

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
RAFAEL ARANUA, ET AL., DEFENDANTS. RAFAEL ARANUA,
DEFENDANT AND APPELLANT.**

G.R. No. L-5510. April 28, 1956

Ponente: ENDENCIA, J.

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ENDENCIA, J.:

In the Court of First Instance of Misamis Occidental, Rafael Aranua, Magno Aniana and Vicente Cuajao were charged with the crime of robbery with homicide and double physical injuries in an information wherein it was alleged:

"That on or about the 5th day of July, 1951, in the barrio of San Isidro, municipality of Jimenez, province of Misamis Occidental, Philippines, and within the jurisdiction of this Honorable Court, the said accused conspiring and confederating together and helping one another in their common purpose to commit robbery, and taking advantage of the darkness of the night, commenced the execution thereof with the accused Rafael Aranua and Magno Aniana entering the house of one. Uldarico Tabil surreptitiously and illegally, while the accused Vicente Cuajao stood guard on the ground, and once inside the said house, the said accused wilfully, unlawfully, feloniously and treacherously, and with abuse of superior strength, shot the .eleven-year old child Priscila Tabil through the head with a caliber 22 pistol, killing her instantaneously; then, and in the same manner,. shot Uldarico Tabil and Divina Ayeta with the same firearm, indicting on the former, and likewise on the latter, a gunshot thru and thru wound at the chest, which injury required medical attendance for both Uldarico Tabil and Divina Ayeta for a period of more than 30 but less than 90 days, and incapacitated both victims from performing their customary labor for the same period of time; and that there and then, immediately after the occupants of the aforementioned house had been, either shot or helplessly terrorized in pursuance of said conspiracy, the said accused wilfully, unlawfully and feloniously, and' with intent of gain and against the consent of the owner thereof, took and carried away the following personal properties, to wit:

"One (1) suitcase containing cash amounting to P500.

"One (1) rifle, caliber 22, valued at P200.

belonging to Uldarico Tabil, of the total value of Seven hundred pesos (P700), to the damage and prejudice of the said owner in the sum of F500, the rifle having been recovered.

"Contrary to Article 294 of the Revised Penal Code as amended by Republic Act No. 18, with the following aggravating circumstances: (1) Nocturnity, (2) Treachery, (3) abuse of superior strength and (4) 'that the crime was committed in the house of the offended parties without their giving any provocation therefor."

Before arraignment, upon motion of the Provincial Fiscal, the accused Vicente Cuajao was discharged from the information in order that he may be utilized as witness for the prosecution. Upon arraignment, Rafael Aranua and Magno Aniana pleaded not guilty. The case was called for hearing and Vicente Cuajao was presented as witness for the prosecution. He turned however hostile, so the Provincial Fiscal petitioned the Court that he be "allowed to amend the information. The petition was granted and Vicente Cuajao was again included as one of the accused.

Vicente Cuajao was then arraigned and pleaded not guilty, but when the trial of the case was resumed, Vicente Guajao and Magno Aniana asked permission from the court to withdraw their plea of not guilty and be allowed to plead guilty. This petition was granted, the two accused were rearraigned and, after having been duly informed of the charges against them, freely and voluntarily entered the plea of guilty and, accordingly, the court sentenced them to undergo 20 years of reclusion temporal, to pay the sums of P500 and P2,000, respectively, to Uldarico Tabil and to the heirs of Priscila Tabil, to suffer the accessory penalties provided by law, without subsidiary imprisonment in case of insolvency, and to pay each the proportional costs

The case proceeded on against Rafael Aranua who, after trial, was found guilty and sentenced by the court to undergo reclusion perpetua, to pay an indemnity of P500 to Uldarico Tabil and P2,000, to the heirs of Priscila Tabil, without subsidiary imprisonment in case of insolvency,' to suffer the accessory penalties provided by law and to pay the proportional costs. No appeal was taken by .the accused who pleaded guilty, but Rafael Aranua, whose defense was only a complete denial of participation in the robbery and an alibi, perfected his appeal on the ground that the lower court erred: (1) "'in convicting the defendant Rafael Aranua of the crime charged in the information without proof of sufficient identification; (2) in observing that defendant Rafael Aranua was a conspirator in the crime as charged in the information and convicting him as such; (3) in convicting the defendant Rafael Aranua of the crime as charged in the information notwithstanding the contradictory testimonies of Magno Aniana and Vicente Cuajao; and (4) in finding the accused Rafael Aranua guilty of the complex crime of robbery with homicide and double serious physical injuries and sentencing him to pay jointly and severally with Magno Aniana and Vicente Cuajao, an indemnity of P500 to Uldarico Tabil and P2,0,00 to the heirs of Priscila Tabil, without subsidiary imprisonment in case of insolvency, to the accessory penalties provided for by law and to pay the proportional costs of the proceedings."

The perpetration of the crime at bar is beyond dispute. It is proven by the plea of guilty of the two co-accused of the appellant who did not appeal from the decision. It is shown by the testimonies of the witnesses for the prosecution, among whom was the accused Magno Aniana, who testified as to how the robbery was committed. The only question, therefore, for this Court to determine is whether the appellant took part in the commission of the crime at bar.

One of the witnesses for the prosecution, Porfiria de Tabil, wife of another witness, Uldarico Tabil, testified that early at dawn of July 5, 1951 while she was sleeping in her own room, her husband in the living room and her , father, Pedro Luza, in another room of the house located in the barrio of San Isidro, municipality of Jimenez, Misamis Occidental, she heard her husband shouting "thief" followed by a shot. She stood up, and tried to go to her husband's room, but two men, one tall and another short, with their mouths covered by handkerchiefs, met her and boxed her. At that time, her daughter and her niece who were in another room also shouted and one of the men, the tall one, shot them. The robber then asked her for money; she told them that it was in her father's room, so she was taken to that room. Once there, ,the robbers saw the suitcase with the money and the short robber grabbed it immediately. Her father tried to prevent him from getting the suitcase and the two struggled for its possession- During the struggle her father was able to grab and remove the handkerchief covering the man's face and thus she was able to identify the short robber as the accused Magno Aniana, because the tall' robber focused his flashlight toward her father and Magno Aniana. The latter, however, was able to get hold of the suitcase and took it outside. Thereafter, she was brought .to the sala of the house where the tall robber asked her for her husband's firearm which, out of fear, she gave it to him. She further testified that the suitcase contained f 500; that she was able to identify the tall robber as the herein appellant Rafael Aranua because his mask only covered his mouth and nose, and that she was familiar with appellant Rafael Aranua because on June 7th and 30th, the latter accompanied by Magno Aniana went to her house to buy her pig; that on July 5, 1951, after the arrest of the herein appellant and his co-accused, she immediately identified the appellant in the office of the Chief of Police of

Jimenez as one of those who robbed them early at dawn of that day. Further, she testified that after the robbers had left the house, she found out that her husband and her niece were wounded and her daughter dead because of the shots fired by the robbers.

Uldarico Tabil testified that early at dawn of July 5, 1951, at around 2:00 a. m., he noticed the presence of three men in his house, whom he could not recognize, but one of them was tall while the other two were short; that one of the robbers shot him and he was wounded; then he heard two more shots; that immediately there after the tall robber asked his wife "where is the money of your father?" to which his wife answered: "It is there in the possession of my father"; then the robbers took his wife to the place where his father-in-law was sleeping; that he heard his wife say to her father: "Open the door because there are persons asking for money"; that. from the room of his father-in-law the robbers returned to the sala of the house where they asked for his firearm which his wife had to give to them; that after the incident, he was treated by Dr. Dano at the Provincial Hospital of Oroquieta where he was admitted on July 5 and discharged on July 27, 1951, having spent P150 for medicines and P200 for hospital fees; that he is a farmer and carpenter earning P20 a month.

Divina Ayeta, the niece of Porfiria de Tabil, testified that at about 2:00 a.m. of July 5, 1951, she woke up because she heard her uncle shout "thief" and then heard a shot; that her aunt Porfiria also woke up and tried to go to the sala, but she was met by two men, one of whom hit her with a flashlight; that she stood up and when she shouted "robber" she was fired at; that while she was lying down the robber who fired at her stepped over her and fired at Priscila Tabil who was hit and died; that then the two men faced her aunt demanding money and her aunt told them that they will go to the room of her father where the money was, so they went there returning afterwards to the living room because they wanted her uncle's gun; that she was hit on the right shoulder and on the right, chest below the right clavicle; that she was treated by Dr. Contreras for about 28 days, after which she was still unable to resume her household work.

Magno Aniana, one of the accused who pleaded guilty, testified that he knew Rafael Aranua at the house of the latter's sister since June 16, 1951, where he went to help in the repairs of said house; that on the night of July 4, 1951, at about 11:00 p.m., he and Vicente Cuajao were taken by Rafael Aranua to a store in the town of Jimenez, where they drank beer and afterwards they went to the house of Aranua's sister where they slept; that later on, he and Vicente Cuajao were awakened by Rafael Aranua and the three of them went to a house in the barrio of San Isidro, municipality of Jimenez; that once there, Aranua gave instructions that Vicente would stay downstairs while he and Aranua were to go up the house; that before going up Aranua covered his face with a handkerchief (Exhibit I), while he covered his face with hand- kerchief (Exhibit J); that he and Aranua went up the house and upon reaching its sala Aranua flashed his 5-cell flashlight but immediately put it out; then somebody shouted "robbers" and he saw the silhouette of a man trying to stand up; then Aranua took something from his waist and fired a shot at the man who was trying to stand up; that after firing, he and Aranua went to another room where there was a small light and a woman on whom Aranua focused his flashlight; then Aranua fired two shots; that immediately thereafter, he, the woman and Aranua proceeded to another room where Aranua flashed his flashlight and, upon seeing a suitcase, told him to get it; then a man struggled with him for the possession of. the suitcase;. that he boxed that man and when the latter fell, he was able to take the suitcase, and that during the struggle the handkerchief covering his face fell.

The foregoing testimonies are unrefuted. They are positive and convincing. They fully support the information filed against the herein appellant and clearly show his participation in the crime at bar. We are not unmindful that the testimony of Magno Aniana should be received with caution, he being one of those who took part in the robbery in question, but Aniana's testimony is corroborated in many respects by the declarations of the other witnesses for the prosecution and it has been constantly held that when the testimony of an accomplice or

co-author of a crime is corroborated by other evidence on record, the same should be given due weight, and credence. Appellant strongly denies his participation in the robbery at bar. He claims that he was sleeping the whole night of July 5, 1951, in the house of his sister without having left it a single moment. This defense, however, cannot be seriously entertained by this Court, because the accused has been properly identified not only by Porfiria de Tabil but also by one of his co-accused whose testimony was not shown to be motivated by malice or grudge against the appellant.

The Solicitor General calls our attention to the existence of the aggravating circumstances of nighttime and dwelling, of the offended parties, and prays that the maximum period of penalty prescribed in paragraph 1 of Article 294 in connection with paragraph 1 of Article 63 of the Revised Penal Code be applied. We find the Solicitor General's contention well taken, but, in voting the case, no sufficient votes for the imposition of the death penalty unto the appellant were obtained, hence, under the law, this penalty cannot be imposed.

The Solicitor General likewise calls our attention to the fact that the indemnity to the heirs of Priscila Tabil should be increased to P6,000 in accordance with the decisions of this Court in similar cases. This contention is well taken, so the decision should be modified so as to increase such indemnity to P6,000. Again, the Solicitor General contends that the indemnity in favor of Uldarico Tabil should be increased to P1,000, arguing that he spent P350 for medical treatment and hospitalization and was incapacitated for about one year from his habitual work as a farmer and carpenter, which was giving him P20 monthly. We find, however, that the increase prayed for finds no support from the evidence on record with regard to the time during which Uldarico Tabil was incapacitated to perform his ordinary work or occupation.

Lastly, the Solicitor General contends that the indemnity in favor of Divina Ayeta for her 28 days' hospitalization and incapacitation from doing her household work should be fixed at P500, but, again, we find no supporting evidence to justify such increase. At most, the minimum wage of P4.00 could be appreciated in her favor for the 28 days she stayed in the hospital and, therefore, the appealed decision should be modified so as to sentence the appellant to pay an indemnity of P250 in favor of Divina Ayeta.

Wherefore with the modifications above stated, the decision appealed from is hereby affirmed in all other respects, with costs against the appellant.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion and Reyes, J. B. L., JJ., concur.

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