

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. EMETERIO SASOTA ET AL., DEFENDANTS; EMETERIO SASOTA AND ALEJO SANCHEZ, DEFENDANTS AND APPELLANTS.*G.R. No. L-3544. April 18, 1952*

Ponente: MONTEMAYOR, J.

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In the Court of First Instance of Camarines Sur, the two Sanchez brothers Pablo and Alejo, their nephew Juan Sanchez and one Emeterio Sasota were accused of murder for killing one Sabino Bucad. After trial, Emeterio Sasota and Alejo Sanchez were found guilty of the crime of murder and were sentenced each to reclusion perpetua, to jointly and severally indemnify the heirs of the deceased Sabino Bucad in the sum of P2,000, and to pay the proportional costs of the proceedings. Their co-defendants Pablo Sanchez and Juan Sanchez died during the pendency of the case in the lower court and on motion of the Fiscal, the case was dismissed as against them. Alejo and Emeterio are now appealing from that decision.

It is not disputed that Sabino Bucad was taken from his house by four armed men, and thereafter he was never again seen or heard from. The witnesses for the prosecution point to the two appellants and their two companions (Pablo and Juan Sanchez) as the four individuals who not only took Sabino Bucad from his house to the Bato lake, ill-treating him all the way, but upon reaching there, took him with them for a boat ride on the lake, and while sailing, continued to ill-treat him until he died, and presumably thereafter secretly disposing of his body. The two appellants disclaim any knowledge of, much less connection with the disappearance of Sabino, and insist that on the night of October 17, 1943, they were nowhere near his house. After hearing the testimony of the witnesses, both for the prosecution and the defense, and observing their demeanor while on the witness stand, the trial court gave credence to the testimony of the Government witnesses and disbelieved that of the defense. We have gone over the record of the case and we see nothing in it to disapprove of this attitude and disturb this finding of the trial court as regards the credibility of the witnesses. Furthermore, we believe the story told by the witnesses for the prosecution to be more natural and probable and therefore, more worthy of belief. Moreover, we see no reason why these Government witnesses should deliberately and falsely pin the killing on the two appellants and their two co-defendants and accuse them of this serious crime of murder with its corresponding heavy penalty.

The evidence in the record shows that at about ten o'clock in the evening of October 17, 1943, Sabino Bucad who was living with his common law wife Maria Evalla and his 18-year old son Arsenio Bucad in the barrio of Masoli, Bato, Camarines Sur, was awakened by calls from outside his house. Lighting an oil lamp, he took it to the window to see who was calling. Arsenio who was also awakened followed his father to the window and peeping, saw and recognized the two appellants herein with their two co-accused, Pablo and Juan, armed with bolos. Sabino inquired from his nocturnal visitors why they came, and the group requested him to come down so that they could all go to the house of the councilor. Reluctantly, Sabino complied with their request. According to Arsenio, as soon as his father had gone down, the four accused grabbed his hands and tied them and then took him

away. Not long thereafter Arsenio heard the sound of beating and the groans of his father. Because he was scared he did not dare leave the house to follow his father. Three days afterward Pablo Villez came and told him that his father had been taken to the lake by the four accused, placed in a banca, and while sailing toward the opposite shore, was maltreated and killed by them.

While on their way to the lake the four accused and their victim Sabino Bucad were seen by a member of the ronda, organization of barrio Agos, who possibly, because of the extraordinary spectacle of a man with his hands tied being led by four armed men and late at night, hastened to inform the barrio lieutenant named Eladio Barbacena who forthwith came and inquired from the four men what they intended to do with Sabino. The group was apparently, in no mood to answer questions or give explanations and Juan Sanchez even told him to stop asking questions otherwise he would be next.

Possibly, his curiosity and sense of responsibility as a barrio lieutenant prompted Barbacena to follow the group secretly, hiding behind tall grasses until they came to the lake where he saw the accused place Sabino in a banca, and take him away in the direction of the opposite shore. He heard Sabino groaning as if in pain and asking for forgiveness, Barbacena also saw a man in a banca follow the boat occupied by the group and their victim.

Pablo Villez that same evening happened to be in the house of his father-in-law preparing to pound palay on the occasion of the wedding of his sister-in-law. The four accused and Sabino with hands tied passed by the yard and Pablo recognized the accused because they were fellow members of the guerrilla organization. He secretly followed the group and upon reaching the lake he saw the four defendants place Sabino in a boat with them and sail in the direction of the opposite shore. Villez took another banca and followed them at a safe distance and he saw the four accused take turns in beating Sabino who pleaded that he be forgiven because he had not committed any fault, to which appellant Sasota answered, "what forgiveness." Villez says that as a result of the beating Sabino died. Villez is the same person who as already stated, three days later informed Arsenio Bucad that he had seen his father being taken in a boat to the opposite shore of the lake, in the meantime being maltreated until he died. Villez must have been the man who Barbacena had seen take a banca, and follow the defendants as they sailed away with Sabino.

Another witness Roman Arbo, after fishing in the lake that same evening was on his way home when he heard a noise at the bend of the road and he immediately took cover behind tall grasses. From his hiding place he saw appellant Sasota pulling Sabino whose hands were then tied, followed by Juan, Pablo and appellant Alejo. He saw Juan Sanchez beating the victim and he also heard Sabino asking for forgiveness. The following morning Arbo went to the house of Pablo Sanchez and asked the latter's wife where her husband was because he had seen him the night before taking Sabino away. When Pablo returned home and was informed by his wife of the visit of Arbo he got angry and that same afternoon, his wife went to Arbo's house telling him that her husband was mad at him for gossiping and spreading the news. Fearing that Pablo may do him harm because of his meddling, Arbo changed his residence and went to live on the other side of the City of Legaspi where he stayed until Liberation.

For the purpose of determining the criminal responsibility of the appellants, it is unnecessary to ascertain and find the specific criminal acts of each. It is clear that they and their co-accused confederated and helped each other and acted in concert from the time that they lured Sabino from his home to come down and tied his hands until they reached the lake where they placed him in a banca and then took turns in maltreating their victim until he died. In other words, there was a conspiracy between all of them and consequently, appellants are responsible for the acts of each and every one.

The appellants interpose the defense of alibi, insisting that they could not have committed the crime because on the day in question, particularly that time of the night, they were elsewhere. The trial court has analyzed the

evidence in this regard and in our opinion correctly rejected this theory of alibi and we find no profit in further discussing it. Suffice it to say that aside from the inherent weakness of this kind of defense, the appellants were clearly identified by no less than four witnesses as the persons who took away Sabino from his home and liquidated him. The important point raised by counsel for the appellants is that of corpus delicti. He claims that inasmuch as there is no conclusive evidence of the death of the deceased, because his body was never found, neither was the place where he was supposed to have been buried indicated, the corpus delicti was not established. In a case of murder or homicide, it is not necessary to recover the body or to show where it can be found. There are cases like death at sea, where the finding or recovery of the body is impossible. It is enough that the death and the criminal agency causing it be proven. There are even cases where said death and the intervention of the criminal agency that caused it may be presumed or established by circumstantial evidence. Wharton in his book on Criminal Evidence, Vol. 2, Sec. 871, pp. 1505-1506, says:

"... the rule now established by the weight of authority is that the element of death in the corpus delicti may be established by circumstantial evidence. Hence, in case of the destruction of the body, or in case of its disappearance, as in murder upon the high seas, where the body is rarely, if ever, found, death may be proved circumstantially. To establish the corpus delicti by circumstantial evidence, facts are admissible, to show the impossibility of rescue, as at sea; to show the existence and extent of wounds, and deceased's condition of health; and to show that the wound was sufficient to cause death, and that the party was reported dead. Death is sufficiently shown by the testimony of a witness that he saw the flash and heard the report, and that the deceased fell to the ground, declaring he was shot, and that accused did the shooting."

Francisco in his book on Criminal Evidence, Vol. III, section 27, p. 1517, also has the following to say:

"A conviction for murder cannot be supported unless the body has been found or there is equivalent proof of death. The more modern rule is that the fact of death as well as the other branch of the corpus delicti may be established by circumstantial or presumptive evidence. Thus it is held that, where the body has been destroyed or is not recovered, it is competent to establish both elements by presumptive evidence . . ."

Moreover, it may be remembered that in several treason cases decided by this Court, where besides the act of treason the accused is held responsible for the death of persons he had arrested or tortured and later taken away, where the victims were never later seen or heard from, it has been presumed that they were killed or otherwise criminally disposed of or liquidated by the accused, this, for the purpose of fixing the penalty.

There is nothing in the record to show that the witnesses for the prosecution had any reason for falsely imputing this serious crime of murder to them. Of course, appellant Alejo Sanchez insinuates that Arsenio Bucad had a motive to testify against him because he (Alejo) was a witness against him in a criminal case in the Justice of the Peace Court for physical injuries where Arsenio was sentenced to *arresto menor* and to pay P60.00 damages. It turns out however that Alejo never testified in said case for the reason that Arsenio Bucad pleaded guilty to the charge.

As regards the motive behind the killing, there is evidence showing that defendant Pablo Sanchez was maintaining illicit relations with Sabino's common law wife, Maria Evalla, and that the former probably to have the woman all to himself, liquidated Sabino. Now, why did his co-defendants help him in carrying out his dastardly plan? The reason is not far to seek. Alejo Sanchez was his brother, and Juan Sanchez was a nephew. As to Emeterio Sasota, he was a friend.

In view of all the foregoing, and finding no reversible error in the decision appealed from, except the amount of indemnity of P2,000.00 which should be raised to P6,000.00, the same is hereby affirmed, with costs against the appellants. So ordered.

Paras, C. J., Feria, Pablo, Bengzon, Tuason, and Bautista Angelo, JJ., concur.

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