

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE,
MARINCHO CASTILLO, ET AL., DEFENDANTS, CARLOS CASTILLO,
DEFENDANT AND APPELLANT.**

G. R. No. L-19238. July 26, 1966

Ponente: DIZON, J.

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DIZON, J.:

In an Information filed with the Court of First Instance of Oriental Mindoro Carlos Castillo and his son, Marincho, were charged with the crime of murder. After trial upon their plea of not guilty, the court found them guilty as charged and sentenced them accordingly. Only Carlos Castillo appealed.

The prosecution evidence shows the following facts:

Sometime in the month of October 1959, Marincho Castillo was slapped in the face by the now deceased Juan Vargas as a result of an altercation which arose between them because a cow belonging to the former had gone astray and destroyed some plants of the latter. Unable to retaliate at that time, Marincho merely uttered these words: "You, Manong Joan, will have your own day".

About 5:30 o'clock in the afternoon of December 28, 1959, In barrio Hallbago, municipality of Pola, Oriental Mindoro, while appellant, holding a gun In his righthand, was talking face to face with Juan Vargas, Marincho came from behind and hacked the latter on the head. As Marincho was about to strike the victim a second time, appellant said: "You kill him".

In the evening of the same day, Marincho, accompanied by appellant, surrendered himself to the authorities.

A post-mortem examination conducted by the municipal health officer of Pola revealed that the victim died Instantaneously as a result of severe hemorrhage due to multiple wounds.

With the testimony of Jose Ilagan the prosecution attempted to prove conspiracy between appellant and his son. According to said witness, on the afternoon In question he saw both walking very fast towards the poblacion, appellant with a revolver in his hand, and his son carrying a bolo, both presumably gunning for Juan Vargas.

Very little credibility can be given to this testimony, firstly, because the incident between Vargas and Marincho had taken place in the month of October 1959, while the fatal Incident took place on December 28 of the same year; secondly, because the fatal incident took place hardly twenty meters away from appellant's house - a circumstance which would seem to indicate that, instead of appellant and his son going out in search of Vargas, it was the latter who had gone or who had passed by the street near appellant's house on the fatal day.

The last question to be resolved is whether appellant can be found guilty of murder by inducement simply because after his son had already fatally boloed Vargas and was about to strike the latter a second time, appellant shouted: "You kill him". The present case is very similar, if not on all fours, with *People vs. Caimbre et al.*, G. R. No. L-12087 decided on December 29, 1960 where practically the same words were uttered by one of the defendants

but only after the actual assailant had already boloed his victim several times. It was there held that in determining whether the utterances of an accused are sufficient to make him guilty as co-principal by inducement, it must appear that the inducement was of such nature and was made in such a way as to become the determining cause of the crime and that such Inducement was uttered with the intention of producing the result. In this case appellant was, of course, armed with a revolver while talking with the deceased Vargas, but the firearm was not pointed at the latter. Then he is alleged to have uttered the words "You kill him" only after his son had already fatally boloed Vargas on the head. It appears, therefore, that the alleged inducement to commit the crime was no longer necessary to induce the assailant to commit the crime. Upon the principle thus laid down in the Caimbre case - which was merely a reiteration of the same ruling previously laid down in *People vs. Alvarez et al.*, G. R. No. L-10650, July 26, 1960; *People vs. Canare et al.*, G. R. No. L-10677, September 30, 1959; *People vs. Omini*, 61 Phil. 609; and *United States vs. Indanan*, 24 Phil. 203, We are constrained to hold that appellant's guilt has not been established beyond reasonable doubt.

WHEREFORE, the appealed judgment is reversed and appellant is acquitted, with one-half of the costs de oficio.

Concepcion, C. J., Reyes, J.B.L., Barrera, Regala, Makalintal, Bengzon, J.P., Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

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