

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. RICARDO DE LOS REYES, DEFENDANT AND APPELLANT.

G.R. No. L-1516. December 02, 1948

Ponente: PERFECTO, J.

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PERFECTO, J.:

The witnesses for the prosecution testified in substance as follows:

- Dr. Angelo Singian, 34, married, physician, testified that on October 30, 1946, he performed an autopsy on the body of Narciso Lapus. The cause of his death was a gun shot wound through the head fracturing the occipital and cervical vertebrae and contusing the medulla oblongata and upper cervical spinal cord. (1). Exhibit A is the carbon copy of the report he made of the autopsy. Exhibits B, B-1 and B-2 are photographs of the deceased. The bullet went through the skull. (2). The direction of the bullet was upwards indicating that the assailant was on a lower level than the victim and that the assailant was behind the victim and at a lower level. The deceased was hit only once with a bullet. The wound was caused by a .45 caliber bullet. (3). Due to the absence of gun powder on the wound, the revolver must have been fired beyond three feet from the point of entrance. The bullet must have been fired beyond ten meters but within less than twenty meters. The slant of the direction is approximately sixty degrees. Less than forty-five degrees from the horizontal. The bullet deviated from the point of entrance to the left. (4).

Exhibit B, as admitted by the accused, is the certificate of registration issued to him to carry a firearm. Exhibit H is a true copy of his appointment as special agent of the Manila Police Department, and exhibit I is his identification card with authority to carry a firearm, automatic pistol, caliber .45, serial No. P52520.

- Vicente Bautista, 41, married, a detective in the Manila Police Department, testified that he investigated the accused who made statement exhibit J. (6). Exhibit C is a pistol that the witness had taken from the possession of the accused, the same described as Ithaca, caliber A?, serial No. 11+52520. He took it from the accused when the latter was placed under arrest on December 2, 1946. The accused was present during the reconstruction of the crime described in exhibit J. Exhibit B-k is the picture of the reconstruction, and it depicts the corner of F. de Leon and Bambang streets where the crime was committed. (7). Exhibit K is another picture of the reconstruction. The accused told him that when he started to follow the trio, Estrella Carpio, Lapus and the maid, he hid himself on the third stair of the Bambang market facing eastward. (8). The accused took part voluntarily in the reconstruction of the shooting. (10).

- Avelino D. Aquino, married, 27, patrolman, testified that he was the one who took the photograph exhibit B, the same as exhibit B-l. (11).

- Estrella Carpio, 30, widow, 1416 Felina Street, Sampaloc, testified that she lived for a long time with Narciso Lapus as husband and wife. (18). They were not legally married. He was shot on October 29, 1946, at Barabang extension, between 10 and 11 o'clock at night. Before that date they were living in Bambang. She lived with him up to October 29, 1946. Paula Perez is her townmate. She asked her if she knew a secret serviceman because she wanted her husband, Narciso Lapus, arrested, because he threatened to kill her, her mother, her relatives and her children, and he also told her that if ever he would be sentenced for life he would not leave her alive. The deceased was charged with treason in the People's Court. (20). Paula Perez gave her the name of Ricardo de los Reyes as special agent, and the witness had a conversation with him in the house of Paula Perez. She asked him if he could arrest somebody doing wrong, because Lapus intended to kill her and her relatives. (21). The accused answered that he could arrest him for being a Huk. The accused told her, "Why are you going to have him arrested? The best thing is to have him finished because if he is arrested he might kill you?" (22). The witness told him, "Arrest him but do not kill him." The witness met the accused twice prior to October 29, 1946. The first meeting was about the arrest. The second meeting took place after the death of Narciso Lapus. (23). On October 29, 1946, the witness, Narciso Lapus and her maid, Irene Legaspi, left the Avenue Theater at 10:30 at night. They passed along Rizal Avenue. "We passed behind the Bambang market and while we were there I saw Ricardo de los Reyes near the door of the barber shop. I could not ask him what he would do because I was afraid of my husband who is a jealous man. As we were turning near the drug store, I heard a shot. Before we reached the corner, my husband had his arms around my shoulder, but when we turned, the maid went ahead and then Mr. Lapus. (24). Before he was shot, her husband was one meter away from her. "I heard the shot. I looked back. I saw Ricardo de los Reyes who had his back towards us and he was running away. After I heard the shot, Narciso Lapus fell," and he died. (26). "I shouted and I cried and I did not know what to do. I went to him and I went away from him and came to him again. The secret servicemen arrived." When, she first saw the accused, he was at about four meters. He was carrying a revolver. (27). After the burial of Lapus, "Ricardo de los Reyes and I talked in the house of Paula after Paula called me." He asked her, "Do you know who killed him?" and she said no. I said, "there is nobody who killed him but I." She asked him, "why did you kill him, when I merely told you to arrest him, why did you kill him?" He answered it is better that way because "now you are free." "I just kept quiet and it just occurred to me that he might be in love with me. He was toying with his revolver then, as though at that moment he wanted to abuse me. (32). What he wanted to happen happen because I was afraid of him. As he kept toying with the revolver he abused me. He embraced me and abused me. He embraced me and kissed me until I was forced to lie down and he said, 'It cannot be or I am going to kill you,' and it happened, and we had sexual intercourse. Then after that he asked me if I had any other whom I wanted to kill and I told him, 'I did not tell you to kill Mr. Lapus. I only told you to arrest him.' He went away and then Paula Perez arrived." (33). When the accused asked her who killed her husband, she answered that she did not know because "I did not want to tell him that it was he who killed my husband." I was certain that he was the one running but I wanted to get his words that it was he who killed him. I did not have the courage to tell them [police] that it was he who killed Narciso Lapus because he might kill me also, but after he was confined in jail, I told the police (34). When she was investigated, she did not tell the policemen that it was the accused who killed her husband "because he was still at large then." Although she was afraid of the accused, she went to the house of Paula alone, "I acceded to his request because I was afraid that if I did not, there might be the probability that he might kill me. I wanted to befriend him as long as he was out. I wanted his arrest but I was thinking of the way by which he would be arrested without his knowing that it was I who made his arrest. He had been telling the people in the neighborhood that he was going to kill whoever reported the matter to the police." Lapus was married with Concha but they divorced in the United States. (35-36). The wife of Narciso Lapus knew that she was living with him. On October 29, 1946, the witness has been living with the deceased about three months after his release as detention prisoner. He was indicted for treason and was released on bail. (37). They were living at Felix de Leon Street (1112). The accused was living in

the same street, with three or four houses between his and the witness¹. (38). She met the accused for the first time a little less than a month before the killing. The witness was married to Hilarion Paz of Pililia, Rizal, before the war. She was married to him on November 3, 1932. (39). She could not denounce her husband to the policemen, because of jealousy. Lapuz used to lock her up in the house. He was jealous even with girls. She never went to church, to the market or even to shop. (40). She could leave the house with him always. She left the house only once when she talked with the accused for a short time. She was left with her mother and sisters. She would not dare leave the house because she was afraid of him. (41). Her agreement with the accused was that he was to arrest only Lapuz. There was no agreement as to the date. (M-3). After the killing, the witness was detained for three days during which she was investigated and she said that she did not know who shot her husband. (44). She did not tell them who the killer was until the accused was confined. She was afraid of him. "As a matter of fact he threatened to kill me." (46). When the accused was already arrested, the witness saw him once. "He approached me and whispered to me whether I was the one who pointed to him, and I said no, because he was going to kill me. (47). She saw the accused in the house of Paula Perez three weeks after the death of Lapuz. She had a child with Lapuz who died before the Americans came. (48). Before she met the accused in the house of Paula Perez, detective Vera Cruz told her, about two weeks after the death of Lapuz, that somebody reported to him that it was Ricardo de los Reyes who killed her husband, and she told him, "Alright, you arrest him and then I will tell you everything."¹¹ (50). The accused was arrested two weeks after that interview with Vera Cruz. (51). After the shooting, the witness saw the accused running, as the place was bright enough. There was light from the corner and from a house (53). When she saw the accused before the shooting, he was in a barber shop, at about ten meters from the place of the shooting. (55).

- Amadeo M. Cabe, 42, married, Chief of the Criminal Investigation Laboratory, and ballistic expert, Philippine Army, testified that he made an investigation in connection with a .45 caliber pistol serial No. 1452520, exhibit C, .45 caliber magazine exhibit C-1 and an empty shell exhibit C-2. (57-58). Exhibit C-2 was discharged from the chamber of exhibit C. "I fired three tests from exhibit C, which are contained in an envelop, exhibit D, and these tests were brought for comparison under the comparison microscope with exhibit C-2 and under the microscope I observed that the microscopic markings or lines imparted by the breech block of exhibit C and the markings imparted by the firing pin destructor, extractor and ejector of exhibit C were found to check with those appearing on exhibit D." He prepared a micograph of the tests and also of the shell exhibit C-2 and it is marked as exhibit E. (59).

- Paula Perez, 42, married, market vendor, testified that on October 29, 1946, she was living at 1123 Felix de Leon Street, about 15 meters from the house of Estrella Carpio. (69). Once she met Estrella Carpio in the latter's house, and Estrella told her that her husband was a Huk and she asked her if she knew of a secret serviceman. The witness mentioned the accused, and Estrella asked that the man be introduced to her. (70). Estrella wanted her husband arrested because he had been threatening her. The accused met Estrella. They met for the second time before October 29, 1946. The witness did not know the object of their conversation as she left when they started talking because her child was crying. (71). After that second meeting, they met again, but the witness went again to her crying child when they started to talk. She does not remember if Estrella and the accused met again after October 29. After the death of Lapuz, Estrella and the accused met again in her house at the latter's instance. (71-72). She cannot say what happened then because she used to leave them when they started talking. (73). They

talked for one hour, more or less. She brought her crying child to the street. (74). When Estrella was leaving, she noticed that her face was flushed and her hair was dishevelled. (75). Estrella looked sad. The accused left at the same time as Estrella. (76). The accused met Estrella in her house three times before the shooting. (84). The witness heard when Estrella asked the accused to arrest her husband. The mother of Estrella, Inda Angui, also said that Lapus was threatening them before he could be rearrested and confined. (84). The witness did not remember when the shooting took place. (88).

- Ildefonso Labao, 27, married, detective, Manila, testified that they found in the scene of the shooting an empty shell, exhibit C-2. (92,93,94).

The witnesses for the defense testified in substance as follows:

- Alfonso Redoña, 27, single, confined in Muntinlupa, testified that he came to know Narciso Lapus in 1943 in Fort Santiago, when he was arrested with Pecto Redoña and Pedro Graten and taken to Fort Santiago. Upon arriving there, he saw Narciso Lapus and other Filipinos such as General Ricarte. Narciso Lapus is dead. "I killed him, because he had done something against me. When we were in Fort Santiago, he released my cousin. I was under the impression that he was responsible for his release. Five days afterwards, when my six companions and I escaped, I went directly to my house and found my cousin not there. I suspected it was Lapus who was responsible for the killing of my cousin. My cousin was a member of the guerrillas." (12). He was arrested in Pasay in June or August, 1943. He was taken to Fort Santiago and was investigated by Narciso Lapuz. He was maltreated. He escaped after fifteen days confinement in Fort Santiago. "We sawed the iron bars." (13). After he escaped, he looked for Narciso Lapus to kill him. In his first escape, he did not find him. After his second escape, he found him on October 29, 1946, at the corner of Bambang and Felix de Leon Streets at 11 o'clock at night. He was with two women. I followed him, then upon finding him in a place where it was half dark, I killed him by hitting him on the nape of his neck. I did not stop him. I merely approached him, pulled the trigger and hit the nape of his neck. I was very close, so much so, that the gun was very close to his neck. About three to four inches. Then I ran away. I looked back at him and saw that he was face downwards." He did not know Ricardo de los Reyes. The accused told him that he did not kill Narciso Lapus but he admitted killing him because he was maltreated. "I told him he could send for me so that I might testify in his favor so that he may not be responsible for something he has not committed." The witness knows that murder is punishable by death. "Death does not mean anything to me so long as I can save an innocent man from suffering in jail." After killing Lapus, the witness went to Lucena. He came back to Manila in January and he was rearrested. In October, 1945) he was rearrested and taken back to Muntinlupa. Then he escaped again. "We grabbed the Thompson guns from the guards. During that escape, the guards came along with us up to Angustia Street. Upon reaching there, we told them to go back." He saw Lapus who "came from the Apolo Theater and was going on Calle Palomar. As he was walking along the street, I noticed he was near me, but I wanted to be sure, I got my gun from my pocket kept inside my coat and shot him when we arrived at a certain place." (15). "I knew one of the girls, the other one I do not know." The witness knew her by face but not by name. "I saw her once in Pasay, round face, Chinese eyes, she looked like a mestiza." When he shot Lapus, the two women ran away. They were walking ahead of him. The first time he saw Lapus was in Fort Santiago, the second time was in Muntinlupa. He was with Lapus in Muntinlupa around two months. He could not approach because he was always with MP's. (16). He revealed his killing of Lapus to the accused and to nobody else. He did not reveal the killing when he was arrested, because at that time he did not know that somebody was being charged for killing Lapus. (17). When he shot Lapus, he was

standing. (100). "Two revolvers were taken from my possession. One of them is the one he used and one is a German Luger." They were taken from him when he was arrested on January 2, 1947. When he fired, the barrel was aimed upwards. (101).

- Ricardo de los Reyes, 34, married, property inspector of the Manila City Hall, testified that he was once a special agent in the office of the Chief of Police. At the time of his arrest, he was a special agent of a private detective bureau whose name he does not remember anymore. At the same time he was a property inspector. (103). As agent of the private detective bureau, he was given a .45 caliber revolver. (104). He has been first lieutenant in the Ramsey Guerrilla. He served in the Philippine Army as staff sergeant. (105). He did not kill Narciso Lapus. He does not know anything about his killing in the evening of October 29, 1946. The only time he saw Lapus was when he was killed. Then, the witness was with the members of the homicide squad. (107). Between 10 and 11 at night, the accused went to a store near the corner of Magdalena and Mayhaligui Streets. Minutes later, there was confusion. The crowd was moving towards the place. The police took "my companions to the police station and investigated them." One of those taken was "my nephew." After eating, the accused went to the Meisic Police Station to find out what happened and there he learned that something happened at the corner of Felix de Leon and Bambang Streets. The members of the homicide squad took a weapons carrier and went to the place "and I went with them to find out what happened in our place." (108). There, the accused took a look at the deceased. The accused was arrested on December 1 or 2. (109). "I do not know anything about this" [Exhibit J] "I signed this document because of the maltreatment I received. I could not tell who were the persons who maltreated me because after they tied me, they let me lie on a table." (110). His eyes were covered by a man without two or three teeth, and the same man tied his hands. He felt fist blows and he asked why such things were done to him. "I saw a typewriter and some pieces of paper before my eyes were covered and I was beside a typewriter and I was asked if I could sign that typewritten paper. Because they were keeping on maltreating me, I could not sign anything." (111). Then he was taken to Muntinlupa. Because of chest pains, he asked a policeman if he could take him to a doctor or allow him to call a physician. He did not sign yet before he was taken to Muntinlupa. At 11 o'clock in the morning, when the accused was still not feeling well, he was taken in a jeep and was again maltreated. "Upon arriving in the office of the homicide squad, I decided that because I could no longer endure the bodily harm I decided to sign this document in which I was admitting my guilt because I knew that I could tell the truth to the authorities." (112). Pictures B-f, B-5, K and K-l were taken because the accused could not do anything and, thinking about his children, he thought of doing everything that the policemen wanted him to do. Exhibit C-l is not a magazine of his pistol, The bullets in the magazine are not his. His cartridges were red and on top "there was a sort of mark which I sawed." (113). One day, Paula Perez told the accused that her cousin wanted to talk to him. The accused went to the house of Paula Perez. Not long afterwards, Estrella Carpio, the wife of Narciso Lapus, arrived. "She herself approached me where I was seated. She told me to help her. To arrest her husband. I told her that I could not make any arrest because I was not authorized." (114). It is not true that he said to her that it was better for her husband to be liquidated. The place where the accused was eating, Calle Magdalena, at the time Lapus was killed, was about 400 yards from the place of the killing. It would take fifteen minutes to walk from one place to another. "There is nothing I can say about" her testimony that the accused sent for her after the killing and admitted that he killed Lapus. (115). The accused saw the girl only once. It is not true that he had sexual intercourse with her. The accused and Paula Perez have been neighbors for about seven months. He had no troubles with her. (116). One day, when the accused met Paula Perez in court, she told him that she was taught by the secret servicemen and the policemen to testify against the accused, if otherwise, they would confine her in jail "and I said that in that case 'it is better that I kill you because if I would be penalized I

would have been penalized for something which is true."1 In the night of October 29, 1946, the accused was carrying his pistol, exhibit C, "I had that pistol with me all the time." (117)The accused knew many bad elements in the city. As/his appointment as special agent, "it was Don Pablo Angeles David who prepared my appointment and sent it to Manila." (113). Before the taking of exhibit J, the accused had no trouble with any detective. (120). Baldomero Tiamsic is the detective who blindfolded and tied him. The accused cannot say why Estrella should harbor any ill-feeling against him when she asked him to help her "and I said I would help her." (121). At the time of the reconstruction of the crime, nobody was maltreating the accused. (122).

Baldomero C. Tiamsic, 40, married, detective, 14-2 Lardizabal Street, Manila, testifying as rebuttal witness for the prosecution, said that it is not true that he blindfolded the accused. Nothing was done to him. "As a matter of fact, when we were taking his statement his mistress (wife) was right there." The accused has not been maltreated. It is not true that his hands were tied. (124). When the accused signed exhibit J, he was not under intimidation or dureas. (125).

Angelo Singian, 34, physician, 125 Guipit Street, Manila, testified that having performed the autopsy of Narciso Lapus, he did not find any powder burns or powder around his wound. (126). When a bullet is fired at a close range at a person, it leaves marks of powder burns on the periphery of the wound. (127).

A careful study of the evidence on record convinces us that Estrella Carpio gave the true version as to how Narciso Lapus was killed on October 29, 1946, and it was appellant who fired the fatal shot. She has been corroborated by Paula Perez on the interview she had with the accused before and after the killing, in which the accused himself told Estrella that he was the one who killed Narciso Lapus, and was even offering to her his services to kill any other one she might have wanted killed. His earnestness in liquidating the deceased, although Estrella asked only for the latter's arrest, and in offering her further services, was motivated by his desire of satisfying his lust on her, and as shown by the fact that in the last interview, he had sexual intercourse with, her, although Estrella acceded to it only through fear as, at the time, the accused was toying with his firearms. Immediately after the interview, Paula Perez saw her face flushed with dishevelled hair. The accused himself corroborated Estrella Carpio in some way when he testified that, before the killing, he had an interview with Estrella who asked him to arrest Narciso Lapus, and in exhibit J the accused admitted his having killed Narciso Lapus.

No base motive has been shown why the witness for the prosecution should falsely impute to the accused the commission of so heinous a crime. The allegation of the accused that Paula Perez told him that the detectives induced her to testify against the appellant on the penalty of being confined is too farfetched to merit a serious consideration. The accused himself testified that before his arrest and his signing of exhibit J, there was no ill-feeling between him and the detectives, with whom he was in good terms. Appellant's allegations that he i/as maltreated before his signing exhibit J has been belied by detective Baldomero C. Tiamsic.

The testimony of Alfonso Redoña, the savior who volunteered hi? testimony to rescue the accused by owning responsibility for the killing of Narciso Lapus, offers us a story which by its inherent inverisimilitude, cannot be believed. His pose of heroism, his volunteering as a knightly champion to save an innocent, his sublime indifference towards the death penalty that, as adverted to by the trial court, might have been imposed upon him for assuming responsibility for the murder, exhibit such an unusual grandeur of human soul highly unbelievable in a prison inmate who, as in Redoña's case, must be guilty of a serious offense, as he has been undergoing imprisonment since several years before he testified in court. He tried unsuccessfully to show his motives for killing Narciso Lapus and his story about his escapes from imprisonment, his efforts to locate Lapus, and the manner he killed him, seems rather to belong more to the realm of fiction than to a narration of the truth.

The trial court, finding appellant guilty of murder for the killing of Narciso Lopus, without any aggravating or mitigating circumstance, sentenced him to reclusion perpetua, to indemnify the heirs of the deceased in the sum of P2,000.00 and to pay the costs. The sentence being in accordance with the facts and the law, is affirmed.

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

Judgment affirmed.

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