

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
KASILA SANGARAN, DEFENDANT AND APPELLANT.***G.R. No. L-21757. November 26, 1968*

Ponente: DIZON, J.

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Appeal from a decision of the Court of First Instance of Lanao del Norte finding Kasila Sangaran guilty of murder and sentencing him to reclusion perpetua, with all the accessories of the law, to indemnify the heirs of the deceased Gregorio Lumacao in the sum of P6,000, without subsidiary imprisonment in case of insolvency, and to pay the costs.

On June 8, 1959 a complaint for murder was filed in the Justice of the Peace Court of Bacolod, Province of Lanao, against Rascal Tagua and another person whose name was then unknown and was, therefore, charged under the name of John Doe, in connection with the killing of Gregorio Lumacao at about six o'clock in the evening of the same month and year at sitio Dimarao, Pagayawan, Bacolod, Lanao. The preliminary investigation having been waived, the case was remanded to the Court of First Instance of said province where an information against Tagua alone was filed under date of July 31, 1959 (Criminal Case No. 336). In the course of the trial appellant herein was apprehended, this giving rise to the filing of an amended complaint in the same Justice of the Peace Court (Criminal Case No. 83). As appellant also waived the preliminary investigation, the case was remanded to the Court of First Instance of the province where a separate information for murder was filed against him and was docketed as Criminal Case No. 487. Upon arraignment, he pleaded not guilty and subsequently he underwent separate trial.

In the meantime, after the trial of Criminal Case No. 336, Tagua was acquitted. After the trial in Criminal Case 487, on the other hand, Sangaran was found guilty and sentenced as mentioned heretofore.

The trial court found that at about 6 o'clock in the evening of June 1, 1959, in sitio Dimarao, Pagayawan, municipality of Bacolod, Lanao del Norte, Gregorio Lumacao and his sons Amperio and Victorio - hardly 14 and 15 years of age at that time - were in their house. The latter, however, went out to look for some pineapples and bananas which he had hidden somewhere near their house. At that place he saw two persons - Tagua and appellant - one sitting on a fallen tree and the other standing nearby with a carbine in his hands. As it seemed to Victorio that one of them had looked at him rather menacingly, he got scared and returned to his house to inform his father about their presence. Thereupon their father instructed Anacleto Patay, a tenant, and his other son to go and find out who the two suspicious persons were. This they did, but upon arrival at the spot where Victorio had seen them, they found the place already deserted. Shortly after their return to the house, they heard shots coming from the same place where Victorio had seen Tagua and his companion. To calm his children Gregorio told them that what they had heard were mere firecrackers.

Shortly thereafter, Gregorio and his children took their supper. Having finished eating, Gregorio stood up and went towards the window of the house to drink. While he was drinking a shot was fired and hit him on the head,

as a result of which he died.

After an investigation made by Sgt. Lumaque of the Philippine Constabulary, a complaint for murder was filed against Rascal Tagua and John Doe because the true name of his companion had not been ascertained at that time. On June 20, 1960, the true name of the latter having been ascertained after he was identified by Victorio Lumacao, the same P.C. sergeant filed an amended complaint against Tagua and herein appellant, which became the basis of the information filed by the Fiscal on July 25 of the same year.

The main evidence against appellant consists of the sworn statement of Tagua now in the record as Exhibit E and Exhibit E-1, the substance of whose contents was reiterated, by him on the witness stand, and the testimony on rebuttal of Victorio Lumacao. This evidence, according to appellant is insufficient to prove his guilt beyond reasonable doubt, while the defense evidence proves his innocence.

Laying aside the contents of the sworn statement of Tagua taken on June 6, 1959, that is, five days after Gregorio Lumacao was murdered, there is still, with the testimony of Victorio Lumacao, sufficient evidence to sustain conviction. His testimony on cross-examination as a rebuttal witness is the following:

"DIRECT EXAMINATION

FISCAL LAYA:

Q According to accused Kasila Sangaran, you and him are good friends. What can you say about that?

A That is not true. We are not friends.

Q And that you also see each other and that he even greets you?

A That is not true.

Q Do you know him?

A I only knew him now but before I did not know him.

Q When you said 'before', do you refer to the time before your father was killed?

A Yes sir, I do not know him before the death of my father.

THAT IS ALL WITH THE WITNESS.

"CROSS-EXAMINATION

ATTY. ESPANOL:

Q Do I understand from you that you only come to know him now?

A When he was apprehended and brought to the municipal building that was the time when I knew him.

Q How did you happen to be there?

A Because he was the one whom I saw who shot.

COURT:

Q Was he alone when you saw him shot your father?

A Two of them.

Q Who was the other one?

A Rascal Tagua.

Q Who was carrying the gun?

A Rascal Tagua.

Q And who fired at your father?

ATTY. ESPANOL:

He did not see your honor.

COURT:

Q Did you see who fired at your father?

A I saw.

Q Who was the person who fired at your father?

A Kasila. While they were still hiding on a coconut tree near the road, it was Rascal holding the carbine but it was Kasila who shot my father.

Q Where were you at the time?

A I was in my house.

Q How did you happen to witness the shooting of your father?

A I was at the window of our house because our kitchen has no walling.

Q What time of the day was it?

A About 6:30 in the afternoon.

Q Was it already dark?

A It was quite dark.

Q How far were you from the place where you were staying in the kitchen of your house to the place where you saw the accused?

A (Witness pointed to a distance of about 10 meters)

Q Could you clearly recognize?

A Yes.

Q Have you ever seen Kasila Sangaran before that day?

A The first time I saw them was under the coffee trees.

Q How many did you see under the coffee trees?

A Rascal Tagua and Kasila.

Q What were they doing?

A When I went to find out whether the pineapple that I hid was already ripe I saw Rascal Tagua and Kasila in front hiding under the coffee trees and when I first went near them they were fiercely looking at me so I run home to report to my father.

Q After that occasion, how many more occasions have you seen the face of Kasila Sangaran?

A That was the only occasion and when I returned to where they were hiding they were no longer there and a little after I heard a shot fired.

Q About that Rascal Tagua, have you seen him before that night of the incident?

A I saw them while they were hiding.

Q No, have you seen them before this occasion?

A I saw Rascal Tagua before. He used to go to our place bringing with him fighting cock.

Q And you already knew his name?

A Yes sir.

Q How about this accused, did you know his name when you saw him that night of June 1, 1959?

A No.

Q If you saw him, why did you not testify to the authorities that this Kasila was the very one who fired at your father?

A How could I tell, even the soldiers were looking for them.

Q Looking for whom?

A The assailant of my father.

Q Were they looking for a particular person or they were just looking for a particular suspect?

A There was a person.

Q Who was the very person they were looking for?

A The soldiers were looking for Rascal Tagua and Kasila Sangaran.

Q Did you reveal to the soldiers what you have seen that night?

A Yes, sir, I told them in the municipal building.

Q Did you tell the soldiers that you saw Kasila Sangaran to have fired his rifle against your father?

A Yes, sir.

Q How many days after the killing did you reveal that to the soldiers?

A The following day we reported the matter to the authorities in the municipal building.

Q Did you mention the name of Kasila Sangaran or you could not mention that name because you did not know him before?

A When they were arrested I identified the two accused as the ones who killed my father."

His Honor, the trial judge, who penned the decision appealed from and before whom Victorio Lumacao testified, says the following regarding his credibility -

"The Court has observed Victor Lumacao testifying in open court in behalf of the prosecution his demeanor and his quick expontaneous answer show that he was telling what was impressed in his mind as he saw the

events happening without any alteration. Besides, he was corroborated in many details by other witnesses and more particularly by Rascal Tagua himself."

A careful examination of the record discloses nothing that would justify the conclusion that His Honor, the trial judge, erred in giving full faith and credit to the above testimony.

On the other hand, appellant tried to prove that he was implicated by Tagua because of rivalry between them over a lady living in barrio Dimarao; that it was Tagua who killed Gregorio Lumacao with whom he had a quarrel because he had killed the latter's pig one week before the murder, for the reason that the animal had destroyed some of his plants.

We agree with the trial court that this version can not be accepted. It must be borne in mind that Tagua and appellant, according to the evidence, were together on the evening in question and he had painted to appellant as the one who fired the fatal shot when he was investigated a few days after the murder. To this We must add the circumstance that the alleged rivalry between appellant and Tagua was not satisfactorily established. Consequently, it can not be said that the trial court erred in not accepting the story given by him and his witnesses and in accepting the testimony of Victorio Lumacao which, in substance, tallies with the contents of Tagua's sworn statement mentioned heretofore. The further circumstance that Victorio Lumacao had no apparent reason to falsely testify against appellant shows that the trial court was right in accepting his testimony as true.

WHEREFORE, the appealed decision being in accordance with law and the evidence, the same is hereby affirmed, without costs, except as to the indemnity which is hereby increased to P12,000.00.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Sanchez, Castro, Fernando, and Capistrano, JJ., concur.

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