

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. MANAUL KOMAYOG, DEFENDANT AND APPELLANT.*G.R. No. L-1747. February 16, 1950*

Ponente: TUASON, J.

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Manaul Komayog was prosecuted in the Court of First Instance of Lanao charged with murder together with Mama Manaul, his son, who was acquitted. The court found against Manaul Komayog and sentenced him to reclusion perpetua, to indemnify the heirs of the deceased in the sum of P2,000.00, and to pay one-half of the costs.

Kasan Bongcarawan was shot in the stomach as he was busy working in his farm and died from the effects of the wound. The prosecution says Manaul Komayog killed the now deceased; the defense says Mama Manaul did.

Sambataro Malomalo, a school teacher, testifies that on June 22, 1946, as he was walking to the market in Alog he heard "a firing;" he thinks he heard two shots. When he turned his head in the direction of where the shots came from, he saw Manaul Komayog discharge empty shells from his rifle, and flee with his companions, who were Mama Manaul, Pindugar Atoy, Malican Pagalad and another man whose name he could not remember. They ran towards barrio Calantai where there was a kota. When Kasan Bongcarawan was shot, Manaul Komayog was less than 200 meters from him (witness), and the distance between him and Kasan Bongcarawan was less than 200 meters. He hurried towards the injured man to help him and found a big wound on the right side of the stomach. When he reached the place where Kasan fell, two men, he thinks, were already there, Arimao Tugaso and Dimanang Dida-ogon.

Arimao Tugaso testifies that between 7 and 8 o'clock in the morning he was on his farm planting rice. He saw Mama Manaul and Manaul Komayog walking along the river bank followed by three other persons. When they reached the creek, Komayog fired twice at Kasan Bongcarawan. He, witness, was about seven brazas from Manaul Komayog when the latter opened fire while the distance separating him and Kasan was more than ten brazas. He did not see anybody else shoot. Mama Manaul, who was also carrying a firearm, was beside his father but the witness did not see Mama use his gun. After shooting Kasan Bongcarawan, Manaul Komayog shouted, "Let us run away. I hit," and Komayog and his companions sped away towards Calantai where there was a kota. He and three others carried Kasan to his house.

Pitted against the preceding testimony is the following evidence for the defense

Pendugar Ontong, mentioned by Maloraalo as one of the men who was in the company of the defendants and who was discharged on motion of the prosecution in the Justice of the Peace Court, said that on the morning of June 22, 1946, he was in Kilausan, in the house of Vice-Mayor Mendir, where he lived. Asked what happened on that date, he answered, "The one who went to the scene said that Kasan was killed by Mama Manaul."

Maulod Bongo, another of the men said to have been with the defendants, was put on the stand but was withdrawn

when the Fiscal admitted what the witness was going to say, namely, that the complaint against him was dismissed by the Justice of the Peace on motion of the prosecuting officer.

Macapangkat Pasaulan testifies that he knew Manual Komayog; that on June 22, 1944, in the morning, he was in the market at Alog in company with Manual Komayog, who, he said, had met him on the way and told him, "Macapangkat, wait for me!"; that at the market, he and Komayog bought "carabao" and tobacco; that when they were bargaining for carabao "a certain fellow arrived and shouted that Mama Manual, son of Manual Komayog, killed somebody;" that upon hearing the news, he and Manual Komayog, upon his suggestion, went home and "saw a group of people near our home. So, we thought that perhaps it was true that Mama had killed someone."

Anter Anderike testifies that he was a tobacco dealer; that on Saturday, June 22, 1946, in the market at Alog, he sold tobacco to Komayog and Macapangkat and heard people say that Mama had shot Kasan.

Mama Manual, 14 years old, testifies that he killed Kasan Bongcarawan with a revolver because Bongcarawan approached him when he was working on the land of his father telling him, "You get out, boy, from our land. Don't work there"; that Bongcarawan also said, "Are you not going to vacate our land, or I will kill you?"; that he did not heed Bongcarawan's threat and the deceased fired at him with a revolver; that he was not hit and he drew his own revolver and returned the fire; that he did not know where he hit Bongcarawan because he ran away after firing at the deceased; that when he ran he threw the revolver away because he was afraid; that Manual Komayog was not with him, having gone to the market at Alog.

Manual Komayog testifies that Mama Manual shot and killed Kasan Bongcarawan; that he was in the market at Alog when that incident happened, having heard of it only in the market.

We are satisfied beyond doubt that Manual Komayog was the killer. The three principal government witnesses' testimony is cogent and convincing in its details. The crime was committed in broad daylight and no question of mistaken identity or improper motive is involved. Neither of the two eye-witnesses for the government had any reason to pin the blame on the father instead of on his son if the latter was really the author of the crime.

The cause of the trouble was the fact that Kasan was tilling the land Komayog claimed to be his property. Barely 13 years old and single handed, Mama Manual would not likely have challenged or defied the deceased. It is admitted that the latter was peacefully working on his farm and did not seek the fight. Furthermore, no firearm appears to have been found on Kasan's person or near him after he was shot, and no question was asked the prosecution witnesses by the defense counsel about such matter. The reason why Mama Manual assumed full responsibility to the exclusion of his father is easy to imagine. Being below 14 when the crime was committed, he could claim exemption from criminal liability if pronounced to have acted without discernment. The alternative was confinement in a reformatory school. This, Mama Manual admitted in court, he understood.

The Judgment of the lower court is affirmed with costs of this instance.

Moran, C. J., Ozaeta, Paras, Pablo, Bengzon, Padilla, Montemayor, Reyes, and Torres, JJ., concur.

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