence, the former could have easily said that he was the very triggerman. In short, the testimony of Perea and Tabar have all the earmarks of sincerity, and this is the same conclusion reached by the lower court, after a painstaking consideration of all the circumstances surrounding the case.

2. Immediately, after the occurrence, Rodelio Perea told the provincial fiscal of Cavite that appellants herein and Macario Hernandez were the guilty parties. This statement was reiterated by Perea to the prosecutor the next day.

3. Vicente Calleja testified that, while he was in the poblacion of Rosario, Cavite, in the night of November 27, 1951, immediately preceding the occurrence, appellant Alonzo, accompanied by two men, one of whom was quite tall - Macion is about six feet in height – boarded the rig of said witness and bade him to take them to the barrio of Wawa, where they alighted near the house of Alonzo.

In view of the foregoing, the aforementioned motions for new trial are hereby denied, and the decision appealed from is affirmed, in toto, with costs against the appellants.

IT IS SO ORDERED.

Bengzon, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, and Reyes, J.B.L., JJ., concur.

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