

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. BUDA SINGH ET AL., DEFENDANTS. BUDA SINGH, APPELLANT.

G.R. No. L-21074. February 09, 1924

Ponente: OSTRAND, J.

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OSTRAND, J.:

Early in the morning of the 19th day of March, 1921, Santa Singh, an East Indian, was found dead on the sidewalk in front of his tienda in Cabanatuan, Nueva Ecija.

There were three knife wounds on the body, one of them necessarily mortal. Several articles of woman's wear were lying nearby and, at first, it was thought that the deceased had been killed by a woman, but investigations based upon that theory proved fruitless.

Some time in the month of May of the same year, the accused Buda Singh confessed to a friend of his, Ram Singh, that he had killed Santa Singh and related the details of the crime, implicating five other East Indians in its commission. On a subsequent occasion Ram Singh thought that Buda Singh looked at him with "malos ojos." Suspecting that Buda Singh regretted having made the confession and contemplated killing him, Ram Singh reported the matter to the authorities and the present action was instituted against Buda Singh and his five alleged companions.

On motion of the fiscal the case was dismissed against all of the defendants except Buda Singh. Upon trial, the court below found Buda Singh guilty of homicide and sentenced him to suffer seventeen years, four months and one day of reclusion temporal, with the accessory penalties provided for in article 59 of the Penal Code, to indemnify the heirs of the deceased in the sum of P1,000 and to pay one-sixth of the costs. From this sentence the defendant appeals.

The appellant presents eight assignments of error. The first four, as well as the eighth, relate only to questions of fact in regard to which we see no sufficient reason to disturb the findings of the trial judge who, in his decision, analyzes the evidence very carefully and whose conclusions appear to be well founded.

The appellant had strong reasons for committing the crime. It is not disputed that the deceased had secured his conviction of the crime of estafa and that in consequence thereof, he assaulted and wounded said deceased with a knife. This led to his conviction of lesiones, which naturally increased his resentment. In the light of these circumstances, there is nothing improbable in the testimony of the witnesses for the prosecution. It would be too much to expect that their statements should agree in every particular, but there is no reason to doubt that they substantially told the truth and, if so, there can be no question as to the appellant's guilt.

The fifth and sixth assignments of error relate to the failure of the trial court to rule out the testimony of Ram Singh in regard to the appellant's confession. It appears that after this testimony had been received without objection, counsel for the defendant moved that it be stricken from the record on the ground that it had not been

shown affirmatively by direct evidence that the confession had been made freely and voluntarily. The court took the motion under advisement and counsel asserts that it has never been ruled upon and that this has resulted to the defendant's prejudice, inasmuch as he has had no opportunity to rebut the evidence of the confession.

There is no merit in this contention. The evidence was clearly admissible. Act No. 619, upon which the argument of counsel is evidently based, has been repealed by the Administrative Code and evidence of a confession may now be received without direct affirmative evidence that the confession was freely and voluntarily made. (U. S. vs. Zara, 42 Phil., 308.) The fact that the court, in its decision, takes the confession into consideration must be regarded as a denial of the motion to strike it from the record and if the defendant desired to introduce further evidence in rebuttal, the matter should have been brought to the attention of that court through the appropriate motion. No such motion having been presented, this court will not now reopen the case for a new trial.

The seventh assignment of error merits no discussion.

The judgment appealed from is affirmed, with the costs of this instance against the appellant. So ordered.

Araullo, C. J., Johnson, Street, Malcolm, Avancena, Johns, and Romualdez, JJ., concur.

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