

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
DELFIN ABRERA AND ROMY UBANA, DEFENDANTS; DELFIN ABRERA,
DEFENDANT AND APPELLANT.**

G.R. No. L-20038. July 28, 1966

Ponente: REGALA, J.

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REGALA, J.:

This is a review of a decision of the Court of First Instance of Camarines Norte imposing the death penalty upon Delfín Abrera.

The appellant Delfín Abrera and one Romy Ubana were accused of murder in the Justice of the Peace Court of Labo, Camarines Norte. Both accused pleaded guilty upon arraignment in that court. The case was, however, ordered forwarded to the Court of First Instance of Camarines Norte where the corresponding information for murder was filed against them, to wit:

"That sometime on the night of November between the date of November 16 to 24, 1961, in the sitio of Abuyog; barrio of Macogon, municipality of Labo, province of Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by confederating together and helping one another did then and there, willfully, unlawfully and feloniously with malice aforethought and treachery attack Demetrio Copino, Jr., with a piece of wood and bolo hitting the latter on the head and wounded the said Demetrio Copino, Jr. on the neck and body producing wounds which are necessarily fatal, thereby causing the sudden death of said Demetrio Copino, Jr.

"Contrary to law."

Both accused were thus arraigned for the second time. Romy Ubana pleaded guilty to the crime charged, while Delfín Abrera this time entered a plea of not guilty.

Romy Ubana having pleaded guilty, and being a minor, sentenced to an indeterminate penalty of six years, month and eleven days to twelve years, five months and eleven days of imprisonment, to indemnify the heirs of the deceased in the sum of P3,000.00 and to pay one half of the costs.

Trial proceeded with the accused Delfin Abrera who was thereafter found guilty and sentenced to the, capital penalty of death, to indemnify the heirs of the deceased in the sum of P3,000.00 and to pay one half of the costs. This latter decision is now. the subject of the instant review.

As narrated in the decision of the lower court, the evidence for the prosecution tends to show that on January 18, 1982, the Chief of Police of Labo, Camarines Norte, received a report from Salvador Torrente, 2nd barrio lieutenant of Macogon, Labo, Camarines Norte, that one Demetrio Copino, Jr. had been missing since November 25, 1961, and that he found a grave in the forest when he made a short cut from his sugarcane plantation to another land under his care; that upon the request of Torrente, the, Chief of Police headed for the place the following morning to make an investigation and there found buried in the said grave an already decomposed body

of a person; that when Torrente expressed his suspicion that the body might be of Copino and that Abrera and Ubana might be responsible for Copino's death, the Chief of Police went to the house, where the two were living; that finding them there, the Chief of Police took them to the municipal building for investigation; that at first both denied any knowledge of Copino's whereabouts but later on they admitted they had killed him; that after the two accused had admitted the killing, the Chief brought Ubana to the grave but left Abrera in the municipal building; that at the grave Ubana related how and when he and Abrera killed Copino; that Abrera admitted to have used a piece of wood and a bolo in the killing; that he helped Ubana in burying the body of the deceased; and that the skull recovered or taken from the grave pointed to by Torrente is the very skull of their victim.

One of the witnesses for the, accused Abrera was Romy Ubana himself. His evidence tends to prove that Delfin Abrera had absolutely nothing to do with the killing; that after November 3, 1961, the said accused went to the barrio of Tulay-na-Lupa leaving Ubana and Copino in his house in the sitio of Abuyog, Macogon, Labo, Camarines Norte; that he went to the said barrio because his wife was then about to deliver; that upon his return to Abuyog on December 28, 1961, he found Romy Ubana alone and when he, looked for Copino, Ubana replied that Copino had left; that he only came to learn of Copino's death when in the municipal jail of Labo with Ubana the latter confessed to him that he already killed Copino; that in jail Ubana made a threat to kill him if he would not admit participation in the killing; that, as he was afraid of Ubana, he admitted to the authorities that he cooperated in the killing; that the truth was that it was Ubana alone who had a quarrel with the deceased; that it was he alone who killed him; that it was also Ubana who carried him to the grave; and that the said Ubana killed Copino because the latter had been trying to lord it over him.

On the other hand, from the separate statements (Exhibits E and F) given by the two accused on January 19, 1962, where they both confessed their guilt before the Chief of Police of Labo, the following appear: During the month of November, 1961 and for some time before that, the said accused and the deceased all lived together in the sitio of Abuyog, barrio of Macogon, Labo, Camarines Norte. Due to his unfriendly attitude and domineering character, Copino incurred the ire and displeasure of his housemates. When Ubana could no longer stand him, the former bared to Abrera his plan to kill Copino. One night in November, at about 8 o'clock, while Copino was sleeping on the floor of the house where the three were living, Ubana hit Copino's head four times with a piece of wood. Thereafter, Abrera also hit him with the same piece of wood. After the beating, both Ubana and Abrera helped each other in tying the feet and then in carrying the lifeless body of their victim to a grave which the two had dug the afternoon before the murder, and buried it there. It was from this grave that the police authorities made an excavation and found a skull and a human body in a state of decomposition.

In his testimony before the trial court where he surprisingly tried to save Abrera from conviction, Ubana explained that he had implicated Abrera before the police authorities as his companion in the commission of the crime because his mind was not yet clear during the investigation. This is difficult to believe for, as the record shows, several weeks or almost two months had already elapsed from the commission of the crime when the investigation was conducted upon the two accused, which means that there was enough time for them to attain clarity of mind and to deliberate upon the statement that they were going to give before the authorities.

Likewise, Abrera's statement that he confessed his guilt before the police only because he was afraid of Ubana who had threatened to kill him should he refuse to do so, is not worthy of credence. Appellant Abrera was 22 years old at that time, while Ubana was only 17. According to the trial judge who had the opportunity to see and observe, and even compare the two accused, the appellant is bigger than Ubana. Being older and superior in size, Abrera could have easily overwhelmed his co-accused if it is true that the latter had pursued any threat at all.

The appellant contends that his confession before the Chief of Police is not sufficient to convict him because it was not corroborated by proof of the corpus delicti. The rule that an extra judicial confession to be sufficient must

be corroborated by evidence of corpus delicti does not mean that all the elements of the crime must be clearly established by evidence independent of that confession. It only means that there should be some evidence tending to show the commission of the crime apart from the confession. (See *People vs. Bantayan*, 54 Phil. 834; 841.)

In the said confession, the appellant admitted having participated in the murder. While in jail at the municipal building at Labo, he even made a demonstration of it to the authorities—how he and his co-accused executed their plan to kill the deceased. More than this, Romy Ubana made a similar demonstration, right at the place where he and Abrera committed the crime. The fact that there was found a skull, which was identified by Copino's mother as the very skull of his son, and a decomposed body of a human being in the grave pointed to by Ubana as the place where he and Abrera buried the body of Copino, is sufficient proof of the corpus delicti.

"No one" says the Supreme Court, "can doubt the veracity of a statement that turns out to be in conformity with reality. If a person tells the police that he killed an individual with a revolver after robbing him of his watch and that he buried his victim at a certain place and delivered the watch to another person, and if the police finds the corpse in the place indicated by the killer and identifies it as that of the victim, and finds the revolver in the other place mentioned by the confessed killer and also recovers the watch from the person to whom the killer said he had delivered it, it would be impossible not to believe the statement of the killer even if he should subsequently deny it. What could not be believed is such denial." (*Italics supplied*) (85 Phil. 612; 632)

Finally, it should be remembered that Abrera made an admission of his participation in the crime not only before the police authorities but also before the Justice of the Peace Court of Labo, Camarines Norte, where he unhesitatingly pleaded guilty to the, crime charged when arraigned for the first time.

The conclusion is thus inevitable that the appellant took Part in the killing of Copino. Considering, however, that there is unanimity solely on the qualifying circumstance of treachery, this Court cannot gather enough votes for the imposition of the death penalty upon him.

Wherefore, the decision is hereby modified in that the accused-appellant will be made to suffer the penalty of *reclusión perpetua*. It is affirmed in all other respects.

Concepción, C. J., Reyes, J. B. L., Barrera, Dizoit, Makalintal, Bengzon, J. P., Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

Judgment modified as to penalty.

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