

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VICTORIANO PINGKIAN AND ALEJANDRO NAPIÑAS.
DEFENDANTS-APPELLANTS.**

G.R. No. L-7564. June 28, 1955

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Victoriano Pingkian and Alejandro Napiñas were charged with arson, (together with Segundino Enriquez and Dionisio Baylon before the Court of First Instance of Zamboanga and, upon conviction, Pingkian and Napiñas were sentenced each to suffer an indeterminate penalty of from 3 years of prision correccional to 8 years and 1 day of prision mayor, to indemnify the offended party in the sum of P4,670, without subsidiary imprisonment in case of insolvency, to suffer the accessories of the law., and to pay the proportionate share of the costs. Segundino Enriquez was not included in trial as he was still at large while Dionisio Baylon was discharged having been utilized as a witness for the Government. The case was originally taken to the Court of Appeals but because the acts charged call for the imposition of reclusion perpetua, the case was certified to this Court.

Victoriano Pingkian was the leader of an association of homeseekers established in Disoy. Dipolog, Zamboanga of which Alejandro Napiñas was a member. On July 31, 1951, a meeting of the association was held in the house of Pingkian which was attended to by Napiñas. After the meeting, at about 5:00 o'clock in the afternoon, Napiñas, accompanied by Victorio Piscos his tenant, and Dionisio Baylon, his houseboy, set to return home, and, on their way, they perceived a column of smoke rising ahead of them and, going over a hill, they noted that the house of Napiñas was burning. Napiñas thereupon instructed Piscos and Baylon to tether the carabaos grazing in a nearby field and he repaired to the house of Pingkian to report what was happening. After having tethered the carabaos, Piscos and Baylon proceeded to the house of Pingkian and there they found one Segundino Enriquez, a neighbor of Napiñas, Pingkian, Napiñas and Enriquez went into a huddle, conferring in a low voice, and thereafter Pingkian stood up and, taking a garand rifle from a corner, handed it over to Enriquez instructing him to go and burn the house of Ramon Siocon whom he suspected of being responsible for the burning of Napiñas' house. After Pingkian had shown to Enriquez how to handle a rifle, Napiñas, Baylon and Enriquez left for the latter's house where they ate their supper. After supper Enriquez said that they should all go together to burn the house of the Siocons and that there was nothing to be afraid of because in any event they would have two lawyers to defend them.

Shortly thereafter Pingkian, armed with a rifle, arrived and was surprised to see Napiñas in the house when he should have gone with Enriquez and Baylon because he was most concerned in the matter. So Pingkian and Napiñas followed Enriquez and Baylon while Piscos stayed behind because he had stomach ache. Baylon was, given some matches, by Napiñas and, upon order of Enriquez and Napiñas at the point of a gun, he set fire on the granary which was five meters away from the house, which also caught fire. While the house was burning, Jose Manuel and his companions, who were then sleeping, woke up and, looking out of the window, Manuel saw four persons one of whom was carrying a gun which exploded. After burning the house and the granary, the group

returned to the house of Enriquez and there warned Piscos not to tell anybody about the burning on pain of death. As a result the Siocon family suffered losses in the amount of P4,670.00, which represents the value of the house and the granary, together with the contents thereof, which included the furniture, household effects, personal belongings, medicines, beddings, cavanese of palay and corn, foodstuffs and farming implements.

Victoriano Pingkian in his defense testified that on July 31, 1951 he was in his house in Disoy, Dipolog, Zamboanga with Joaquin Codosales and did not leave the whole night of that day and could not have participated in the burning of the house and granary of the Siocons; that Alejandro Napiñas came to his house at about 5:00 o'clock in the afternoon and reported to him that his house had been burned; and that Piscos, Enriquez and Baylon did not go to his house in the evening of said date. He admitted, however, that he was the leader of the association of homaseekers established in his place.

Alejandro Napiñas, in turn, testified that in the morning of July 31, 1951 he was in Katipunan; that he left Katipunan for Disoy arriving at 5:30 o'clock in the afternoon, only to find his house already burned; that he reported the matter to Victoriano Pingkian, the leader of their association, who told him to report the matter to the authorities; that he went to the house of Enriquez to rest because his house was burned and there he saw Baylon and Pisoos with whom he took his supper and he slept there that evening, but before going to bed he saw Enriquez and Baylon leave the house to tether his carabaos; that at about midnight he heard Enriquez say, "it is already burned"; that he did not leave the house of Enriquez from the time of his arrival up to the time he woke up next morning; that the following morning he reported the burning of his house to barrio lieutenant Pantaleon Pagkalinawan after which he returned to Katipunan to make copra; and that while he was going to the dispensary at Dipolog, he was apprehended by a policeman.

There is no doubt that the burning of the house and granary of the Siocons was carried out at the instigation of appellant Pingkian who unquestionably was looked up to as the leader of his companions in the community being the head of the association to which they belonged. This was demonstrated by the fact that when the house of Napiñas was burned his first reaction was to proceed to the house of Pingkian to seek his advice as to the action he should take. And in the gathering that was held immediately after that incident Pingkian, Napiñas, and Enriquez went into a huddle and thereafter Pingkian stood up and instructed those present to proceed and burn the house of the Siocon family. It was even Pingkian who gave a garand rifle to Enriquez and showed him how to handle it. The role he played did not consist in mere instigation or persuasion, for he even followed up his instruction to see to it that it be carried out. Thus, after Napiñas, Enriquez, Baylon and Piscos had departed, he followed them, and upon seeing that Napiñas stayed behind he remonstrated with the latter telling him that he should have gone along with the others because he was most concerned with the matter. Then, Pingkian and Napiñas proceeded to the house of the Siocons and after the house and the granary were burned, Pingkian even fired several shots in an attempt to silence the inmates of the house.

With regard to the participation of appellant Napiñas in carrying out the criminal act, the record also furnishes enough evidence. In the first place, the house of Napiñas was burned for which reason he sought the advice of Pingkian as to the action he should take on the matter. In the gathering that took place in the latter's house immediately thereafter, Napiñas was found in huddle with Pingkian and Enriquez and it was after their secret conference that Pingkian announced that they should take retaliatory measure against the Siocon family because there was no doubt in their mind that it was the Siocons that were responsible for its burning. When Napiñas went to the house of Enriquez after that fateful meeting he joined Enriquez in urging Baylon to help in carrying out the plan and, while at first reluctant because probably he thought his ^{part} was no longer necessary, Napiñas was at last prevailed upon by Pingkian to go to the house of the Siocons and there both took steps in seeing that the plan be carried out. The part he played in the act cannot therefore be mistaken.

No valid reason has been advanced why Piscos and Baylon should voluntarily testify against the herein appellants, especially against Napiñas who was their former employer. They harbored no resentment against them and, in fact, they have every reason to be grateful to them not only for the favors they had received from Napiñas, but because Pingkian was hailed by them as their friend and leader. It is true that, during the trial of this case these witnesses lived for sometime in the house of Ramon Siocon, but this circumstance cannot argue against their veracity it appearing that they were made to live in said house for their personal safety because, having consented to testify for the prosecution, they had aroused the animosity of the sympathizers of the appellants. That was done merely as a precautionary measure and not with the intent of tampering with their testimony.

Counsel for appellant Napinas had made an attempt to discredit the testimony of the prosecution witnesses because of certain discrepancies and contradictions he found in the affidavits subscribed by them in connection with their testimony in court. Indeed, there are certain matters which were stated by these witnesses in their affidavits which do not appear in their declarations in court but, as the Solicitor General has observed, "they are more apparent than real, and are more in the nature of the usual minor flaws that characterize the statements of the most honest witnesses. It should be noted, moreover, that Piscos and Manuel are unlettered farmers, while Baylon was a menial serving in the Napiñas' household."

The decision appealed from being in accordance with law and the evidence, the same is hereby affirmed, with costs against the appellants.

Bengzon, Padilla, Montemayor, Reyes, Jugo, Labrador, Concepcion, and Reyes, J.B.L., JJ., concur.

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