

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ERNESTO PUNO Y FILOMENO, ACCUSED WHOSE DEATH SENTENCE IS UNDER REVIEW.

G.R. No. L-33211. June 29, 1981

Ponente: AQUINO, J.

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AQUINO, J.:

This is a murder case where the accused interposed as a defense the exempting circumstance of insanity.

There is no doubt that at about two o'clock in the after-noon of September 8, 1970, Ernesto Puno, 28, a jeepney driver, entered a bedroom in the house of Francisca Col (Aling Kikay), 72, a widow. The house was located in the area known as Little Baguio, Barrio Tinajeros, Malabon, Rizal.

On seeing Aling Kikay sitting in bed, Puno insulted her by saying: "Mangkukulam ka, mambabarang, mayroon kang bubuyog". Then, he repeatedly slapped her and struck her several times on the head with a hammer until she was dead.

The assault was witnessed by Hilaria de la Cruz, 23, who was in the bedroom with the old woman, and by Lina Pajes, 27, a tenant of the adjoining room. They testified that Puno's eyes were reddish. His look was baleful and menacing. Puno was a neighbor of Aling Kikay.

After the killing, Puno went to the room of Lina, where Hilaria had taken refuge, and, according to Hilaria, he made the following confession and threat: "Huag kayong magkakamaling tumawag ng pulis at sabihin ninyo na umalis kayo ng bahay at hindi ninyo alam kung sino ang pumatay sa matanda." Or, according to Lina, Puno said: "Pinatay ko na iyong matanda. Huag kayong tumawag ng pulis. Pag tumawag kayo ng pulis, kayo ang paghihigantihan ko."

After the killing, Puno fled to his parents' house at Barrio Tugatog, Malabon and then went to the house of his second cousin, Teotimo Puno, located at Barrio San Jose, Calumpit, Bulacan, reaching that place in the evening. How he was able to go to that place, which was then flooded, is not shown in the record.

Disregarding Puno's threat, Una, after noting that he had left, notified the Malabon police of the killing. Corporal Daniel B. Cruz answered the call. He found Aling Kikay sprawled on her bed already dead. Her head was bloody. Her blanket and pillows were bloodstained. He took down the statements of Lina and Hilaria at the police station. They pointed to Puno as the killer (pp. 15-17, Record).

A medico-legal officer of the National Bureau of Investigation conducted an autopsy. He certified that the victim had lacerated wounds on her right eyebrow and contusions on the head caused by a hard instrument. On opening the skull, the doctor found extensive and generalized hemorrhage. The cause of death was intracranial, traumatic hemorrhage (Exh. A).

Puno's father surrendered him to the police. Two Malabon policemen brought him to the National Mental

Hospital in Mandaluyong, Rizal on September 10, 1970 (p. 14, Record). He was charged with murder in the municipal court. He waived the second stage of the preliminary investigation.

On October 21, 1970, he was indicted for murder in the Circuit Criminal Court at Pasig, Rizal. Alleged in the information as aggravating circumstances were evident premeditation, abuse of superiority and disregard of sex.

Puno, a native of Macabebe, Pampanga, who testified about five months after the killing, pretended that he did not remember having killed Aling Kikay. He believes that there are persons who are "mangkukulam", "mambabarang" and "mambubuyog" and that when one is victimized by those persons, his feet might shrink or his hands might swell. Puno believes that a person harmed by a "mambabarang" might have a headache or a swelling nose and ears and can be cured only by a quack doctor (herbolaryo). Consequently, it is necessary to kill the "mang-kukulam" and "mambabarang".

Puno is the third child in a family of twelve children. He is married with two children. He finished third year high school. His father is a welder. Among his friends are drivers. (Exh. B).

Zenaida Gabriel, 30, Puno's wife, testified that on the night before the murder, Puno's eyes were reddish. He complained of a headache. The following day while he was feeding the pigs, he told Zenaida that a bumble bee was coming towards him and he warded it off with his hands. Zenaida did not see any bee.

Puno then went upstairs and took the cord of the religious habit of his mother. He wanted to use that cord in tying his dog. He asked for another rope when Zenaida admonished him not to use that cord. Puno tied the dog to a tree by looping the rope through its mouth and over its head. He repeatedly boxed the dog.

Aida Gabriel, Zenaida's elder sister, saw Puno while he was boxing that dog. Aida observed that Puno's eyes were bloodshot and his countenance had a ferocious expression.

Teotimo Puno testified that on the night of September 8, 1970, Ernesto Puno came to their house in Barrio San Jose, Calumpit. Ernesto was soaking wet as there was a flood in that place. He was cuddling a puppy that he called "Diablo". He called for Teotimo's mother who invited him to eat. Ernesto did not eat. Instead, he fed the puppy.

Ernesto introduced Teotimo to his puppy. Then, he sang an English song. When Teotimo asked him to change his wet clothes, Ernesto refused. Later, he tried on the clothes of Teotimo's father. When told that Teotimo's father had been dead for a couple of years already, Ernesto just looked at Teotimo.

While he was lying down, Ernesto began singing again. Then he emitted a moaning sound until he fell asleep. Ernesto was awakened the next morning by the noise caused by persons wading in the flood. Ernesto thought they were his fellow cursillistas.

The defense presented three psychiatrists. However, instead of proving that Puno was insane when he killed Aling Kikay, the medical experts testified that Puno acted with discernment.

Thus, Doctor Araceli Maravilla of the Psychiatry Section of the Dr. Jose R. Reyes Memorial Hospital, to whom Puno was referred for treatment ten times between September 8, 1966 and July 24, 1970, testified that Puno was an out-patient who could very well live with society, although he was afflicted with "schizophrenic reaction"; that Puno knew what he was doing and that he had psychosis, a slight destruction of the ego. Puno admitted to Doctor Maravilla that one cause of his restlessness, sleeplessness and irritability was his financial problem (7 tsn November 4, 1970). Doctor Maravilla observed that Puno on July 24, 1970 was already cured.

Doctor Reynaldo Robles of the National Mental Hospital testified that Puno was first brought to that hospital on July 28, 1962 because his parents complained that he laughed alone and exhibited certain eccentricities such as

kneeling, praying and making his body rigid. Doctor Robles observed that while Puno was suffering from "schizophrenic reaction", his symptoms were "not socially incapacitating" and that he could adjust him-self to his environment (4 tsn January 20, 1971). He agreed with Doctor Maravilla's testimony.

Doctor Carlos Vicente, a medical specialist of the National Mental Hospital, testified that from his examination of Puno, he gathered that Puno acted with discernment when he committed the killing and that Puno could distinguish between right and wrong (5 tsn January 11, 1971).

Doctor Vicente also concluded that Puno was not suffering from any delusion and that he was not mentally deficient; otherwise, he would not have reached third year high school (8-19 tsn January 11, 1971).

On December 14, 1970 or three months after the commission of the offense, Doctors Vicente, Robles and Victorina V. Manikan of the National Mental Hospital submitted the following report on Puno (Exh. B or 2):

"Records show that he had undergone psychiatric treatment at the Out-Patient Service of the National Mental Hospital for schizophrenia in 1962 from which he recovered; in 1964 a relapse of the same mental illness when he improved and in 1966 when his illness remained unimproved.

"His treatment was continued at the JRR Memorial Hospital at the San Lazaro Compound up to July, 1970. He was relieved of symptoms and did not come back anymore for medication. On September 8, 1970, according to information, he was able to kill an old woman. Particulars of the offense are not given.

"MENTAL CONDITION

"x x x. Presently, he is quiet and as usual manageable. He is fairly clean in person and without undue display of emotion. He talks to co-patients but becomes evasive when talking with the doctor and other personnel of the ward. He knows he is accused of murder but refuses to elaborate on it.

x x x x x x x x

"REMARKS

"In view of the foregoing findings, Ernesto Puno, who previously was suffering from a mental illness called schizophrenia, is presently free from any social incapacitating psychotic symptoms.

"The seeming ignorance of very simple known facts and amnesia of several isolated accounts in his life do not fit the active pattern of a schizophrenic process. It may be found in an acutely disturbed and confused patient or a markedly re-tarded individual of which he is not.

"However, persons who recover from an acute episode of mental illness like schizophrenia may retain some residual symptoms impairing their judgment but not necessarily their discernment of right from wrong of the offense committed."

The foregoing report was submitted pursuant to Rule 28 of the Rules of Court and the order of the trial court dated November 16, 1970 for the mental examination of Puno in the National Mental Hospital to determine whether he could stand trial and whether he was sane when he committed the killing.

The trial court concluded that Puno was sane or knew that the killing of Francisca Col was wrong and that he would be punished for it, as shown by the threats which he made to Hilaria de la Cruz and Lina Pajes, the old woman's companions who witnessed his dastardly deed.

The trial court also concluded that if Puno was a homicidal maniac who had gone berserk, he would have killed also Hilaria and Lina. The fact that he singled out Aling Kikay signified that he really disposed of her because he

thought that she was a witch.

Judge Onofre A. Villaluz said that during the trial he "meticulously observed the conduct and behavior of the accused inside the court, most especially when he was presented on the witness stand" and he was convinced "that the accused is sane and has full grasp of what was happening" in his environment.

The trial court convicted Puno of murder, sentenced him to death and ordered him to pay the heirs of the victim an indemnity of twenty-two thousand pesos (Criminal Case No. 509).

His counsel de oficio in this review of the death sentence, contends that the trial court erred in not sustaining the defense of insanity and in appreciating evident premeditation, abuse of superiority and disregard of sex as aggravating circumstances.

When insanity is alleged as a ground for exemption from responsibility, the evidence on this point must refer to the time preceding the act under prosecution or to the very moment of its execution (U.S. vs. Guevara, 27 Phil. 547). Insanity should be proven by clear and positive evidence (People vs. Bascos, 44 Phil. 204).

The defense contends that Puno was insane when he killed Francisca Col because he had chronic schizophrenia since 1962; he was suffering from schizophrenia on September 8, 1970, when he liquidated the victim, and schizophrenia is a form of psychosis which deprives a person of discernment and freedom of will.

Insanity under article 12 of the Revised Penal Code means that the accused must be deprived completely of reason or discernment and freedom of the will at the time of committing the crime (People vs. Formigones, 87 Phil. 658, 660).

"Insanity exists when there is complete deprivation of intelligence in committing the act, that is, the accused is deprived of reason, he acts without the least discernment because there is complete absence of the power to discern, or that there is total deprivation of freedom of the will. Mere abnormality of the mental faculties will not exclude imputability." (People vs. Ambal, G.R. No. 52688, October 17, 1980; People vs. Renegado, L-27031, May 31, 1974, 57 SCRA 275, 286; People vs. Cruz, 109 Phil. 288, 292. As to "el trastorno mental transitorio" as an exempting circumstance, see 1 Cuello Calon,Codigo Penal, 15th Ed., 1974, pp. 498-504 and art. 8 of the Spanish Penal Code.)

After evaluating counsel de oficio's contentions in the light of the strict rule just stated and the circumstances surrounding the killing, we are led to the conclusion that Puno was not legally insane when he killed the hapless and helpless victim. The facts and the findings of the psychiatrists reveal that on that tragic occasion he was not completely deprived of reason and freedom of will.

In People vs. Fausto y Tomas, 113 Phil. 841, the accused was confined in the National Mental Hospital for thirteen days because he was suffering from schizophrenia of the para-noid type. His confinement was recommended by Doctor Antonio Casal of the San Miguel Brewery where the accused used to work as a laborer. About one year and two months later, he killed Doctor Casal because the latter refused to certify him for re-employment. His plea of insanity was rejected. He was convicted of murder.

In the instant case, the trial court correctly characterized the killing as murder. The qualifying circumstance is abuse of superiority. In liquidating Francisca Col, Puno, who was armed with a hammer, took advantage of his superior natural strength over that of the unarmed septuagenarian female victim who was unable to offer any resistance and who could do nothing but exclaim "Diyos ko".

Thus, it was held that "an attack made by a man with a deadly weapon upon an unarmed and defenseless woman constitutes the circumstance of abuse of that superiority which his sex and the weapon used in the act afforded

him and from which the woman was unable to defend herself" (People vs. Guzman, 107 Phil. 1122, 1127 citing U.S. vs. Consuelo, 13 Phil. 612; U.S. vs. Camilo, 36 Phil. 757 and People vs. Quesada, 62 Phil. 446).

Evident premeditation (premeditacion conocida) cannot be appreciated because the evidence does not show (a) the time when the offender determined to commit the crime, (b) an act manifestly indicating that the culprit had clung to his determination and (c) a sufficient interval of time between the determination and the execution of the crime to allow him to reflect upon the consequences of his act (People vs. Abletes, L-33304, July 31, 1974, 58 SCRA 241, 247).

The essence of premeditation "es la mayor perversidad del culpable juntamente con su serenidad o frialdad de animo". It is characterized (1) "por la concepcion del delito y la resolucion de ejecutarlo firme, fria, reflexiva, meditada y detenida" and (2) "por la persistencia en la resolucion de delinquir demostrada por el espacio de tiempo transcurrido entre dicha resolucion y la ejecucion del hecho". Premeditation should be evident, meaning that it should be shown by "signos reiterados y externos, no de meras sospechas" (1 Cuello Calon, Codigo Penal, 1974 or 15th Ed., pp. 582-3).

Dwelling and disregard of the respect due to the victim on account of her old age should be appreciated as generic aggravating circumstances. Disregard of sex is not aggravating because there is no evidence that the accused deliberately intended to offend or insult the sex of the victim or showed manifest disrespect to her womanhood (People vs. Mangsang, 65 Phil. 548; People vs. Mori, L-23511-2, January 31, 1974, 55 SCRA 382, 404; People vs. Jaula, 90 Phil. 379; U.S. vs. De Jesus, 14 Phil. 190).

However, those two aggravating circumstances are off-set by the mitigating circumstances of voluntary surrender to the authorities and, as contended by counsel de oficio, the offender's mental illness (mild psychosis or schizophrenic reaction) which diminished his will-power without however depriving him of consciousness of his acts. (See People vs. Francisco, 78 Phil. 694, People vs. Amit, 82 Phil. 820 and People vs. Formigones, 87 Phil. 658.)

Thus, it was held that "la equivocada creencia de los acusados de que el matar a un brujo es un bien al publico puede considerarse como una circunstancia atenuante pues los que tienen la obsesion de que los brujos deben ser eliminados estan en la misma condicion que aquel que, atacado de enfermedad morbosa, pero consciente aun de lo que hace, no tiene verdadero imperio de su voluntad" (People vs. Balneg, 79 Phil. 805, 810).

It results that the medium period of the penalty for murder should be imposed (Arts. 64[4] and 248, Revised Penal Code).

WHEREFORE, the death penalty is set aside. The accused is sentenced to reclusion perpetua. The indemnity imposed by the trial court is affirmed. Costs de oficio.

SO ORDERED.

Barredo, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur. Fernando, C.J., he unable to arrive at that stage of moral certainty as to the guilt of the accused and hence concur in the dissent of Justice Makasiar, with the observation that the reference in the exhaustive opinion of Justice Aquino to Ambat, where he was also the ponente, with its learned and scholarly discourse on the law on insanity, gives me the opportunity to express my preference for a liberal reading of Durham v. US,[1] therein cited. For some eminent commentators, the M'Naghten doctrine no longer speaks with authority. In the light of the advances in medical science there is, for me, a need for the reexamination of what until now are authoritative pronouncements on this subject.

Teehankee, J., concurs J. Makasiar in his dissent.

[1] 214 F2d 862 (1954).

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DISSENTING OPINION

MAKASIAR, J.:

I dissent. The appellant should not be held liable for the crime of murder. He was mentally ill when he committed the alleged killing of Francisca Col (Aling Kikay), a 72-year old widow. His medical records, as properly evaluated and confirmed by the expert testimony of the three physicians/psychiatrists who examined and treated him, undeniably establish the fact that appellant had been ailing with a psychotic disorder medically known as chronic schizophrenia of the paranoid type.

Inevitably, WE must look into the nature of appellant's mental disease. Thus, Noye's Modern Clinical Psychiatry, Seventh Edition, explains:

"Symptomatically, the schizophrenic reactions are recognizable through odd and bizarre behavior apparent in aloofness, suspiciousness, or periods of impulsive destructiveness and immature and exaggerated emotionality, often ambivalently directed and considered inappropriate by the observer. The interpersonal perceptions are distorted in the more serious states by delusional and hallucinatory material" (p. 355, *supra*).

Schizophrenia is a chronic mental disorder characterized by inability to distinguish between fantasy and reality, and often accompanied by hallucinations and delusions. Formerly called dementia praecox, it is the most common form of psychosis and usually develops between the ages of 15 and 30 (Encyclopedia and Dictionary of Medicine and Nursing, Miller-Keane, p. 860).

For a clear appreciation of appellant's mental condition, quoted hereunder are pertinent portions of the discussion on the paranoid type of schizophrenia:

"Paranoid Types. The features that tend to be most evident in this type or phase are delusions, which are often numerous, illogical, and disregardful of reality, hallucinations, and the usual schizophrenic disturbance of associations and of affect, together with negativism.

"Frequently the prepsychotic personality of the paranoid schizophrenic is characterized by poor interpersonal rapport. Often he is cold, withdrawn, distrustful, and resentful of other persons. Many are truculent, have a chip-on-the-shoulder attitude, and are argumentative, scornful, sarcastic, defiant, resentful of suggestions or of authority, and given to caustic remarks. Sometimes flippant, facetious responses cover an underlying hostility.

"x x x x x. The patient's previous negative attitudes become more marked, and misinterpretations are common. Ideas of reference are among the first symptoms. Disorders of association appear. Many patients show an unpleasant emotional aggressiveness. Through displacement, the patient may begin to act out his hostile impulses. His grip on reality begins to loosen. At first his delusions are limited, but later they become numerous and changeable x x x x x x x. Delusions of persecution are the most prominent occurrences in paranoid schizophrenia, but expansive and obviously wish-fulfilling ideas and hypochondriacal and depressive delusions are not uncommon. With increasing personality disorganization, delusional beliefs become less logical. Verbal expressions may be inappropriate and neologistic. The patient is subjected to vague magical

forces, and his explanations become extremely vague and irrational. Imaginative fantasy may become extreme but take on the value of reality. Repressed aggressive tendencies may be released in a major outburst; some inarticulate paranoids may manifest an unpredictable assaultiveness. Many paranoid schizophrenics are irritable, discontented, resentful, and angrily suspicious and show a surly aversion to being interviewed. Some manifest an unapproachable, aggressively hostile attitude and may live in a bitter aloofness" (Noyes' Modern Clinical Psychiatry, Seventh Edition, pp. 380 and 381, underscoring supplied).

On the prognosis of schizophrenia, the aforementioned source thus further states:

"Occasionally one observes a schizophrenic episode of a mild, fleeting nature with no subsequent recurrence. In many instances, however, the favorable outcome should be characterized as 'social recovery' rather than as 'cured' or as full recovery. By this it is meant that the patient is able to return to his previous social environment and to previous or equivalent occupation, but with minor symptoms and signs, such as irritability, shyness, or shallowness of affective responses.

"From what has been said, it is evident that in any given case the effect upon the personality and future adjustment of the appearance of a schizophrenic reaction may be quite uncertain. In some cases the course is continuously progressive; in others it is intermittent. More frequently it is a question of remissions and relapses in which, although from the first interests and habits tend to be undermined insidiously, there occur periods of adjustment at a lower level for a considerable period of time. It is estimated that 40 per cent of the schizophrenic patients who enter public mental hospitals or clinics recover or improve; the other 60 per cent fail to improve or ultimately suffer that permanent, malignant disorganization of personality somewhat inaccurately designated as deterioration. Of committed patients who improve sufficiently to be released, about 80 per cent leave the mental hospital within the first year of residence. The expectancy of recovery falls with each year of continued illness. Roughly, about one-third of those patients who are hospitalized during the first year of their illness make a fairly complete recovery; one-third get a bit better and become able to return to outside life but remain damaged personalities and may have to return to the hospital from time to time. x x x (pp. 387-388, supra, underscoring supplied).

When appellant was examined and treated for the first time on July 28, 1962, his father revealed the patient's initial symptoms of laughing alone and making gestures, poor sleep and appetite, praying and kneeling always and making his body rigid (per consultation chart, p. 154, CCC rec.). Upon interview on aforesaid date, appellant stated that "he could see God" and "That a neighbor is bewitching her" ("pina-pakulam ako") Why? "hindi ko alam kung bakit" (p. 156, CCC rec.).

Appellant underwent eighteen (18) treatments and checkups from July 28, 1962 to July 24, 1970 which covered eight (8) years before the alleged crime was committed on September 8, 1970 (Medical Certificates, pp. 25 and 26, CCC rec.). In the medical certificate dated September 15, 1970, the following was reflected:

"Diagnosis - Schizophrenic Reaction - Recovered (1962) Improved (1964) Unimproved (1966)".

Per the same record dated November 22, 1966, appellant's diagnosis was described as "Schizo?Reaction Relapse" and his condition of termination was indicated as "Unimproved".

In appellant's "Out-Patient Psychiatric Service Record" dated January 31, 1968 (p. 126, CCC rec.), his condition of termination was described as merely "improved" neither "recovered" nor "unimproved".

In another "Out-Patient Psychiatric Service Record" dated August 31, 1968, patient's condition of termination was also described as "improved" only and "treatment not completed" was noted therein (p. 137, CCC rec.).

Appellant was treated eighteen (18) times in the National Mental Hospital and Jose Reyes Memorial Hospital from July 28, 1962 to July 24, 1970 or for a span of 8 years, characteristic of the chronic nature of his mental

disease (pp. 4-5, TSN, November 12, 1970). Thus, on direct examination, Dr. Carlos Vicente confirmed:

"Q - From your study, when he was an out patient at the National Mental Hospital and its extension at the Jose Reyes Memorial Hospital, would you say that he was and has been suffering from chronic schizophrenia?

"A - Yes, chronic, because it started in 1962 and became in remission in 1970, July" (p. 10, TSN, January 11, 1971, underscoring supplied).

For chronic schizophrenia, the patient does not recover fully in two months' time. His condition may simply be "in remission", which term means "social recovery", not cured or fully recovered. Dr. Vicente thus stated:

"Q - How long, if there is any usual period, does a schizophrenic attack last at any given time?

"A - That is waivable (sic). There are those who cannot recover and there are those who recover after ten days or three months" (p. 14, TSN, January 11, 1971, underscoring supplied).

x x x x x

On a schizophrenic's behavior pattern:

"Q - Is it possible that a person suffering from chronic schizophrenia can have a violent reaction?

"A - Yes, it is possible, if he was at that time. If he is schizophrenic at the time" (Testimony of Dr. Carlos Vicente, p. 10, TSN, January 20, 1971, underscoring supplied).

"Q - By suffering from schizophrenia, would you say that his suffering has affected his power of control over his will?

"A - During the time that he was suffering, he could not stick to the right. He made mistakes at the time that he was mentally sick.

"Q - His power of control over his will to commit a crime is affected?

"A - Yes, sir.

"Q - Are you sure of that?

"A- Yes, somehow it is controlled by some ideas, example, one who has that (im)pulse to kill will kill" (Testimony of Dr. Carlos Vicente, p. 17, TSN, January 11, 1971, underscoring supplied).

On the mental condition of appellant when the alleged crime was committed which is and should be considered determinative of his liability:

"Q - Would you be able to state Doctor whether the accused when he committed the act was suffering from an onset of schizophrenic reaction from which he has been known to be suffering since 1962?

"A - It is possible, sir, that he was already suffering from an onset of the schizophrenic reaction at that time" (Testimony of Reynaldo Robles, p. 6, TSN, January 20, 1971, under-scoring supplied).

It should be stressed that between July 24, 1970 when appellant suffered from his last attack or relapse and September 8, 1970 when he committed the alleged crime, barely 1 month and 15 days had elapsed. Medically speaking, the interval was not sufficient time for appellant's full recovery nor did such time give any guaranty for his mental disease to be "cured".

Appellant was still mentally sick at the time he attacked the victim. He previously suffered from a "displacement of aggressive and hostile behavior" when he got angry with his wife and when he tied and boxed their dog. He had the mental delusion that a "mang-kukulam" was inflicting harm on him. This delusion found its mark on the

victim whom he believed was the "mangkukulam" and fearing that she would harm him, appellant had to kill her in self-defense. Simply stated, the victim was a mere consequence of his mental delusion. He killed the "mangkukulam" as personified by the victim; he did not kill Aling Kikay herself. And the said fatal act was made by appellant in defending himself from the "mangkukulam".

While it has been established that appellant was "manageable" and was "presently free from any social incapacitating psychotic symptoms" during the trial, the fact remains that at the very moment of the commission of the alleged crime, he was still a mentally sick person. No evidence was produced to prove otherwise against the bulk of appellant's medical history for 8 years clearly indicative of his mental psychosis.

As earlier stated, "social recovery" of a schizophrenic does not mean that he is "cured" (totally recovered) from the disease.

In view of the foregoing, appellant should be acquitted of the charge of murder.

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