

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. IMAM SAWAH, ET AL., DEFENDANTS, IMAM SAWAH, DEFENDANT AND APPELLANT.*G. R. No. L-15333. June 29, 1962*

Ponente: DIZON, J.

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Imam Sawah, Usmal Jahad, and Sarail Tahil were charged with murder in the Court of First Instance of Sulu. Jahad pleaded guilty and was sentenced accordingly. Sawah and Tahil, tried on a plea of not guilty were convicted as charged and sentenced to reclusion perpetua, to indemnify, jointly and severally, the heirs of the deceased Lorenzo Nuega in the sum of P6,000.00 and to pay each one-third of the costs. Both appealed, but on February 22, 1962 Tahil filed—and this Court approved—a motion withdrawing his appeal.

On and prior to November 5, 1954, Lt. Gaudencio Nuega owned a parcel of land situated at sitio Suba Tigui, Tapul District, Sulu, which he placed under the administration of his brother, Lorenzo, who lived alone in a house built on the property. For one reason or another, he incurred the enmity of his neighbor, appellant Sawah, who, as the appellation "Imam" indicates, was a priest, in charge of a mosque in sitio Tigui.

On November 5, 1954 Lorenzo Nuega was killed. The direct evidence establishing the motive and circumstances surrounding the killing consists exclusively of the testimony of Usmal Jahad, the accused who pleaded guilty in the lower court, to the following effect:

That about ten days prior to November 5, 1954, Sawah visited him at his house located at sitio Bud Lugus and proposed that he kill Lorenzo; that he declined saying that he had no reason at all to kill Lorenzo whom he didn't even know; that Sawah came to visit him again insisting in his proposition, but again he declined; that a week prior to November 5, 1954, he embraced Haridja, daughter of councilor Salip Pulag, a resident of Bud Lugus, for which he was fined P150.00; that apparently having come to know of this, Sawah came to see him again in the afternoon of November 4 to reiterate his proposition, delivering to him the sum of P50.00 and promising to give him P500.00 more as soon as he had killed Lorenzo Nuega, and assuring him further that one Sarail Tahil would help him carry out their plan; that to carry out the murder, Tahil would engage Lorenzo in conversation to distract him and that upon a signal to be given by Tahil, Jahad would surreptitiously approach Lorenzo from behind and stab him; that early in the morning of November 5 Sawah, Tahil and the witness met in the mosque of the former, from which place they started towards Lorenzo's house only about 80 brazas away; that Sawah separated from them when they were about 20 meters away from said house; that the witness and Tahil saw Lorenzo squatting on the batalan on his house washing clothes and Tahil went up upon Lorenzo's invitation; that while conversing with Lorenzo he gave the signal to Jahad who immediately approached Lorenzo from behind and struck him with a barong at the nape killing him instantly; that when he saw through an opening of the door the carbine and pistol of Lorenzo hanging on a post, he took them and ran away; that he forthwith went to see appellant Sawah to inform him that Lorenzo had already been killed and demanded the P500.00 promised reward, but Sawah failed to pay,

telling him instead that he could keep the firearms; that two days afterward he surrendered to councilor Pulag who took him to the provincial governor with his barong and the stolen carbine and pistol.

As the defense of appellant Sawah consists merely of denials, the question before us resolves itself into one of credibility.

With respect to the credibility of Usmal Jahad, the trial judge says the following:

"At the time of the incident, Usmal Jahad was residing at Bud Lugas, 15 kilometers distance from the house of Lorenzo Nuega. He did not even know him then nor his place of residence. He had no quarrel whatsoever with Lorenzo Nuega. On the contrary, it was Imam Sawah who was determined to deprive Lorenzo Nuega of his life. Umal Jahad was a young man, 20 years of age, belonging to a poor family. He is a simple man, ignorant and unlettered. He had just then embraced the daughter of Salip Pulag, the headman of Bud Lugas, for which act he was fined P150.00. On that fateful Thursday afternoon when Imam Sawah handed to Usmal Jahad the amount of P50.00, with a promise to add P500.00 should he be able to kill Lorenzo Nuega, he was tempted. He accepted the offer, and promised to meet Imam Sawah and Sarail Tabil in Imam Sawah's mosque at Suba Tiqui early the next morning. Imam Sawah was a close friend of Usmal Jahad. He absolutely had no reason to falsely implicate him in a serious crime of murder. The defense failed to prove that Usmal Jahad had a compelling motive to implicate Imam Sawah and Sarail Tabil. The defense tried to prove that the motive of Umal Jahad in killing Lorenzo Nuega was to enable the former to take hold of the firearms of the latter to defend himself from Councilor Pulag and his relatives. This theory, however, was exploded by the very testimony of Vice Mayor Dugasan for the defense that shortly after Umal Jahad took possession of said firearms, he surrendered them to the authorities. The contention of the defense that Umal Jahad surrendered the firearms to the authorities because Salip Pulag, for whom the firearms were intended, could no longer be located, is likewise untenable because Vice Mayor Dugasan himself testified that Salip Pulag was with the party that went to Jolo to surrender Umal Jahad to the Provincial Governor. Then, in the course of the investigation by the Provincial Fiscal on November 9, 1954, just a few days after the incident, Umal Jahad executed an affidavit (Exhibit "3") which in substance corroborated his testimony given in open court. This again indicates lack of afterthought.

* * * * *

"As already stated above, this Court had occasion to observe the demeanor of Umal Jahad while on the witness stand. He gave his testimony with ease and without hesitation. In the absence of any motive on his part to testify falsely against his co-accused, this Court is compelled to give full credence to his testimony. In the case of *People vs. De Otero*, 51 Phil., 201, the Supreme Court stated:

'As was announced in the notorious case of *United States vs. Pajarillo* (1911), 19 Phil., 288, the absence of all evidence as to an improper motive actuating the principal witnesses for the prosecution strongly tends to sustain the conclusion that no such improper motive existed, and that their testimony is worthy of full faith and credit.'" (pp. 11-12, 15-16, decision)

After a careful review of the record, we have found no reason at all to disturb the findings and conclusions of the trial court. The mere denials made by appellant Sawah can not in any degree weaken the positive testimony of witness Jahad, which appears to be intrinsically credible. On the other hand, as already stated, His Honor, the trial Judge, who has the peculiar privilege of observing Jahad's conduct and demeanor while testifying, found—we believe correctly—that he deserved full credit.

Wherefore, the decision appealed from is affirmed, with costs.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Regala and Makalintal, JJ., concur.

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