

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
COUNCILOR MAHARAN MASANI, YUSOB MAHARAN, HATIB TAHIL,
HATIB HARUN, YACOB ISAHAK, SAHARI URI, ABDUA, SARABI, AND
YASON SARA...**

G.R. No. L-3973. September 18, 1952

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Councilor Maharan Masani, Yusob Maharan, Hatib Tahil, Hatib Harun, Yacob Isahak, Sahari Uri, Abdua Sarabi and Yusob Sarabi were charged in the Court of First Instance of Sulu with triple murder and serious physical injuries for the death of Mores Jakaria Angkang, Jawang and Dakis Abdulla and the injuries inflicted upon moros Muksan, Mohamed Boay (Bawi) and a Christian named Tomas Litawa.

They were found guilty of the crime charged and were each sentenced to suffer the penalty of reclusion perpetua, to indemnify jointly and severally the heirs of the deceased in the sum of P5,000, and to pay the costs. The case is now before this Court by virtue of an appeal interposed by all of the accused.

In the morning of August 18, 1947, Jakaria Angkang, then deputy treasurer of Maobo, accompanied by his henchmen, Hatib Bahari, Hatib Kimbong, Hatib Burari, Jawang, Dakis Abdulla, Muksan Abundon, Mohamad Baoy and other relatives and barriomates numbering around one hundred proceeded to a Mohamedan mosque at barrio Busbus to take part in the celebration of the natal day of their prophet known as "Hariraya". They stayed in the mosque for a while and then proceeded on foot to town where they intended to board three busses to go to the residence of the Sultan of Jolo at Igasan. Being a special Moro holiday they wanted to pay their respects to the Sultan.

While they were walking on their way to town Jakaria and his men saw a calesa coming at full speed, whereupon Jakaria signaled to the driver to go slowly because there were many persons walking on the road. On board the calesa were Yacob Isahak, Yusob Sarabi, on Lagung Isahak and another unknown person. Instead of heeding Jakaria's warning, Yacob Isahak ordered the driver to drive ahead with more speed as a result of which the calesa hit a goat. At this juncture, Jakaria ordered the driver to stop and, after approaching the vehicle, got hold of Yacob Isahak by the collar of his shirt demanding at the same time an explanation why he ordered the driver to disregard his warning. Yacob Isahak kept silent and submitted himself meekly to Jakaria knowing him to be a man of irascible temper. The two shook hands before parting saying "no ill-feeling".

After the incident, Jakaria and his followers boarded three busses to continue their way to the residence of the Sultan of Jolo. They returned to the poblacion at about three o'clock that afternoon and after taking some refreshments in the public market, many of them prepared to return to their respective houses in the barrio of Maobo. However, Jakaria Angkang stayed for sometime more in the market while the rest, among them Lalang Andoh and Iking, went ahead.

Not long afterwards these two moros returned to the market bringing a message to Jakaria and his companions. It appears that early that afternoon Mora Lanoh Alawaddin who had a store near the road in barrio Busbus overheard Yacob Isahak and Yusob Sarabi taking about their plan to waylay and attack Jakaria and his men on their way home to barrio Maobo to avenge the humiliation they suffered in the morning. And so she requested these two moros to return to town to broach to Jakaria and his men what she had overheard. Jakaria did not give importance to the message, as he did not consider that Yacob Isahak and Yusob Sarabi would take so seriously the incident, specially because Maharan Masani was from barrio Busbus, where the two belonged, and he was confident that, being a councilor and special agent of the Governor, Maharan Masani would exert his influence in persuading them from carrying out their threat. However, as a precautionary measure, before returning home, Jakaria and ten of his men armed themselves with pieces of wood known as bacawan to defend themselves against a possible attack.

The message they get from Mora Lanoh Alawaddin came true. While they were returning to barrio Maobo, and upon arriving near the bridge in front of the house of councilor Maharan Masani in barrio Busbus, Jakaria and his fifteen companions saw Maharan Masani standing near the bridge armed with a barong, flanked by seven companions who were also armed; to wit: Hatib Tahil with a Kris, Sahari Uri with a garand rifle, Yusob Maharan with a .45 caliber pistol, Yusob Sarabi with a small pistol known as "Austin", Hatib Harun with a small bolo known as "bangcong", Abdua Sarabi with a kris and Yacob Isahak with a spear.

Realizing their disadvantage if they were to engage in a fight with Maharan Masani and his men because the latter were armed with deadly weapons and firearms, Hatib Bahari and other companions of Jakaria raised their hands as a sign of surrender. Instead of paying attention to this councilitary attitude, Maharan Masani ordered his men to attack and shoot, and a free-for-all ensued. Muksen Abundon was attacked with a kris by Abdua Sarabi, as a result of which he sustained serious injuries. Yusob Sarabi shot to death more Jawang with his "Austin" pistol. Hatib Tahil attacked Mohamad Bawi with his kris causing the latter serious injuries. Sahari Uri shot Jakaria with his grand rifle, followed by Maharan Masani who stabbed him with his kris. Sahari Uri also fired with his garand rifle at Dakis Abdulla causing his death a few days later. Yusub Maharan also fired his .45 caliber pistol at Jakaria and Mohamad Bawi, while Tomas Litawa, a laborer, was hit by a stray bullet on the right leg. When the fight was over, the Maobo group registered three deaths and two wounded, while not a single casualty was accounted for on the other side.

After the bloody attack, councilor Maharan Masani made representations to the widow of the deceased Jakaria Angkang in an attempt to settle the incident amicably and offer an idemnity to the heirs of the victims. The offer was turned down by the widow.

The foregoing is the version of the occurrence as given by the prosecution which appears supported by the testimony of Hatib Bahari and Muksan Abundon, two of those who took part in the fight, but were fortunate enough to survive. They identified the eight appellants herein as their aggressors and described in detail their participation and the weapons employed by them. Their testimony is corroborated in every material respect by Lanoh Alawaddin, Lalang Andoh and More Gapura Arasad, widow of the deceased Jakaria Angkang.

We will now narrate briefly the version given by the appellants in so far as their individual participation is concerned.

Hatib Mohamad Tahil, a barrio councilor, gave the following version: In the morning of the day in question, he was asked to go to the house of Councilor Maharan Masani; there he was informed of the incident between Yacob and Jakaria; it was agreed by the old men in the barrio (Busbus) that they would see to it that the incident be settled amicably; they advised Yacob to stay home counseling his older brother Lagung to look after him, which

advice Yacob heeded; old man Isnani left, going to his house leaving behind Hatib Tahil and Hadji Abdua who agreed to wait for Jakaria; as the arrival of Jakaria was delayed, Hatib Tahil and Hadji Abdua told councilor Maharan Masani that it would be better that they go first to their respective houses in order to pray, to which councilor Masani agreed, and as the house of Hadji Abdua was near the road it was agreed that the latter should notify them of the arrival of Jakaria; while Hatib Tahil was praying, someone came to tell him that Dakis was calling for him, at which moment he heard several shots, one after another, and sometime later his brother Hatib Harun arrived inquiring as to what was going on; then Hatib Tahil went out and upon reaching the road he saw a man sprawled on the ground, wounded, whom he recognized to be his relative Dakis; he approached him to help him and prayed for him, while his brother Hatib Harun also came and prayed; after a moment, ora Gapura, widow of Jakaria, sent for him so that he may pray for the soul of her husband.

Abdua Sarabi, son-in-law of councilor Maharan Masani, gave the following version: At the time of the incident, he was in the house of his father-in-law; in the afternoon of that day he heard his father-in-law say that he was going to the house of old man Isnani to wait for the arrival of Jakaria and his group; after his father-in-law had left, his brother-in-law Yusob Maharan told him that Jakaria was of irascible temperament and as he was coming with many of his followers, numbering 100, he might do harm to his father who was not carrying any arm; upon hearing this information, he got hold of a kris and went to a nearby house to keep an eye on his father-in-law; after a while the group of Jakaria arrived and he saw his father-in-law approach the group, at which juncture he followed suit and placed himself behind him; upon coming near Jakaria, his father-in-law, "wait, I will settle your differences", and after uttering these words, a man armed with a kris came and attacked him (witness) and in a split second, he (witness) parried the blow with his kris still inside its scabbard; after parrying this blow he unsheathed his kris and attacked Jakaria who, in turn, answered the attack together with six of his followers, and while he was thus defending himself against such attack, he heard shots one of which hit Jakaria who fell to the ground; he noticed that the one who fired was Yusob Maharan; upon seeing Jakaria wounded, his followers intensified the attack against them at which moment he (witness) wounded Muksan, a companion of Jakaria, who after being wounded ran away followed by his companions; then he also left and went to hide in a small nipa house and while there he was attacked by Mohamed Bawi, hitting him on the base of the neck, which attack he encountered hitting Bawi in the back, and afterwards he left that nipa house and went to another on the other side of the street where he remained hidden until the battle was over.

Yacob Isabak and Yusob Sarabi gave the following version: Immediately after the mornig incident with Jakaria, these two accused, accompanied by lagung Isahak, brother of Yacob, and one Wahadi Ismael, proceeded to the house of councilor Maharan Masani to report the incident; after being informed of the incident, councilor Maharan Masani called a meeting of the old men in the barrio, among them, Hadji Abdua, councilor Hatib Tahil, old man Isnani, so that they may decide the action to be taken; all of them decided to advise Yacob Isahak to forget the incident, which they considered trivial, as they would take charge of talking the matter over with Jakaria with a view to arriving at an amicable settlement; they advised Yacog to return home and forget the incident, to which Yacob agreed; they also told Lagung Isahak, brother of Yacob, not to allow Yacob to leave the house even if Jakaria should arrive; Yacob and Lagung obeyed the instructions of their superiors and returned home, and when the shooting took place they were at home.

The version given by Hatib Harun tallies with that given by his brother Hatib Mohamad Tahil already narrated above. In substance he said that when the shooting took place he was at home and went to join his brother to inquire for what was going on and when he repaired to the scene of the struggle, the shooting was already over and he joined his brother in praying for the victims.

Sahari Uri, a moro constabulary sergeant attached to the Sulu Signal Team, testified that in the afternoon of the

day in question, while taking rest in his house in Barrio Busbus, he heard several shots; that he immediately went to the place where the shots came from armed with his garand service rifle; that he saw a group of persons armed with clubs attacking his co-appellant Yusob Maharan; that at this moment he heard a voice saying "Gentleman, do not fight"; that Yusob Maharan tried to defend himself by firing his pistol at his assailants; that he fired his rifle twice in the air to stop the fight; that Jakaria's men also tried to attack him so he fired two shots in the air; and that after the last two shots his attackers left the place following different directions and he went home to see his wife and children.

Yusob Maharan admitted having fired at Jakaria several times with his pistol and having shot more Jawang, His testimony tallies with that given by his brother-in-law Abdun Sarabi, which we have already narrated above. He claims to have fired the shots in defense of his person, of this father Maharan Masani and of his brother-in-law Abdua Sarabi.

The participation of councilor Maharan Masani already appears explained in the different versions given by his co-accused. The gist of his testimony is that when the shooting started he immediately left the place of the encounter and sought shelter under the house of Hadji Abdua where hid himself until after the arrival of the local authorities.

There is no doubt that in the afternoon in question an encounter took place between the two groups: the Maobo group which was headed by Jakaria Angkang and the Busbus group which was headed by councilor Maharan Masani. There is also no dispute that as a result of the encounter, three persons were killed and three others sustained serious injuries. The question now to be determined is: which of these two groups attacked the other, and what is the immediate cause that led to the attack?

It appears clear from the record that this encounter is but an aftermath of a previous incident, apparently insignificant, which occurred between a group of moros from barrio Maobo and another group from the adjoining barrio of Busbus which was later to have fatal consequences. In this incident it appears clear that Jakaria Angkang had the upper hand in that he caused the humiliation of Yacob Isahak when he grabbed him by the front part of his shirt and recriminated him for having acted contrary to his instruction. Jakaria was known to be a strong man and of irascible temper and for that reason he was feared in the municipality of Jolo. Yacob Isahak knew this very well and so when he was subjected to such humiliation he submitted himself meekly and controlled his emotions. Apparently the incident was forgotten because the two shook hands before parting, but in reality it left a deep wound in both Yacob and his companions as shown by the fact that when they left the place they immediately proceeded to the house of their leader councilor Maharan Masani to report the incident. That the incident was not trivial or one which merely deserves a passing notice, is shown by the fact that councilor Maharan Masani immediately called a meeting of his elders to decide the action to be taken to avenge the humiliation. What took place in the meeting was not disclosed by the prosecution, inasmuch as those who were present were all members of the group headed by councilor Maharan Masani; but there is no doubt that in that important meeting something must have been discussed as regards the measure of reprisal to be taken to avenge the humiliation, which, as subsequent developments have shown, was no other than the determination to waylay and attack Jakaria Angkang and his group whom he knew would pass by their place in returning to their homes. This was disclosed later by mora Lanoh Alawaddin in the message she sent to Jakaria warning him of the gruesome plan.

Considering these antecedents, to wit, the incident between Jakaria and Yacob Isahak and the rush meeting called by councilor Maharan Masani of the elders in his barrio for consultation regarding the incident, the conclusion is inescapable that councilor Maharan Masani and his group really did plan and intend to waylay and attack Jakaria and his men, as they did in fact attack them, making use of their deadly weapons, in the manner and under the circumstances proven by the prosecution.

The claim of appellants Yusob Sarabi and Yacob Isahak to the effect that they were at home when the shooting took place following advice of their superiors and did not take part in the attack, cannot be sustained in the face of the positive and categorical testimony of Hatib Bahari and Muksan Abundon, two of those seriously wounded but were fortunate enough to survive. It should be remembered that these two appellants were the ones directly involved in the incident with Jakaria and one of whom was ill-treated and humiliated by him and it does not stand to reason that they should remain passive and indifferent while their companions were exposing their lives to avenge their humiliation.

The alibi set up by Hatib Mahamad Tahlil and his brother Hatib Harun cannot also be sustained. Alibi, as a rule, is a weak and unreliable defense, and when the identity of the accused appears established by clear and positive testimony, as in this case, it loses its force and value. One detail that should not be overlooked is the fact that Hatib Tahlil was among the elders who attended that memorable meeting called by councilor Maharan Masani wherein they plotted the attack against Jakaria and his men. Hatib Harun, being his brother, must have made common cause with him.

The same thing may be said with regard to Sahari Uri. His declaration that his only intervention in the affray was to fire several shots in the air to stop the fight and prevent Yusob Maharan from making use of his firearm, failed to impress the lower court when it noticed serious contradictions in his testimony. On matters of credibility much weight should be given to the opportunity for observation of the trial judge.

We cannot also doubt the participation of councilor Maharan Masani, his son Yusob Maharan and his son-in-law Abdua Sarabi. Suffice it to say that, after the meeting in which the attack of Jakaria and his men was plotted and where councilor Maharan Masani played an important part, it is only reasonable to presume that he and his two sons actually carried their plot to its logical conclusion by taking an active part in its execution.

Before concluding, we wish to make the following observation: according to appellants, they were only four when they were attacked by no less than 100 men, all armed with clubs and cutting instruments. According to their theory, Jakaria and his men were the first ones to attack, while appellants did nothing but to defend themselves, and yet, with such numerical superiority, when the battle was over, the following amazing result was obtained: the supposed aggressors sustained five casualties—three killed and two mortally wounded. On the side of the appellants, not one received any wound. Such a result defies reason and realism. We cannot accept a theory that would give such absurd result. The only reasonable alternative is the theory of the prosecution.

The lower court imposed upon each of the appellants the penalty of reclusion perpetua. Inasmuch as their combined attack resulted in the killing of three persons, they should be sentenced to suffer said penalty for each of the three victims. In this respect, the decision of the lower court should be modified.

With the modification that the herein appellants be sentenced to suffer the penalty of reclusion perpetua for each of the three victims involved in this case, subject to the limitation as to the maximum period to be served prescribed by Article 70 of the Revised Penal Code, the judgment of the lower court is affirmed in all other respects, with costs against the appellants.

Paras, Pablo, Bengzon, Padilla, Tuason, Montemayor, Jugo, and Labrador, JJ., concur.

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