

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.  
KAMLON HADJI, ET AL., DEFENDANTS. KAMLON HADJI, DEFENDANT  
AND APPELLANT.**

*G.R. No. L-12686. October 24, 1963*

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**PER CURIAM:**

Kamlon Hadji, together with a number of other defendants, was charged in the Court of First Instance of Sulu for different crimes in various cases, to wit; in Criminal Case No. 1162 for rebellion; in Criminal Case No. 1162-A to 1162-N and 1348 for multiple murder and multiple injuries; and in Criminal Case No. 1353, together with Ulloh Kaddam et al., for kidnapping with murder and attempted murder.

The parties stipulated to have these cases tried jointly whereafter the trial court rendered judgment the dispositive portion of which reads:

"Wherefore, in Crim. Case No. 1162, the Court hereby sentences the accused Kamlon, leader of the sedition, to an indeterminate imprisonment of four (4) years, two (2) months and one (1) day of prision correccional as minimum to six (6) years and eight (8) months of prision mayor as maximum; to pay a fine of P10,000.00 without subsidiary imprisonment in case of insolvency and to pay the proportionate costs.

"Each of the accused, Adjudi Asarani and Amsajen Jamah is hereby sentenced to an indeterminate imprisonment of three (3) years, six (6) months and twenty (20) days of prision correccional as minimum to five (5) years, four (4) months and twenty (20) days of prision correccional as maximum; to pay a fine of P5,000.00 each, and in case of insolvency, to suffer the corresponding subsidiary imprisonment which, however, shall not exceed one-third of the principal penalty; and to pay the proportionate costs.

"Each and everyone of the accused Jumla Abdulkarim, Abduljalim Adin, Ullih Urong Angkang Adjad, Angkang Illama, Sahidula Ajad, Ibbing Janah, Kakari Damboa, Akbara Abduhasman, Hatib Hala Amsajen, Hatib Jar on alias Baito Haron, Awah Kamsa; Waliul Adjudi; Jaujali Gadjali; Suhaili Jamli; Sinihag Salihan; Sarahan Ibba; is hereby sentenced to an indeterminate of two (2) years, four (4) months imprisonment and one (1) day of prision correccional as minimum to four (4) years nine (9) months and ten (10) days of prision correccional as maximum; to pay a fine of P3,000.00 and in case of insolvency to suffer the corresponding subsidiary imprisonment which, however, shall not exceed one-third of the principal penalty; and to pay the proportionate costs.

"Each and everyone of the accused Amsah Laih, Jundai Halisan, Taraman Adil, Kahiral Dastan, Boyongan Sabiban, Sakkam Hussin, Baybayan Asao, Abdurahman Sahol, Palicta Dugong and Kaligogan Ladjalawan is hereby acquitted of the charges against him with the proportionate, costs de oficio. Their immediate release from custody is hereby ordered.

"Crim. Cases No. 1162-A to 1162-N and 1348 are hereby ordered dismissed with costs de oficio. The release from custody of all the accused in these cases, except those who are charged or convicted in another case, is hereby ordered.

"In Crim. Case No. 1353, the Court hereby sentences the accused Kamlon to the death penalty for the

kidnapping of Jamalul Ailing and Hatib Ajibon complexed with the murder of Jamalul Ailing; to indemnify the heirs of the deceased in the sum of P3,000.00, without imprisonment in case of insolvency; and to pay the costs."

The instant appeal pertains solely to Criminal Case No. 1353 for which the accused, Kamlon, was found guilty and sentenced to the death penalty. A co-accused in this case, Ulluh, was still at large at the time the lower court rendered its judgment.

In connection with the conviction of Kamlon, however, it must be stated that the trial judge recommended the commutation of the penalty imposed to life imprisonment. The trial judge based his recommendation upon his finding that the defendant agreed to surrender principally because he was made to believe by the authorities "that he would be paroled." In the words of the decision of the lower court, "if the Constabulary officers concerned did not promise any condition to Kamlon for his surrender, said officers deliberately misled the negotiator Arolas Tulawie and Kamlon into believing that Kamlon's parole would be respected or be enforced after all outlaws had surrendered. In one word, the officers concerned dealt with Arolas Tulawie and Kamlon in double talk. They were not frank."

The trial court rendered the judgment of conviction upon the following factual findings:

One morning some two years prior to the trial of this case, the herein defendant, together with two other armed companions, Ulluh and Angkang, set out to look for two men whom they suspected were responsible for the disappearance of two of the followers of the defendant. The search ended when the defendant and his companions chanced upon their quarry, Hatib Ajibun and Jamalul in the vicinity of Buhangin Mahaba gathering vines. Thereupon, threatening to kill unless Ajibun and Ailing went with them, Kamlon and his companions seized the pair and brought them to Tigbas, Luuk District where, at that time, Kamlon was residing. At the market place of Tigbas, Kamlon made known to his captives the reason for their abduction, and, although Ajibun and Ailing disavowed any knowledge or responsibility for the disappearance of the two persons Kamlon was seeking to avenge, their protestations of innocence were disbelieved and altogether unheeded.

Hatib Ajibun and Jamalul Ailing were detained overnight. The following day, between 2 and 3 o'clock in the afternoon, they were brought to the market place and, in a store, they were made to sit on chairs, one beside the other. On being ordered by Kamlon, their hands were then tied to the roof by Ulluh. Thus seated and with their hands tied to the roof, Kamlon leveled his automatic carbine at Jamalul Ailing and fired, killing him instantly. Kamlon then ordered Ulluh to cut the neck of the dead man whereupon Ulluh, with a barong or native bolo, did as he was bidden.

Ulluh then brought the headless body and the severed head to his vinta by the shore and paddled out far into the sea. When he returned, he no longer had with him his gruesome load.

Meanwhile, Kamlon decided to spare Hatib Ajibun from the fate he imposed on Jamalul Ailing. Instead, Ajibun was conducted back to Kamlon's house where he was "tried" by Kamlon for his alleged participation in the disappearance of two of his followers. The "trial" must have caused Kamlon to doubt Ajibun's guilt because at its end, he was merely told to raise the sum of P105.00 as fine and thereafter he was set free.

The account of Ailing's murder as above established by the trial court was denied, disavowed and disputed by the defendant. He offered an entirely different version of the killing. According to Kamlon, the deceased was shot to death, not by him, but by some relatives of a woman who, on that occasion, Jamalul Ailing and Hatib Ajibun were attempting to abduct.

The defendant's version of the killing of Jamalul Ailing was sought to be established by two sisters, Bariha Imam

Habilul and Muhayla Imam Habilul, who testified that one day they went to take a bath at a watering place some 100 brazas from where they were living. While washing their clothes at the same place and gathering water in bamboo tubes, Bariha suddenly heard Muhayla shout: "Bariha, you better run away. I am being embraced and held by Ajibun and Jamalul." Muhayla made the outcry because Jamalul and Ajibun who emerged from the nearby bushes suddenly took hold of the hands of Muhayla and pulled her towards the eastern part of the place, a sitio called Buhangin Mahaba. Upon hearing the scream of Muhayla, Bariha ran away but was able to see Ajibun and Jamalul holding the hands of Muhayla.

Bariha ran and screamed for help. Among those who came to her succor were her uncle, Adu, and some other men-folk of the village, Biteng, Tanji and Uttung, who forthwith armed themselves with guns and went after Ajibun and Jamalul.

Meanwhile, at Buhangin Mahaba, Jamalul and Ajibun tried to force Muhayla into a vinta. Ajibun went inside the vinta and pulled the hands of Muhayla as Jamalul pushed her into the craft in an effort to place her on board. Muhayla, however, succeeded in frustrating their efforts by pushing the vinta, and while being engaged in this struggle, she heard her uncle Adu yell: "Muhayla, duck." Muhayla ducked by dropping herself on the sea, face downwards, and as her body hit the shallow water, she heard bursts of gunfire coming from the place where Adu had given out his order.

After the shots, Muhayla ran towards her uncle. The burst of fire hit Jamalul who fell on the water almost falling on Muhayla. Ajibun was fired upon, but he was able to paddle himself away out to the sea.

We cannot find any just or valid cause for rejecting the version accepted by the trial court. While the defendant had indeed insisted that the prosecution version was false and untrue, he has failed to demonstrate to this Tribunal exactly in what area of the proceeding or evidence such fallacy and untruth obtain. This case has resolved itself into a question of who among the witnesses at the trial were telling the truth. We can hardly hold ourselves in a better position to answer that than the trial judge who had his five physical senses to aid him reach the fair, correct and just conclusion. While We have merely the records to guide Us by, the trial judge saw the witnesses, heard them speak, watched them move. He was, therefore, in the far advantageous position of being able to discriminate more competently than Us the prevaricators among the witnesses from those who testified the truth. Consequently, as the evidence on record sufficiently attest to the findings of the lower court, We shall not disturb the same.

The defendants contend that the length of time which intervened between the actual commission of the crime charged and the filing of the same in the trial court—a period of 21 months—attests to the unreliability of the prosecution witnesses. We are told that if those who testified for the government did actually witness the defendant commit the murder, they would have forthwith reported the incident to the authorities and this case would have been filed sooner. It is vigorously impressed on Us that the delay betrays the truthfulness of the case for the prosecution.

We cannot sustain the view of the defendant on the last point raised. Although it is true that undue delay in the prosecution of criminal actions speaks of the suspicious veracity of the state's claim, the same observation cannot be made where the delay or inaction, long though it may be, was imposed on the government by causes over which it has no control. In the premises and as explained by the Solicitor General's Office, "the incident took place 15 days before the last military operations against Kamlon. People in the area affected were in the grip of fear and felt no other concern than for their personal safety. The witnesses could have preferred to remain in silence of what they knew against Kamlon in the hope, however, that with the military operations about to be set afoot, retributive justice would catch up with Kamlon and his henchmen that they might perish in the battle."

The more transcendental aspect of this appeal refers to the view of the defendant that, by the doctrine enunciated in the cases of *People vs. Hernandez, et al.*, 52 Off. Gaz., 5506 and *People vs. Geronimo* 53 Off. Gaz., No. 1, p. 68, "the trial court erred in convicting herein accused for kidnapping with murder in spite of the fact that said acts of violence were committed in furtherance of sedition and therefore absorbed in this latter crime."

There is neither law nor jurisprudence which can allow this Court to uphold the defendant's claim that acts of violence like murder and kidnapping are absorbed by sedition. The aforecited cases of *Hernandez* and *Geronimo*, *supra*, cannot properly be invoked as authority for that legal proposition since those two cases involved the crime of rebellion and not sedition.

Indeed, as the Court adheres to and is guided in great measure by the rule of *stare decisis*, We deem ourselves unfree at the moment to disregard our rulings in the cases of *People vs. Cabrera*, 43 Phil. 64 and *People vs. Umali*, 96 Phil., 185. In the *Cabrera* case, this Court held:

"It is merely stating the obvious to say that sedition is not the same offense as murder. Sedition is a crime against public order; murder is a crime against persons. Sedition is a crime directed against the existence of the State, the authority of the government, and the general public tranquility; murder is a crime directed against the lives of individuals. (*U. S. vs. Abad* (1902), 1 Phil. 437). Sedition in its more general sense is the raising of commotions or disturbances in the state; murder at common law is where a person of sound mind and discretion unlawfully kills any human being, in the peace of the sovereign, with malice aforethought, express or implied.

"The offenses charged in the two informations for sedition and murder are perfectly distinct in point of law however nearly they may be connected in point of fact. Not alone are the offenses *eo nomine* different, but the allegations in the body of the information are different. The gist of the information for sedition is the public and tumultuous uprising of the constabulary in order to attain by force and outside of legal methods the object of inflicting an act of hate and revenge upon the persons of the police force of the city of Manila by firing at them in several places in the city of Manila; the gist of the information in the murder case is that the Constabulary, conspiring together, illegally and criminally killed eight persons and gravely wounded three others. The crimes of murder and serious physical injuries were not necessarily included in the information for sedition; and the defendants could not have been convicted of these crimes under the first information." (*Italic supplied.*)

And, in the case of *People vs. Umali*, *supra*, after rejecting the government's theory that the crime committed was rebellion complexed with multiple murder, frustrated murder, arson and robbery, but rather sedition and the said common crimes, We proceeded to convict the defendants therein of the said crime of sedition and the common crimes of murder, frustrated murder etc. The dispositive portion of this last cited case read: "In conclusion, we find appellants guilty of sedition, multiple murder, arson, frustrated murder and physical injuries. \* \* \*"

Clearly then, the rule obtaining in this jurisdiction allows for the treatment of the common offenses of murder as distinct and independent acts separable from sedition.

In citing the cases of *Hernandez* and *Geronimo*, *supra*, it seems to Us that the herein defendant missed a very significant point. When We held in those two cases that murder and other acts of violence were absorbed by "rebellion," the common crimes alleged to have been committed in furtherance of the rebellion were specifically charged in the information and, for that reason, were consequently necessarily alleged to have been committed for political ends. In the prosecution at bar, however, as pointed out by the Solicitor General, "the information makes no allegation of political motivation, and the evidence is totally devoid of any such motivation, for on the contrary, the proof adduced shows that the killing had no political or social color, but purely motivated by personal vengeance."

There is yet one significant fact in this case which must be made of record before this Tribunal hands down its judgment on appeal. The defendant Kamlon, prior to his prosecution for the case at bar, had been convicted for rebellion with multiple murder and multiple physical injuries in Criminal Case No. 763 of the Court of First Instance of Sulu. Soon after his conviction, however, he was extended a conditional pardon by the late President Elpidio Quirino. There were four (4) conditions to the pardon, namely: (1) that Kamlon was to report monthly to the nearest constabulary or Justice of the Peace; (2) that Kamlon would assist the authorities in the surrender of firearms; and (3) that Kamlon would allow himself to be visited by any authority of the Government and allow him to question him freely; and (4) that he would cooperate with the Government in the surrender and apprehension of wanted persons in Luuk.

Instead of honoring the aforementioned conditions, however, Kamlon brazenly violated the same. He did not only fail to report regularly to the authorities as required; he even violently prevented legitimate government agents from visiting and questioning him. It was these lawlessness and defiance which ultimately precipitated and resulted into the various criminal prosecutions enumerated at the start of this decision, including this one on appeal.

In view of all foregoing, this Court affirms in full the findings and judgment of the lower court. The crime committed is kidnapping complexed with murder. We find the death penalty as well as the idemnity in the amount of P3,000.00 imposed in accordance with law and affirm the same with costs against the defendant.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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