

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. SOTERO ULIP AND ANDRES ULIP, DEFENDANTS AND APPELLANTS.

G. R. No. L-3455. July 31, 1951

Ponente: BENGZON, J.

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BENGZON, J.:

Early in the night of May 24, 1949 Paulino Ulip, 72, was comfortably seated on a bed near the kitchen of his house in Tibanglin, Naujan, Mindoro. Suddenly and without warning he was shot several times with a carbine by a person who had stealthily approached the dwelling under cover of darkness. Paulino died on the spot.

After a few days, for some reason that does not appear Andres Ulip was arrested and after being questioned by Sgt. Martinez of the Constabulary, he admitted having conspired with Sotero Ulip and Alfonso Bergonio to kill the deceased. The latter (Bergonio) soon confessed, saying that, induced by Andres Ulip and Sotero Ulip, sons of Paulino, he committed the assassination, as he was disgusted, like them, with his stinginess and unbearable disposition. The two brothers admitted their guilt in affidavits subscribed before the justice of the peace of the capital, Calapan.

Two informations were filed: one against Alfonso Bergonio for murder; another against Andres Ulip and Sotero Ulip for parricide. On a plea of guilty, Alfonso Bergonio was sentenced to cadena perpetua and is now serving sentence. The two brothers pleaded not guilty, were tried and were convicted. Hence this appeal.

There is presently no question about the violent death of Paulino Ulip at the hands of Alfonso Bergonio. The carbine is marked Exh. A and Sgt. Exequiel Martinez, who investigated the case found in the scene of the crime one magazine with three rounds of ammunition and three empty shells. The only question is whether the two brothers did actually conspire with and induce Alfonso Bergonio to assassinate their aged father.

Presented as witness for the prosecution after he had been convicted of the murder, Alfonso Bergonio substantially repeated before the court the contents of his confession. He swore that he shot Paulino Ulip with the carbine given to him that night by Sotero Ulip, who had purchased it with money contributed by Andres Ulip; that upon delivering the gun to him, Sotero told him to shoot his father (Sotero's); that he complied with the suggestion of Sotero because he was slightly drunk; that after Paulino had died Sotero came and told him to report the death to Andres—which he did. It seems, however, that afraid of Andres Ulip—whom he described as a fighting character—Alfonso Bergonio did not dare repeat some things he related about Andres in his confession Exh. F, to wit, that Andres had been chased, the month before, by Paulino Ulip armed with a bolo, and that Andres accompanied Sotero when the latter proceeded to buy the carbine.

Exequiel Martinez, Sergeant of the Philippine Constabulary, declared that he conducted the investigation of the bloody affair; that Andres and Sotero Ulip admitted their guilt as inducers of the crime, the latter saying "that he was the one who ordered Alfonso Bergonio to kill Paulino Ulip," because the old man was "very strict" and refused to give them (Andres and Sotero) their share of the lands; that Sotero also recounted the incident when his father Paulino had angrily chased Andres bolo in hand. This officer further declared that he found the carbine in

the possession of Sotero, who declared he had bought it for the purpose with money furnished by Andres. He also stated that according to Bergonio, the two brothers promised not to collect his indebtedness if he would kill their father.

The confessions of Sotero Ulip and Andres Ulip are in the record as Exhibits D and E. The first states in substance that one day Andres Ulip and Alfonso Bergonio were chased out of their farm by Paulino Ulip armed with a bolo; that resenting the old man's bad temper, on May 22, 1949 Alfonso and Sotero went to Andres and the three of them conspired to do away with Paulino; that Andres gave Sotero one hundred pesos with which to buy a rifle; that the next day Andres together with Sotero went to the barrio of Baruyan, Calapan but failed to purchase the gun; that afterwards Sotero returned to the same barrio and finally acquired a carbine, which he handed to Alfonso Bergonio a few minutes before the murderous assault; that the brothers were resentful of their father because he was stingy and was so hot-tempered that when provoked, he would pursue them bolo in hand.

From the affidavit of Andres Ulip Exh. E it appears that Alfonso Bergonio was his second cousin. He admits in that statement that on May 22, 1949 Sotero and Alfonso went to see him to get money for a carbine with which to kill Paulino Ulip; that he gave the money one hundred pesos saying "sila ang bahala" (meaning either "they could do it on their own responsibility" or "go ahead.") That statement, in our opinion, could mean nothing but approval, coming as it does from a son who is apprised of their intention to put his father to death. This admission coupled with the fact that he took no steps to prevent the deed or to dissuade the two conspirators (Sotero and Alfonso) and his silence in not immediately denouncing them to the authorities is proof—confirmatory of his oral admission to Sgt. Martinez—that he conspired to liquidate his unfortunate parent. The circumstance that immediately after the shooting Alfonso Bergonio reported the victim's death to Andres, is additional indication of the latter's participation in the conspiracy to kill. Anyway, he knowingly contributed the money to buy the fatal weapon; and that is sufficient to make him responsible as principal for having cooperated with an act without which the crime could not have been accomplished.[1]

Alfonso Bergonio has no reason falsely to implicate his two cousins, the accused herein. And their version about the confessions Exhibits D and E having been obtained thru violence and threats has been rightly rejected by the trial judge, because they refused to identify the officers who had allegedly tortured or threatened them, never mentioned the maltreatment to any of their relatives who visited them in jail, and the justice of the peace of Calapan before whom they executed the affidavits, positively asserted that they told him, when subscribing the documents, they were acting voluntarily and freely, without any duress.

In this connection we may advert to the point raised by appellant's attorney that, according to our decisions, to consider as principal by induction one who advises or incites another to perpetrate the offense it is essential to show that the advisor had a great ascendancy or great influence and that his words were so efficacious and powerful as to amount to moral coercion. Undoubtedly proof of such extremes is usually required to justify the conclusion that his words or advice actually moved the hands of the principal actor. But such proof would seem to be unnecessary where—as in this case—such principal actor admits having been so impelled, and says that he acted pursuant to a previous plan or conspiracy to kill, and a promise to condone his indebtedness.

In conclusion, these two prisoners are, without reasonable doubt, guilty as charged. The Solicitor-General suggests premeditation as aggravating circumstance. But that would be compensated by their lack of instruction.

Consequently, the penalty of life imprisonment imposed by the trial court is affirmed. But the sum of P1,500 fixed as indemnity should be raised to P6,000.[2] With this modification the appealed judgment is affirmed, with costs against the appellants.

Paras, C. J., Feria, Pablo, Padilla, Tuason, Montemayor, Reyes and Jugo, JJ., concur.

[1] U. S. vs. Leal (1 Phil., 118); People vs. Be Otero (51 Phil., 201). Viada,Codigo Penal [1926] Vol. 2, Cuestion 79, pag. 387; Cuestion 110, pag. 401; Cuestion 115, pdg. 405; Cuestion 123, pdg. 408).

[2] People vs. Amansec, 45 Off. Gaz., Supp. to No. 9, p. 51; 80 Phil., 424.

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