

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. CIRILO HUMARANG, DEFENDANT AND APPELLANT.

G.R. No. L-1677. January 28, 1949

Ponente: PERFECTO, J.

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PERFECTO, J.:

The information charged appellant with treason on four counts, but the prosecution offered evidence only on two, first for having surrendered George Eddleman, an American, to Captain Nakamuri, a Japanese officer, at the latter's residence in Cavite, and second for pointing to the Japanese several persons who were arrested in May, 1944, in the Biwas cockpit, Tanza, on the occasion of the performance of a sarzuela, which included light opera and other minor dramatic plays.

As to Eddleman's surrender, Laura Muffmaster, an intelligence officer of the U. S. army belonging to the Sixth Military Garrison, testified that some time in 1943, she saw and talked with the American in the house of Captain Nakamuri. She also saw there appellant. The American told her that he was 21 years old. Irene de Castro, having been advised by a boy of the presence of the American, testified that she went to the house of Captain Nakamuri to have a look at the prisoner, as it was a long time that she had not seen an American. Catalino Lubigan testified that he happened to ride with appellant and the American in a rig in barrio Calibuyo and separated from them upon reaching Tanza. Some time later, appellant told Catalino that he was taking the American to the Japanese Military Police, and Catalino saw the American crying when he was about to be surrendered.

Regarding the cockpit incident, there is overwhelming evidence, half a dozen witnesses having testified, to the effect that at about 9 o'clock at night there was a commotion in the cockpit, and shouts for the people to lie down. Several shots had been fired at Rafael Sidamon who was running to escape from the cockpit. There were shouts of "guerrilla, guerrilla!" and, from one Carlos Humarang that Sidamon was the bodyguard of Ernie, a guerrilla chieftain. The Japanese entered the cockpit with Filipino companions, among them appellant Cirilo Humarang. The Japanese herded the people gathered there, numbering about 300, separating the women who were brought outside the cockpit, while the men were left inside and then made to line up. Appellant walked following the line and once in a while had to stop and look at the person in front of him. All the persons thus singled out were apprehended by the Japanese and have never been seen again. About 26 persons were apprehended, including Esteban Ernie and Agustin de Castro. The whole proceeding lasted for a long time, as the persons not arrested were allowed to leave the cockpit only the next morning.

The defense tried to show that appellant was a guerrilla and the leader of a small group of Filipinos who kept George Eddleman hidden somewhere in Tanza from May, 1942, until 1944. In February, 1944, appellant transferred the American to Naic, because the woods in Tanza where he was hidden had been frequented by the Japanese. Some time thereafter, appellant was taken by the Japanese and brought to the house of Captain Nakamuri for the purpose of identifying the American because, as told by two Filipino spies (Captain Pio and Juan Pugot) to appellant, there were several persons who pointed to appellant as the one who concealed the American. In May 1944, appellant, with his elbows tied at his back, was brought by the Japanese and the Filipino

spies to the Biwas cockpit in Tanza, for the purpose of pointing out the persons who had been telling that it was the accused who had kept Eddleman in hiding, the names of whom were written in a list kept by the two Filipino spies referred to by appellant. After the people in the cockpit had been lined up, appellant was able to point to the Japanese only two, Esteban Ernie and Agustin de Castro, the only ones he knew among those listed. According to him, for not identifying the others, he was brought to the Japanese garrison in Tanza, where he was severely tortured, as a result of which he fell unconscious. When he recovered consciousness he was already in Naic and being treated by Dr. Jose, a guerrilla physician. He was bleeding in his head and in his scrotum. According to his witnesses, the guerrillas attacked the Japanese garrison and were able to rescue appellant who, thereafter, continued his guerrilla activities and fought against the Japanese.

He was also treated by Dr. Poblete for some abscess which might have been the result of law vitality caused by the maltreatment received by appellant. Upon inspection made by members of the trial court at the hearing of this case, it was found that, although retaining the scrotum, appellant had lost his two testicles.

Appellant's allocation that at the cockpit incident he had his elbows tied at his back is contradicted by the several witnesses for the prosecution who testified that appellant was not tied but, on the contrary, had free movement of his whole body and arms during the whole proceedings. He even carried firearm.

The evidence of the prosecution as to the surrender of George Eddleman made by appellant would not be, under the two-witness rule, enough to convict appellant of treason, as only one witness, Catalino Lubigan, testified as to appellant's delivery of the American to the Japanese Military Police. The testimonies of Laura Muffmaster and Irene de Castro have only the effect of showing that they had seen the American and appellant in the house of Captain Nakamuri but not one of them testified that appellant had surrendered the American to the Japanese. But prosecution's failure to prove the first count is immaterial to the result of this case, as there is overwhelming evidence to prove the second count, concerning the Biwas cockpit arrests.

Although no specific date has been given, as to the cockpit arrest, both the witnesses for the prosecution and for the defense, including appellant himself, agreed that it took place one night in May, 1944, on the occasion of a sarzuela, and there can be no question that prosecution and defense witnesses refer exactly to the same incident.

Upon the evidence on record, the court is satisfied that appellant, being a Filipino, adhered to the enemy by giving her aid and comfort, said aid consisting in helping in the arrest in the Biwas cockpit of guerrillas and suspected guerrillas. The trial court sentenced him to life imprisonment (reclusion perpetua) with the accessory penalties prescribed by law, and to pay a fine of P10,000 with costs.

The appealed judgment, being supported by the facts and the law, is affirmed.

Moran, C.J., Paras, Feria, Pablo, Bengzon, Briones, Tuason, and Montemayor, JJ., concur.

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