

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HADJI MADEDIS SALI AND MAMA HADJI MADEDIS, DEFENDANTS-APPELLANTS.

G.R. No. L-3247. April 30, 1952

Ponente: BENGZON, J.

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BENGZON, J.:

These appellants were charged with murder of Baganian Mugalib in a complaint filed in the Justice of the Peace Court of Dulawan, Cotabato on September 28, 1948. A few days afterwards the complaint was amended to include Malogayak Sali; but after the preliminary investigation, the case against the latter was dismissed for lack of evidence. And when the expediente was forwarded to the Court of First Instance, the provincial fiscal filed the corresponding information against these two appellants only, who are father and son.

After due trial both were found guilty of the offense, and considering the attendant circumstances, the trial court sentenced them to suffer reclusion perpetua, with the accessories of law, plus indemnity to the heirs of the deceased in the amount of P3,000.00 and to pay the costs. Hence this appeal.

There is no dispute that in the early evening of August 6, 1947, in the sitio of Nabalawag, barrio of Pagatin, municipality of Dulawan, province of Cotabato, while engaged in conversation with Ulad Kambing near the stairs of his house, Baganian Mugalib was shot dead by persons outside of the dwelling.

At the trial, the prosecution presented Tasil Baganian, 13-year old son of the deceased. The boy pointed to the accused Hadji Madedis Sali and his son Mama Hadji Madedis (and Malogayak Sali) as the ones who had killed his father. He said that late in the afternoon of that day, he was sent by his father to the house of Agao to invite the latter to go to Sambulawan to play a game of chance; that on his return, he came upon the three men hiding among the banana trees near their house in a kneeling position, each carrying a firearm; that he knew these three men because they were neighbors; that they stopped him and warned him not to talk; that Mama Hadji Madedis even held him by the neck and pushed him down; that he fell and when he was rising, Malogayak Sali, at gun point, admonished him to keep quiet; that Hadji Madedis Sali, who was then close to Baganian's residence (his son Mama Hadji Madedis just behind him) fired his gun three times and downed Bagnian; and that after the discharge, Hadji Madedis Sali and his two companions ran away – which gave him the chance to enter their home.

Another prosecution witness, Sumandal Taob, materially corroborated the testimony of Tasil Baganian. He swore that previous to the killing, the accused Hadji Madedis Sali, Mama Hadji Madedis and Malogayak Sali came to his house and invited him to go with them to shoot Baganian, but he refused. They knew he had previously quarrelled with Baganian. He further stated that, a few minutes after the three had left, he heard three shots from the direction of Baganian's house and immediately thereafter he spotted the same three men passing by, carrying a carbine and a shotgun. Again this witness testified that nine days after Baganian had been killed, Hadji Madedis Sali and Mama Hadji Madedis went to see him, trying to convince and to induce him to admit that he had shot,

Baganian, Hadji Madedis Sali promising to give him money and to support his family.

Nanek Midccampong wife of Baganian declared that Hadji Madedis Sali harboured some grudges against her husband. According to her, three days prior to the killing, Hadji Madedis Sali and his son Mama Hadji Madedis, arrived at their house looking for her husband, and when informed he was away, Hadji Madedis Sali told her: "If your husband were here, it would be the last you could see him." Explaining the ill-feeling, she said that Hadji Madedis Sali believed her husband had stolen the clothes of one Ipao, and had caused the pregnancy of a certain woman and, in order to settle the matter, Hadji Madedis wanted to collect from him the sum of P50 which the latter refused to give.

Matitik Tasil, a neighbor of Baganian saw these two defendants around the place at the time of the shooting, provided with firearms. He heard the shots. Immediately thereafter he saw the defendants, with their arms, going away. This witness, like Sumandal, said that Hadji Madedis hated Baganian because he suspected Baganian of having stolen his (Madedis) palay.

Other corroborative witnesses were: Ulad Kambing, who said he jumped and fled from the house but saw three persons he could not identify, and Lt. Jose L. Escribano who declared about the firearms taken from the possession of these two appellants.

The defense is alibi. Hadji Ayao testified that in the evening when Baganian was shot, he (witness) was in the church of the accused, Hadji Madedis Sali. The latter was also there with his son, the other accused, Mama Hadji Madedis. They were all in the church, according to this witness, in order to pray, as it was fasting season (Cuasa) of the Moros.

Baki Tacolanga corroborated Ayao's declarations.

Midcampong Oko, father-in-law of the deceased was presented as another defense witness. He averred that after the shooting, he went to the house of his son-in-law and saw the body. In the house he found his daughter Nanek, wife of Baganian, and some other people. He asked them who had slain Baganian, but nobody could name the guilty person or persons. He affirmed that Tasil arrived later and that upon arriving he (Tasi) inquired as to who had killed his father.

Hadji Madedis Sali and Mama Madedis, the herein appellants testifying in their defense, denied having shot Baganian.

One person witnessed the shooting: Tasil Baganian a boy 13 years old. The Court below found there was nothing to show that his testimony was spurious, or that he had been taught what to state in Court. This lad in spite of the rigid cross-examination to which he had been subjected stuck to his account with impressive cogency and intelligence.

Sumandal Taob practically witnessed the shooting. The accused invited him to accompany them to shoot Baganian. He refused. They left and some moments later he heard detonations and saw these accused departing from the place.

The corroborating testimonies of Nanek and Matitik clinched the case for the People. Of course it may be admitted that the testimony of the prosecution's witnesses has some defects. And defense attorney has taken the pains to bring them to light in his extensive brief for the appellants. But by and large, the evidence is convincing and the story entirely probable. It need not be flawless. The motives are adequately indicated by Nanek, Matitik and Sumandal.

It is not unlikely that these defendants have acted openly, having no qualms about disclosing their homicidal

designs, because Hadji Madedis Sali was influential in the locality and probably thought nobody would dare to declare against him. All of which sufficiently explains the widow's reluctance (and the boy's) to point them out to the authorities immediately, and the delay in starting the prosecution. Incidentally, mother and son have no desire falsely to impute the crime to the herein appellants.

The trial court discounted the defense of alibi. After considering the reasons given for the Court's action we do not feel inclined to disagree, remembering specially that where evidence of the accused's participation in the crime is direct, the defense of alibi is necessarily weak and that such defense is easily fabricated.

In conclusion, that these defendants committed the crime of assassination is fully proven by the evidence introduced by the People. The killing was obviously qualified by treachery. There is the additional aggravating circumstance of dwelling as the Solicitor-General points out. But for lack of sufficient votes, capital punishment may not be imposed.

Judgment affirmed with costs. So ordered.

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

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