

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. AURELIA MABBORANG, ALIAS ELIENG, DEFENDANT AND APPELLANT.

G.R. No. L-16937. September 30, 1963

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This case is before us on appeal from the Court of First Instance of Cagayan, which found appellant guilty of double murder and frustrated murder and sentenced her to reclusion perpetua, with its accessory penalties; to indemnify the heirs of each of the deceased Honorata Badajos and Erlinda Baturi in the amount of P6,000.00; and to pay the costs. In the brief for appellee, the Solicitor General recommends a verdict of acquittal.

Mrs. Aniceta Caronan was the owner and manager of a sari-sari store and panciteria in the public market of Tuguegarao, Cagayan, and of a small rice mill across the street, a few meters from and on the same side as the house where she and her family were residing. In the market was another sari-sari store operated by Mrs. Caronan's niece, Honorata Badajos, capitalized with money lent to her by her aunt Mrs. Caronan had several helpers: appellant, whose work was to launder for the family and look after the children; Cristina de la Cruz, the family cook; Valeriana Baturi, a salesgirl and Honorata's sister-in-law; Mariano Baturi, Honorata's husband, the rice mill machinists; and Gregorio Baquiran, a helper at the mill.

The Baturis—Mariano, Honorata and their small daughter Erlinda— had their own house, but were allowed to use the kitchen in the residence of the Caronans. The testimony of Rosa Bacud, a niece of Honorata and a witness for the prosecution, is that on October 23, 1956, at about 11:00 o'clock in the morning, she was in that kitchen cooking rice and pinakbet, an Ilocano dish made up of an assortment of vegetables seasoned with "bagoong." With her at the time were Cristina de la Cruz and appellant. Rosa left the kitchen to get a can of "bagoong" from her employer's store across the street. Upon her return, she said, she saw appellant lift the cover of the pot in which the pinakbet was being cooked and put something inside. Appellant then replaced the cover and, together with Cristina, left the kitchen for one of the rooms of the house. When Rosa opened the pot to put in the "bagoong," she noticed some whitish substance, which she presumed to be salt, spread over the contents. As soon as the rice and the pinakbet were ready she took them to the store where she, Honorata and the latter's daughter Erlinda had their lunch. Immediately after the meal all three started vomiting violently. A little later Valeriana came and took them to the clinic of Dr. Remedios Reyes.

Erlinda Baturi died at about 5:00 o'clock that afternoon, followed by Honorata at about 9:00. Rosa Bacud survived. Post mortem examination revealed that Honorata was two months in the family way and that she and her daughter had died of arsenic poisoning, a finding confirmed by the chemical analysis later made of portions of their intestines.

Valeriana Baturi was also presented as a witness for the prosecution. Her job was that of salesgirl at the store of the Caronans. At eleven in the morning of the day of the incident, she said, she got her feet muddy and so went to

wash them in the bathroom adjoining the kitchen of the Caronan residence. It was then that she saw appellant put something inside the pot containing the vegetable concoction. On this point, however, her testimony is far from clear. In one instance she said that "coming out from the tienda," she had "to go directly to the bathroom through the kitchen." She had just washed her feet and was entering the kitchen from the bathroom when she saw appellant as above related. In the very next breath she said she was already in the dining room, where she met Rosa Bacud carrying a can of "bagoong," when she turned her face and saw appellant putting something inside the pot of pinakbet. And still later, she averred that she met Rosa Bacud in the sala of the house and that it was from there that, upon looking back, she saw appellant perform the act described.

The case for the prosecution depends upon the weight that must be given to the testimony of these two witnesses—Rosa Bacud and Valeriana Baturi—and whether, assuming that they spoke the truth, the evidence proves appellant's guilt beyond reasonable doubt.

Rosa Bacud's testimony is suspect. She thought the whitish substance appellant had placed with the pinakbet was salt. Yet she put in the "bagoong" anyway, without first testing the vegetables to find out if they were already salty enough. She did not even ask appellant what it was that she added, and why; or tell her employer, Mrs. Caronan, what appellant had done. Rosa Bacud was first investigated by Colonel Peñaflor of the Constabulary on the third day after the incident. The investigation was put down in writing. She did not say a word, however, about appellant's action. It was only in her subsequent affidavit, taken by Sergeant Jerez, that she mentioned the matter for the first time.

Valeriana Baturi's apparently incriminating story fares no better under closer scrutiny. As already noted, she said she saw only once appellant's act of lifting the lid of the pot, but in her testimony mentioned three different places from which she saw it. And Aniceta Caronan, her own employer and aunt of the deceased Honorata Badajos, categorically contradicted Valeriana on several matters, including the incident of Valeriana's getting mud in her feet. But what is of material importance is Aniceta's emphatic affirmation of the facts (1) that in her presence her husband, Arturo Caronan, asked Valeriana what had happened—when they all saw the poison victims vomiting—and Valeriana answered she did not know as she was in the tienda all the time; (2) that appellant, questioned on the same occasion, gave the same reply, saying that she never left the place where she was washing clothes the whole morning; (3) that Valeriana did not give the lie to appellant then, which she should have done if she had indeed seen the latter tamper with the pinakbet that was cooking; and (4) that there was no bathroom in the house adjoining and accessible from the kitchen. The only bathroom, according to Mrs. Caronan, was in the camarin where the rice-mill was located, and the only way to go there from the tienda was across the street without passing through the kitchen of the house, because there was a tall bamboo fence separating the house from the camarin. Conversely, Mrs. Caronan said, to go to the kitchen from the bathroom one had to go out to the street and then turn back to the house on the other side of the fence. This last fact—about the bathroom—was confirmed by Arturo Caronan. He further testified that after the incident Colonel Peñaflor called him and his three maids for investigations, and Valeriana Baturi denied knowing anything because she was tending the store all the time. It was the same answer she gave him when he questioned her before the poison victims were taken to the clinic of Dr. Reyes, as well to the two physicians themselves in the clinic upon arrival there.

Appellant denied the charge against her. She testified that she never left the bathroom near the rice-mill where she was washing clothes until she was called by her employer after the poisoning. The evidence shows no motive on her part to do away with the victims. To be sure, Rosa Bacud made this statement: "My aunt Honorata Badajos suspected that Aurelia Mabborang is the paramour of Mariano Baturi (Honorata's husband)." This, however, besides being hearsay and opinion evidence, was belied not only by appellant but also by the fact that Mariano Baturi married another woman shortly after he was widowed, while appellant married Gregorio Baquiran, the helper at the rice mill.

The conviction of appellant rests entirely on circumstantial evidence. The weakest link in the chain is at the same time the most vital, namely, the circumstance that the pinakbet was the agency which carried the poison. There is no satisfactory proof of this. What was left of the pinakbet (there must have been, if only a small portion) was not subjected to chemical analysis. It could have been the culprit, of course, but the mere probability that it was does not satisfy the test of moral certainty which applies in criminal cases. The arsenic could conceivably have been mixed with the rice, or with the "ampalaya" and other vegetables before they were gathered, administered in the form of insecticide and deposited in their skin folds and ridges. This last probability was conceded by the NBI chemist who testified as an expert in this case.

In the face of the evidence, we are convinced that the recommendation for acquittal made by the Solicitor General is justified.

The judgment appealed from is therefore reversed and appellant is acquitted, with costs de oficio.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, Dizon and Regala, JJ., concur.

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