

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. LUCIO PANOPIO, DEFENDANT AND APPELLANT.

C.A. No. L-323. January 28, 1946

Ponente: PERFECTO, J.

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PERFECTO, J.:

On January 15, 1942, a mare with the brand "ER" belonging to Emilio Mauhay disappeared in Bauan, Batangas, while it was under the care of Fortunato Panopio.

Upon being informed, on the day following, of the loss of the mare, Mauhay began immediately seasoning for it.

In March, Mauhay delivered to accused another mare to be taken care of.

In May, Atanasio Abarquez and Angel Talain told Emilio Mauhay that they saw a mare, with the same color as the one which disappeared in January, in possession of accused, although, according to Talain, it bore the brand "EM."

Upon this information, Mauhay denounced accused for the theft of the lost mare.

The accused, an octogenarian, was arrested with his son Juan Panopio. The Mayor of Bauan said to accused when the latter was brought in his presence: "You should admit the offense imputed to you in this case, otherwise, I will shoot you," at the same time taking his pistol and pointing it at him.

During the period of their detention, the accused and his son were taken one Sunday from their place of confinement by police officers. Once outside, they were handcuffed and later brought to the town market. There they were hanged by the hands up to 4 p.m., and deprived of food and water. The following morning, father and son were brought to a cement tennis court where they were kept in squatting position with their handcuffed hands attached to an iron bar. The tennis court was located in the middle of the town plaza, without any shade to protect it from the burning sun. This torture lasted only for three hours, the son having advised his father to admit the imputation, which the latter did, although it was false, "because I am afraid you might die, and your life is very precious to me."

The accused and his son were brought to the municipal building, in the presence of the mayor, the chief of police, and a sergeant. Then an affidavit or statement was prepared and later signed by the accused, who did not know the contents thereof. He did not read the document nor was it read to him. The document purports to be a confession; but, although it appears to have been sworn to on May 26, 1942, before Chief of Police Venancio Gimán, the latter did not sign it for unknown reason.

Several months later, that is, on September 1, 1942, a complaint was filed before the Justice of the Peace of Bauan; and on September 5, the accused filed a bail in the amount of P2,500.00. As to whether he was ever allowed to enjoy his personal freedom since "his detention and torture in May until about four months later when he was able to put the bail, the record is silent.

The accused waived his right to offer evidence in the justice of the peace court, and the case was forwarded to the Court of First Instance of Batangas where, after trial, he was sentenced to an indeterminate penalty of not less than 1 year, 8 months and 21 days, and not more than 6 years, 8 months and one day.

After an analysis of the evidence in this case, we arrived at the conclusion that the guilt of the accused has not been proved beyond all reasonable doubt.

While the offense charged in the complaint was alleged to have been committed on January 15, 1942, and Emilio Mauhay so states in his testimony, in the affidavit signed and sworn to by him before the justice of the peace on September 2, he declared that the mare in question disappeared in March. It is true that he tried to explain the contradiction by attributing his alleged error in the affidavit to haste, but the explanation holds no water, considering that the affidavit was taken, not through an stenographer, but written in a typewriter, and experience has shown that the process of taking testimony by typewriter is necessarily slow. Not only that. It appears that Mauhay enjoyed full opportunity of reading and revising the affidavit before signing it, this being shown conclusively by the fact that he made in his own handwriting an amendment thereon, by adding at the end of the affidavit the following words: "buan ng Mayo, 1942 ako naghabla sa alkalde," which besides bear flagrant errors in grammar and orthography, that cannot be attributed to the one who wrote the paper in the typewriter, much less to the justice of the peace before whom the affidavit was sworn to.

If Mauhay, at the time he made the amendment, neither corrected the month (March) during which the mare in question disappeared, nor attempted to correct it during the weeks and months that followed, it is because the month of March was the one in his mind then. The same justice of the peace who conducted the preliminary investigation and received the testimonies of prosecution witnesses must have entertained some doubts as to Mauhay's veracity when, in his resolution remanding the case to the Court of First Instance of Batangas, although he related the facts testified to by the witnesses, he abstained from mentioning the month or date of the disappearance of the mare as testified to by Mauhay.

With respect to the affidavit of Angel Talain, it appears that the brand of the mare he saw in accused's possession was "EM", and not "ER" which, according to Mauhay, was the brand of his lost mare. It is evident that the two brands belong to two-different mares.

With respect to the testimony of Atanasio Abarquez, it is evident that the mare which he saw accused tie and leave near his house and later take, must have been the mare that the-same Mauhay had entrusted to accused in March, and not the one which disappeared in the possession of Fortuneito Panapio. It is inconceivable that accused, if he really had stolen the mare would ask Abarquez to watch it, and leave it tied in an open place, exposed to the public, as the one described by Abarquez himself.

If the testimonies of Abarquez and Talain were enough, to identify the mare in accused's possession as the one which disappeared on January 15, and not the one which Mauhay himself delivered to the accused in March, and therefore enough to convict him, what was the purpose of submitting an octogenarian to the infamy of inhuman tortures to exact an unnecessary confession. Furthermore, besides the accused, why was his son Juan Panapio arrested and subjected to the same brutalities?

In absolving the accused, under the facts proved in this case, we cannot help stating that, instead of accused, the ones who should have been prosecuted are the heartless persons who were responsible for the tortures perpetrated on a sickly octogenarian, in open defiance of the laws and the constitution and of the primary principles of humanity.

From all the foregoing, the decision of the lower court is revoked, the accused-appellant is absolved from all

responsibility for the offense charged in the information, and his bail bond ordered cancelled. With costs de oficio.

Ozaeta, De Joya, Hilado, and Bengzon, JJ., concur.

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