

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
JUAN MONES, DEFENDANT AND APPELLANT.***G.R. No. L-2029. May 06, 1950*

Ponente: MORAN, C.J.

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Juan Mones and Juan Bañaga were charged with multiple murder in the Court of First Instance of Pangasinan for the deaths of Captain Federico Doliente, Segundina Tierra and florentina Gacayan. After trial, the lower court acquitted Juan Bañaga on the ground that his guilt was not proven beyond reasonable doubt, and convicted Juan Mones of the crime of murder, to suffer the penalty of reclusion perpetua with the accessory penalties, to pay P2,000 to the heirs of each of the aforementioned victims, and to pay one-half of the costs. From this judgment, Juan Mones appealed.

Sometime between seven and eight in the evening of April 24, 1947, the La Paz Elementary School of Umingan, Pangasinan, held its commencement exercises in an open auditorium inside the school yard. On one end of the auditorium was the improvised stage which was nothing more than a rectangular table about three by four and a half meters, raised about one meter over the ground. On the stage was a table on which was placed a Petromax lantern. Around the table in a semi-circle and facing the audience were seated Capt. Doliente, Crispulo Pangangaan, Father Hidulfo Gabriel and about eight other guests. Another Petromax lantern hung on a pole in the center of the auditorium. In front of the stage were seated the members of the orchestra and of the graduating class. The only exit was on the other end of the auditorium, opposite the stage.

After the musical overture and the march of the graduates, Mr. Pedro Hilary stood up to deliver his speech. While he was thus speaking, a shot suddenly rang out. The crowd, believing that it was merely a greeting 'salvo', did not move. Immediately thereafter, a series of shots coming from behind the stage followed. Capt. Doliente cried out "Aray co!" and then slumped from his seat. Somebody shouted "Hukbo, Hukbo!" and panic seized the crowd. There was a mad scampering for the exit as several more shots were fired.

During the first volley of shots, Fr. Hidulfo Gabriel who was seated in the stage, immediately looked back to see where the shots came from. As he did so, he saw a man shooting with a nickel-plated .38 calibre pistol at Capt. Doliente about four yards behind the stage. Fr. Gabriel stood up, jumped from the stage and went after the man who began running around the rear of the stage towards the exit thru which the crowd was still milling. Fr. Gabriel gave chase, following about five meters behind. When the man reached the crowd, he had to slow down his flight, and Fr. Gabriel, who had never lost sight of him, caught up with and grabbed the man. At this moment while the two were grappling with each other, Leoncio Mones approached and told Fr. Gabriel to release the man who was his brother. Fr. Gabriel replied that he saw this man shooting at Capt. Doliente. The man said nothing. Then Crispulo Pangangaan came and was about to hit the man but Leoncio again intervened and told him that this man was his brother. Fr. Gabriel repeated that he saw the man shooting at Capt. Doliente. When Pangangaan also recognized Juan Mones, he told Fr. Gabriel that this was the brother of Leoncio and he asked the priest to release Juan Mones. Fr. Gabriel looked closely at Juan and finally released him.

Returning at once to the stage to help Capt. Doliente, Fr. Gabriel carried the wounded captain with the help of Crispulo Pangangaan and others who came later. The captain was first brought to the hospital of Dr. Acosta in Rosales and later was transferred to the provincial hospital in Dagupan where he died in the morning of April 26, 1947, from the gunshot wounds he received.

Also fatally wounded during the shooting affray, were 15-year-old Segundina Tierra, salutatorian of the graduating class, and 11-year-old Florentina Gacayan, both of whom were near the stage when the shooting occurred and who were instantly killed by stray bullets.

Juan Mones was arrested on May 6, 1947, by Captain Marceliano Hidalgo of the MPC, and he was brought to Dagupan. There, upon investigation, he signed the extra-judicial confession Exhibit E.

According to the testimonies of Dr. Enrique Romulo, Chief of the Pangasinan Provincial Hospital who performed the operation to save Capt. Doliente's life, and of Dr. Benigno Parayno, physician at the same hospital, who issued the certificate of death of Capt. Doliente, the captain died of the gunshot wounds inflicted on him on the night of April 24, 1947. Dr. Vicente Songco, president of the 11th Sanitary Division at Tayug, Pangasinan, testified and certified (Exhibits B and C) that Segundina Tierra and Florentina Gacayan died of the gunshot wounds suffered by them on that same night.

The case of the prosecution hinges upon the testimonies of the following witnesses:

Fr. Hidulfo Gabriel, parish priest of Umingan, Pangasinan, testified about the entire event of the night of April 24, 1947, as narrated above, and particularly that he saw Juan Mones firing a .380 calibre pistol at Captain Doliente; that he chased Juan Mones, and without once losing sight of him, caught him; that Leoncio Mones and Crispulo Pangangaan identified Juan Mones to him; that when he told Leoncio and Crispulo that Juan was the person he saw shooting at Captain Doliente, Juan kept silent; and that he released Juan as demanded by Leoncio and advised by Crispulo because he was dealing with armed men who might do to him what was done to Capt. Doliente; and that anyway he had already clearly identified the assailant.

Pedro Desear, student of the La Paz Elementary School, who testified on the shooting of the three victims and the circumstances surrounding the same, although he did not see the authors thereof.

Crispulo Pangangaan, Division Inspector of the Pantranco in Pangasinan, who was also seated on the stage during the shooting, testified that he saw Fr. Gabriel chase after someone; that he followed suit and caught up with both of them when Fr. Gabriel was grappling with the man; that Fr. Gabriel told him—"This is the fellow who shot Captain Doliente. This is the fellow.", and Juan Mones remained silent; that he intended to give the man a blow when Leoncio Mones intervened and told him that the man was his brother Juan; that he then told Fr. Gabriel—"All right, Father, you just set him free. Just release him."; that he searched the pockets of Juan Mones and found no weapon.

Dr. Enrique Romulo testified on his having found a spent .45 calibre bullet in the body of Capt. Doliente when he performed the operation (bullet marked Exhibit W).

Dr. Songco testified on his having found a bullet in the cadaver of Segundina Tierra whose autopsy he performed (.38 calibre pellet marked Exhibit Z).

Macario S. Membrere, Chief of Police of Umingan, testified that he arrived at the hospital when Dr. Romulo was finishing the operation on Capt. Doliente; that Dr. Romulo gave him a .45 calibre pellet found in the body of the captain and that he gave said pellet to Lt. Patag of the MPC; and that he witnessed the autopsy on Segundina Tierra and the finding of a .38 calibre pellet which he turned over to Lieutenant Patag.

Felipe Miranda, municipal policeman of Umingan, who was also present at the commencement exercises, testified that he saw and talked to Juan Mones near the gate of the auditorium shortly before the program started; that he accompanied Dr. Songco when the latter performed the autopsies on Segundina Tierra and Florentina Gacayan; that he saw Dr. Songco extract a spent .38 calibre pellet from the cadaver of Segundina; and that said pellet was given by Dr. Songco to Chief of Police Membrere.

Teodoro N. Patag, Lieutenant, Detachment Commander of the 17th MP Co. stationed at San Leon, Umingan, testified on the investigation conducted by him; and that Chief of Police Membrere gave him the .38 calibre pellet which had been taken from the body of Segundina Tierra.

Pelagio C. Perez, lieutenant of the MPC at Dagupan, who investigated Juan Mones at his headquarters, testified that appellant Juan Mones freely and voluntarily signed his confession which was read to him and interpreted for him in Ilocano; that the day after Juan Mones made his confession, he was taken to the Justice of the Peace to sign and swear to his affidavit because Lieutenant Perez was apprehensive that statements subscribed before an MP officer might not be acceptable; that Juan Mones was then taken to the provincial hospital for examination to disprove any claim of 'third degree' that Mones might later allege; and that no duress, force or intimidation was in fact exerted on appellant.

Januario Hermitaño, Justice of the Peace of Dagupan, before whom Juan Mones signed his confession, testified that Mones did sign freely and voluntarily, and did not in any manner allege or give appearance to the contrary.

Deogracias Andaya, chief clerk, CID Investigating Section, MPC, Dagupan, a rebuttal witness of the prosecution, testified that no duress, force or intimidation was used to extract the confession from Juan Mones; that when Mones swore to his affidavit before the Justice of the Peace, the only persons present were Mones, Andaya and the Justice of the Peace, because the soldiers were outside; and that he saw Mones eating and drinking at least twice during confinement.

Arturo Reyes, resident physician at the Pangasinan Provincial Hospital, a witness for the defense, testified that he examined Juan Mones when said person was sent to the Hospital by Lieutenant Perez for examination; and that he found Mones normal showing no evidences of maltreatment.

Appellant's defense consists in his allegation that he was in front of the stage, behind the orchestra members when the program started; that when Mr. Hilary was speaking, he approached one of the musicians, Isabelo Gacayan (father of the deceased girl Florentina) and asked for a cigarette; that before he could light his cigarette, the shooting started and he dashed for the exit; that when he was pushing his way out, Fr. Gabriel grabbed him; that he carried no weapon with him and none was found when he was searched; and that he was released thru the intervention of his brother Leoncio; and that he signed the confession, Exhibit E., without knowing its contents; and due to the severe and prolonged maltreatment inflicted upon him during the investigation.

To corroborate appellant's testimony, the defense presented one witness, Bonifacio Gacayan, a fanner, who testified that Juan Mones is an old friend of his. This witness corroborated Juan Mones' testimony in detail.

After an exhaustive review of the evidence, this court finds no reason for disturbing the finding of the lower court regarding the guilt of appellant Juan Mones. The testimony of Fr. Gabriel, principal witness for the prosecution, besides appearing entirely convincing and truthful, is fully corroborated by appellant's extra-judicial confession and by the other proofs presented by the prosecution. While the prosecution has presented various and worthy witnesses to show that said confession was freely and voluntarily made, the defense has only appellant's word that he was maltreated.

Counsel for appellant alleges that the fact that Fr. Gabriel released appellant after having caught him shows that

Fr. Gabriel was doubtful as to appellant's guilt. This has been fully explained by Fr. Gabriel who said that the reason he released appellant was because he was afraid that he would be also harmed. This is a most logical and natural reaction, specially after having seen appellant shoot at Captain Doliente.

Counsel also makes much of the fact that no weapon was found on Juan Mones when his pockets were searched by Pangangaan. This is nothing conclusive, particularly considering that it was quite dark when appellant was being pursued; that he later tried to mix with the crowd at the gate of the auditorium; that Leoncio, his brother, was nearby when he was grappling with Fr. Gabriel; and, as the trial court pointed out, he could have dropped or thrown his weapon during flight and later recovered it, after he was released, since nothing was done that night in the line of investigation, except to care for the wounded and the dead.

The defense also points to an apparent discrepancy between Fr. Gabriel's affidavit taken by Assistant Provincial Fiscal Palisoc and his testimony during the trial. In his affidavit, Fr. Gabriel failed to mention that he told Leoncio Mones and Crispulo Pangangaan that Juan Mones was the one who shot at Captain Doliente. Omissions of this kind are not infrequent in affidavits which are almost always incomplete and often inaccurate sometimes from want of suggestion or inquiries without the aid of which the witness may be unable to recall or mention collateral circumstances. And furthermore, the omitted detail in the instant case cannot detract from the fact that Fr. Gabriel did see Juan Mones in the act of shooting at Captain Doliente.

The testimony of Bonifacio Gacayan corroborating in detail appellant's alibi deserves attention. It appears too exact and too detailed in its coincidence with appellant's testimony. In fact, if believed, it shows that witness Gacayan and appellant Mones did exactly the same things from the time they entered the auditorium until appellant was caught by Fr. Gabriel. They both were behind the orchestra members, some of whom they knew but none of whom they presented to corroborate their statements; they, both approached Isabelo Gacayan to ask for a cigarette; they lighted their cigarettes simultaneously but they were both interrupted by the shooting; they both ran together towards the exit when the shooting occurred and they both fought their way thru the crowd, never losing each other. When two witnesses coincide in their statements on every detail of an occurrence which has developed in a crowded place and partly under circumstances of confusion and excitement, there is every reason for the court to go slow and cautious in accepting the veracity of their narrations. No other witnesses, in the instant case, were presented to prove appellant's alibi despite the fact that there were many people near the orchestra and appellant knew some of them. We find no sufficient ground for interfering with the trial court's attitude in disregarding Bonifacio Gacayan's testimony.

For all the foregoing, this Court finds appellant Juan Mones guilty of three distinct and separate murders, each qualified by treachery, and he is hereby sentenced to reclusion perpetua for each of said three offenses with all the accessories of the law, there being no modifying circumstance, to indemnify each set of heirs in the amount of P6,000, and to pay the costs.

Ozaeta, Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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