

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANDRES MAGALLANO, DEFENDANT-APPELLANT.

G.R. No. L-32978. October 30, 1980

Ponente: TEEHANKEE, Acting C.J.

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TEEHANKEE, Acting C.J.:

The Court sustains the conviction for parricide of the accused-appellant, Andres Magallano, on his own admission that he strangled his wife to death. The defense of insanity as an exempting circumstance was not established and did not overcome the legal presumption that a person's acts are of his own free will and intelligence. The settled rule is that the onus probandi rests upon him who invokes insanity as a defense and the defense failed to discharge this burden.

The accused was charged before the Court of First Instance of Davao City with parricide for having killed his lawful wife, Exequiela Costa, on September 29, 1968.

Upon motion by the counsel de oficio for the accused asserting the accused's insanity, the latter was referred to the Chief of the Davao General Hospital for examination. The Director was ordered to file the necessary petition for hospitalization of the accused if in his opinion it served the public welfare or the welfare of the person concerned.

Pursuant thereto, after psychiatric examination of the accused conducted by Dr. Corazon San Pedro as attending physician, the officer-in-charge of the Davao Regional Mental Hospital submitted a report to the effect that the accused "was quiet, no bizarre behavior noted. He was in good contact with his environment, recognized his companions and was aware of the place where he was being examined. He answered questions coherently and was relevant." She recommended however that the subject be further examined in the Regional Mental Hospital at least once a week for further evaluation.

Hence, the office of the City Fiscal moved that the regional hospital be given more time to complete its examination and to submit a medical report on the accused's state of mind.

Acting on the motion, the trial court on March 29, 1969 ordered that accused be again sent to the regional mental hospital to be examined by an internist of that institution in collaboration with Dr. Corazon San Pedro to determine once and for all the mental condition of the accused and to find out whether he was fit for arraignment.

Subsequently, the officer-in-charge of the Regional Mental Hospital on May 15, 1969 furnished the Court with a resume of the psychiatric examination conducted on the accused, to wit:

"In the three interviews done,[1] subject was observed to be in good contact with his environment. No odd behavior was observed. He answered questions coherently and relevantly. No hallucinations or delusions elicited. He is well oriented to the date, place and person. He can give his personal data and other circumstances in his life. He can relate the event that led to his confinement in jail."

Having been satisfied that the accused was fit and ready for trial on the basis of the two medical reports, the trial

court proceeded to arraign him. With the assistance of his counsel de oficio, the accused entered a plea of not guilty.

After trial wherein the main issue was the sanity or insanity of the accused during the commission of the crime, the accused was found guilty beyond reasonable doubt of parricide and was sentenced to suffer the penalty of reclusion perpetua, with the accessories of the law, to indemnify the heirs of the deceased in the sum of P12,000.00 and to pay the costs.

The record shows that on October 1, 1968, the accused accompanied by his father voluntarily informed, and surrendered to, the Davao City Police Department that he had killed his wife. The accused declared upon investigation conducted by police officers that he strangled his wife[2] to death in the early morning of September 29, 1968 after an exchange of heated words between them stemming over his suspicion that she had been unfaithful to him; that the following day, he went to a nearby house owned by one Peping Orais to whom he confided the killing. The accused described to the police the scene of the crime and true enough, when the police went there, they found the victim's cadaver. Post-mortem findings showed that she died of "asphyxia due to choking" and that she had been dead for more than 30 hours but less than 50 hours at the time of discovery.[3]

Crispin Orais confirmed the accused's declaration in a sworn statement before the Asst. City Attorney that the accused confided to him that he had killed his wife by choking her with his bare hands. In his testimony in court[4] as first witness for the prosecution, Crispin Orais declared he knew the accused who went to him on October 1, 1968 at his house in Cabantian, Davao City and inquired about his father's whereabouts. The witness then sent his son to fetch the father, Diego Magallano. The accused was then sweating and his face was covered with blood. When asked about his appearance, the accused replied that he had smashed his head against a tree as if he had lost his mind because he had killed his wife by choking her to death. The accused pointed to a place about 50 meters away from the house of Crispin Orais as the place where the killing took place. As to his observation on the accused's demeanor as the latter related this gruesome story, the witness remarked that the accused was all right although there were times when he appeared out of his mind for he could not easily answer the questions.

Patrolman Noe Baita of the Davao City Police Department testified that during the investigation on October 1, 1968 the accused confessed that he killed his wife in the manner he related it to Crispin Orais and that all the answers to his questions given in the course of the examination were spontaneous and voluntary.[5]

Lt. Exequiel Untalan declared that while he was in charge of the commando unit at Agdao, Davao City on October 1, 1968, the accused accompanied by his father came to his office to confirm reports that the accused had strangled his wife; that this surrender was registered in the police blotter after which the accused was indorsed to the Homicide Section of the City Police Department.[6]

Lt. Rafael Panal of the Homicide Section who repaired to the scene of the crime found the cadaver of the victim in the bushes and they brought it to the Davao City morgue where it was examined and autopsied by Dr. Abear, Medical Officer of the Davao City Health Office. The investigation was conducted in his precinct by Noe Baita. He observed that although the investigator had to repeat some questions for the accused to understand, the latter was remorseful and he could talk coherently.[7]

Juan Abear, a medico-legal expert connected with the Davao City Health Department was presented as witness to confirm that he was the one who conducted the autopsy of the victim on October 2, 1968 and that the cause of death was asphyxia due to strangulation.[8]

Fiscal Josefino Fuentes, Asst. City Fiscal of Davao City testified that he was the one before whom the accused

swore to the truth of the latter's extra-judicial confession; that he himself translated to the accused all the contents of the confession from English to Visayan, and that the accused admitted to him that he (the accused) signed it voluntarily.[9]

The defense in its attempt to prove mental disorder on the part of the accused presented evidence consisting of the testimonies of the accused's father, his son and three neighbors.

Arturo Magallano, a son of the accused who attained 6th grade, testified that during the month of April, 1968 he observed that his father kept saying words that were not proper or correct; that his father even tried to commit suicide by almost tying his neck with a rope; that in Cabacan-Bucana, Davao after they transferred in 1968, his father worked for a living by going fishing three times a week and that the witness himself sold the fish at a price dictated by his father.[10]

Luisa Bacala, a 64 year old vegetable vendor and neighbor of the accused, declared that the latter used to accuse his wife of having a paramour; that one time she saw Exequiela, the wife of the accused, selling fish in the market when the accused arrived saying that the paramour was already around; that the accused used to run towards the pier and his family would follow him.[11]

Crispin Orais, under the same oath testified that one morning, he met the accused telling him that his (accused's) father was at Cabantian in the company of some policemen and he kept saying this statement many times although he had already been assured that his father was not seen around there.[12]

Diego Magallano, the father of the accused, testified thus: Sometime in 1968 in the first week of April, this witness received a telegram from the wife of the accused stating that the latter was sickly; he went to stay with his son in Maasin, Leyte for one month during which time he observed that the latter was somewhat insane for he kept on saying that his wife had a paramour although this statement had no basis. He had his son treated by a quack doctor. Upon hearing about the incident that his son killed his wife the witness went to Cabantian where he saw his son near the dead body of his wife. The accused said he killed her for she no longer loved him. The witness corroborated the declaration of Crispin Orais that the face of the accused was all covered with blood for the reason, according to the accused, that he bumped his head against a tree for he wanted to kill himself.[13]

Ricardo Dayala, a 64 year old vegetable vendor who claimed to be another neighbor of the accused at Davao City stated that he was acquainted with the accused for a long time; that he used to see the accused peeping from his house everytime the accused's wife went downstairs to get some pieces of wood for fuel and he observed that the accused was insane, because at one time when asked some questions, the accused would talk and laugh at the same time although sometimes the accused acted sanely.[14]

After a review and analysis of the evidence on record, this Court agrees with the State's contention that the defense has failed to prove that the accused was legally insane at the commission of the crime.

Indeed, the evidence presented by the defense does not outweigh the certifications submitted by government psychiatric doctors who had closely observed the accused for a month and a half,[15] and found that the accused was in good contact with his environment; that he did not manifest any odd behavior for in fact he could even relate the circumstances that led to his confinement.

Apart from these certifications, statements in court by witnesses for both the prosecution and the defense have pictured a mental condition on the part of the accused that is not inconsistent with sanity. The fact that a few days after the killing incident the accused was seen sweating with his face covered with blood, as testified to by his own father and Crispin Orais, for the reason according to accused himself that he struck his head against a tree to end his life in atonement for his guilt in killing his wife[16] is a manifestation of remorse or self-reproach which

is but a rational feeling experienced by normal persons. As correctly observed by the prosecution, it revealed an awareness of a wrongdoing.

Coupled with this manifestation or remorse is the appellant's voluntary surrender to the police headquarters where he executed a statement confessing his misdeed. The police officer and the City Fiscal who separately conducted investigations of the accused observed that he was normal for he could answer their questions coherently and intelligently and that there was no indication of abnormality on his part. The observation of these public officials is entitled to full credence, for they have not been shown nor alleged to have any improper or ulterior motive to misrepresent or not tell the truth about the mental condition and behavior of the accused.

Again from accused's own evidence is the testimony of his son, that before the killing for which he stands charged, he was working for a living through fishing three times a week and that he himself prescribed the prices for his catch which his son brought to the market for sale.[17]

While there is evidence tending to show that the accused in some instances had displayed some unusual behavior, at most these could only be eccentricities which do not mean complete deprivation of intelligence or discernment. The presumption of sanity is not overcome by mere abnormality of behavior.[18]

"In the eyes of the law," as held in the case of *People vs. Renegado*,^[19] "insanity exists when there is a complete deprivation of intelligence in committing the act, that is, the accused is deprived of reason, he acts without the least discernment because there is a complete absence of the power to discern, or that there is a total deprivation of freedom of the will; mere abnormality of the mental faculties will not exclude imputability. The onus probandi rests upon him who invokes insanity as an exempting circumstance and he must prove it by clear and positive evidence."

Over and above these is the trial judge's "keen observation of [the accused's] conduct, appearance, demeanor and behavior in the courtroom everytime he appeared at the trial. He did not find any symptom of insanity in his acts or behavior for he behaved better than some of his neighbors who were around him."^[20]

The defense attempted to adduce expert testimony to prove the alleged insanity. The expert however was properly excluded by the Court when he was made to answer by hypothetical questions in relation to allegations of fact which have not been proven but were in fact disputed by the prosecution. No contribution could be made by him since he did actually examine the accused and was being made to testify only on the contents of a book or modern psychiatry without particular reference to the actual and proven facts regarding the mental condition of the accused.

As to the formal offer of proof by the defense which according to counsel was denied by the trial Court, we find from the transcript^[21] that the trial Court did not in fact deny the verbal motion but made the suggestion that if defense counsel wanted to state anything else, he could incorporate it in a memorandum. At any rate, we find that the trial Court did make a thorough consideration of the evidence submitted by the defense.

As to the question raised by accused of the admissibility of the government doctors' medical reports as being hearsay since their contents were not testified to in court by the said doctors, suffice it to state that these formed part of the records, and that at the resting of the case, the defense failed to register any objection thereon when the prosecution specifically invited the court to take judicial notice of its records.

Authorities hold that whenever evidence of acts, conduct or declarations are introduced to prove the defendant insane, the prosecution may offer evidence of other acts, conduct and declarations during the same period to show that he was sane – more so, at the time of the commission of the crime charged and thereafter – and that the irrational acts testified to were mere lapses into which humans occasionally fall.

Premises considered, this Court finds the accused-appellant guilty beyond reasonable doubt of the crime of parricide.

Accordingly, this Court affirms in toto the appealed decision sentencing the accused Andres Magallano to suffer the penalty of reclusion perpetua as defined and provided for in Article 246 of the Revised Penal Code with the accessories of the law, to indemnify the heirs of the deceased in the sum of P12,000.00 and to pay the costs.

Makasiar, Fernandez, Guerrero, and Melencio-Herrera, JJ., concur.

[1] On March 8, April 10, May 13, 1969.

[2] The evidence of marriage, a certificate of marriage issued by the Parish priest of San Pedro, Davao City was furnished by the father of the accused, a witness for the defense.

[3] Exhibit C; tsn p. 39, Adao.

[4] t.s.n., pp. 2-10, Adao.

[5] t.s.n., pp. 2-24, Adao.

[6] t.s.n., pp. 25-28, Adao.

[7] t.s.n., pp. 29-35, Adao.

[8] t.s.n., pp. 35-39, Adao.

[9] t.s.n., pp. 40-46, Adao.

[10] t.sn., pp. 49-61, Adao.

[11] t.s.n., pp. 61-65, Adao.

[12] t.s.n., pp. 66-67, Adao.

[13] t.s.n., pp. 2-13, Barlaan.

[14] t.s.n., pp. 14-24, Barlaan.

[15] March 29 to May 15, 1969.

[16] t.s.n. pp. 405, Adao; pp. 3-5, Barlaan.

[17] t.s.n. p. 57, Adao.

[18] *People vs. Pantoja*, L-18793, October 11, 1968, 25 SCRA 468, 472, 474-475.

[19] L-27031, May 31, 1974, 57 SCRA 275, 286, citing cases, per Muñoz Palma, J. (retired); italics supplied.

[20] Decision of trial court; Rollo, page 60.

[21] t.s.n. p. 74, Adao.

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