

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
DEMETRIO CAIMBRE, ET AL., DEFENDANTS. EDILBERTO
JUSTIMBASTE, DEFENDANT AND APPELLANT.**

G.R. No. L-12087. December 29, 1960

Ponente: DIZON, J.

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DIZON, J.:

Edilberto Justimbaste, Demetrio Caimbre and Vicente Caimbre were charged with murder in the Court of First Instance of Leyte. Upon arraignment, Demetrio Caimbre pleaded guilty to the lesser offense of homicide and was sentenced accordingly. After trial upon a plea of not guilty, Edilberto Justimbaste and Vicente Caimbre were convicted, as co-principals by inducement, of the crime of murder, and each sentenced to life imprisonment, to indemnify, jointly and severally, the heirs of the deceased Angel Olimpo in the amount of P6,000.00, without subsidiary imprisonment in case of insolvency, and to pay proportionately the costs.

From said decision, only Edilberto Justimbaste interposed the present appeal.

The prosecution evidence shows that at about 10:00 o'clock in the evening of May 4, 1956, Angel Olimpo and Fausto Broa arrived at the house of Esteban Caimbre at Sitio Cabaluran, Dagami, Leyte, and sat themselves on a mortar. Shortly thereafter, Demetrio Caimbre arrived, sat on the same mortar and then, without any provocation, slashed Angel Olimpo with a bolo. Olimpo ran to a nearby palay seed bed pursued by Demetrio up to the border of the ricefield where he was overtaken by his pursuer who slashed him) again several times with his bolo and then left him in the ricefield. During the pursuit appellant told Demetrio: "You had better killed him". Upon the suggestion of Fausto Broa, the victim was removed from the ricefield and taken to higher ground. When Vicente Caimbre noticed that he was still alive, he told his brother, Demetrio: "Finish him, finish him". Whereupon, Demetrio cut Olimpo's neck, saying: "He would be lucky if he could still survive".

Upon the above facts—and considering that in a criminal case all doubts should be resolved in favor of the accused—we are of the opinion that the appealed decision should be reversed and appellant Justimbaste acquitted.

In the first place, the determining causes of the crime appear to have been Demetrio's own determination to kill and his brother's inducement and not that which allegedly came from appellant when he uttered the words: "You had better killed him". It is true that thereafter Demetrio overtook his victim and started attacking him anew with his bolo, but he afterwards left him prostrate in the ricefield from which place he was later taken to higher ground. It was then that, noticing that the victim was still alive, Demetrio's brother urged him to finish him up, and, obeying the suggestion, Demetrio severed the head of his victim from the trunk. In this connection it does not affirmatively appear that the wounds already inflicted upon Angel Olimpo before his head was cut off were necessarily mortal.

In the second place, in determining whether the acts or utterances of an accused are sufficient to make him guilty as co-principal by inducement, it must be shown that the inducement was of such a nature and made in such a way as to become the determining cause of the crime, and that such inducement was offered precisely with the

intention of producing the result. In other words, it must appear that the inducement was made directly with the intention of procuring the commission of the crime and that such inducement was the determining cause thereof. In the present case, there is nothing to show that appellant had any reason at all to have Angel Olimpo killed. On the other hand, even before he allegedly uttered the words attributed to him, Demetrio Caimbre had already boloed his victim several times and when the latter ran away he pursued him until he overtook him in a nearby palay seed bed where he slashed him again several times with his bolo. Obviously he needed no exhortation from appellant to persuade him to kill his victim. To this we must add the circumstance that there is no evidence to show that appellant had sufficient moral influence over Demetrio Caimbre as to make the latter obey him blindly.

Wherefore, the appealed decision is hereby reversed and appellant Edilberto Justimbaste is acquitted, with his proportionate share of the costs de oficio.

Paras, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Gutierrez David, and Paredes, JJ., concur.

Judgment reversed.

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