

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
GREGORIO MERENIO Y ADONES, ET AL., DEFENDANTS. GREGORIO
MERENIO Y ADONES, DEFENDANT AND APPELLANT.**

G.R. No. L-4380. January 30, 1952

Ponente: REYES, J.

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REYES, J.:

This case has been elevated here so that we may review the sentence of death passed upon the defendant Gregorio Merenio, who together with his co-defendant Felicisimo Maanio, was convicted of murder by the Court of First Instance of Rizal. Maanio, who was sentenced to an indeterminate prison term only, did not choose to appeal.

The record shows that in the afternoon of June 17, 1950, the dead body of Hipolito Macabuag, caretaker of a lime factory in barrio San Dionisio, Parañaque, Rizal, was recovered from a sunken boat off the shore, a short distance from the factory. The cadaver had a large fracture in the occipital region and, among minor injuries, a contusion of the forehead. Death was due to meningeal hemorrhage produced by the fracture of the skull as well as to asphyxia, through submersion in water.

Arrested as suspects because at a late hour on the night before they were seen going in a hurry as they came from the sea, the defendants, both residents of those parts, admitted having been the authors of Macabuag's death and in the presence of many people, including a news photographer, made a graphic demonstration of how the crime was committed. They each signed a confession.

From their confession and other proofs presented at the trial, it would appear that late in the evening of June 16, 1950, the defendants, who earlier that evening had been drinking wine in a store not far from the lime factory above mentioned, betook themselves to the said factory with the idea merely of stealing a pig. Upon entering the premises, however, they noticed that the caretaker, Macabuag, had been awakened, and finding themselves up against it, what they did was to lie low and watch his moves, and then when they saw him walk toward the beach they approached him from behind, and one of them, Merenio, hit him on the back of the head with a pick which he had grabbed from a pile of tools, and as the victim fell he again struck him on the forehead with a revolver. Thereafter, the defendants carried the apparently lifeless body of Macabuag to the sea and placed it inside an upturned broken boat. The revolver was unlicensed, and it is admitted Merenio has already been convicted of illegal possession thereof in a separate case.

Testifying in their own defense, both defendants repudiated their signed confession, alleging that the same had been forced upon them by the police. In addition the defendant Maanio set up an alibi. However, the other defendant, Merenio, admitted having killed the deceased but claimed that he did so in self-defense. He said that on the night in question he had gone to see the deceased to demand payment for some repair work he had done on the roof of the factory; that the deceased denied owing him anything, and when he insisted on being paid the deceased attacked him with a bolo and pushed him into a well; that although he was up to his neck in water he managed to wrest the bolo from the deceased, who thereafter armed himself with a pick; that getting out of the

well he struggled with the deceased, wrested the pick from him and struck him with it; that the deceased fell with his face to the ground and there he left him, not knowing whether he was dead or alive; that running to his sister's house about 100 meters he passed the night there and then went to Salinas, Cavite, in the morning.

On the evidence of record we can not say that the trial court erred in pronouncing the defendant Merenio guilty. Having admitted the killing, he had the burden of proving that it was justified. But this he failed to do. His story of self-defense is without corroboration and is inherently unbelievable. If it be true as he claims that he was attacked with a bolo and pushed into a well with water up to his neck, we don't see how he could have managed to wrest the bolo from his assailant, who was out of the well and admittedly a strong man. Moreover, his story does not account for the finding of his victim's cadaver inside the wreck of a broken boat in the bay. As the Solicitor General says, if, as this defendant claims, he left the deceased at the precise spot where he fell, the unconscious victim could not have crawled about 30 meters to the beach and submerged himself in water inside an overturned banca, where he was found. Defendant gave no justification for the killing when he was questioned by the authorities. Obviously, his tale of self-defense has been concocted as an afterthought.

The plain truth is that the killing occurred as narrated in defendant's signed confession and as demonstrated by him and his co-defendant in the presence of a large crowd at the very scene of the crime. His claim that the confession was not read to him is not to be taken seriously in the face of his own statement that he did not like to sign it because it contained "many things which were not true and I did not say (to) them." The undeniable fact is that he did stamp his thumbmark thereon, and while he now says that he had been forced (pinilit) to do so, he had also made it plain that what really happened is that a policeman held his thumb and pressed it on the document, which is but the usual procedure followed in these cases in order to obtain a clear thumbmark. And after all, the defendant admits that he made no protest.

The crime committed is murder, qualified by treachery. As contended by the Solicitor General, the aggravating circumstances of premeditation, superior strength and cruelty, which were considered by the trial court, cannot be taken into account to aggravate the penalty. Neither have we found any circumstance to mitigate it. The medium of the penalty prescribed by law should therefore be applied.

Wherefore, with the only modification that the defendant Gregorio Merenio be sentenced to life imprisonment, the sentence below is affirmed, with costs against this defendant.

Paras, C. J., Pablo, Bengzon, Padilla, Tuason, Montemayor, Jugo, and Bautista Angelo, JJ., concur.

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