

MENELEO B. BERNARDEZ, PETITIONER, VS. HON. FRANCISCO T. VALERA, AS JUSTICE OF THE PEACE OF BANGUED, ABRA, RESPONDENT.

G.R. No. L-18462. April 13, 1962

Ponente: DIZON, J.

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DIZON, J.:

Between 7:30 and 8:00 o'clock in the evening of February 18, 1961, immediately after a hot exchange of words between petitioner Meneleo B. Bernardez, on the one hand, and Pedro Benedito, on the other, inside the New York Restaurant located in the poblacion of Bangued, Abra, the former fired several shots at the latter, hitting him on the left chest, left forearm and in the lumbar region, and likewise hitting Cpl. Reinerio Buenafe, causing his instantaneous death. The following day Lt. Antonio C. Garcia P.C., filed a complaint for frustrated murder against petitioner in the Justice of the Peace Court of Bangued, in relation to the assault on Benedito (Criminal Case No. 1089 of said court) and after finding probable cause the respondent Justice of the Peace issued the corresponding warrant of arrest and fixed the bail at P15,000.00.

On the 21st of the same month an amended complaint for murder and frustrated murder was filed with the same court, its pertinent allegations reading as follows:

"That on or about the 18th day of February 1961, in the municipality of Bangued, Province of Abra, Philippines and within the jurisdiction of this Honorable Court, the above named Accused armed with a Llama Pistol caliber .380 with magazine and several rounds of ammunition and with intent to kill and with evident premeditation by the use of stealth ruse and strategy with treachery did then and there willfully, unlawfully and feloniously shot one Atty. PEDRO BENEDITO, a lawyer by profession and on account of which gunshot wounds were inflicted by the aforesaid accused on the different parts of the body of Atty. PEDRO BENEDITO. In the same occasion while Corporal Reinerio Buenafe a member of the Philippine Constabulary stationed in Bangued, Abra, having actually seen that Atty. Pedro Benedito was already falling down to the ground on account of the gunshot wounds inflicted by the said accused went to the succor of Atty. Pedro Benedito, while Corporal Reinerio Buenafe was in the act of succoring the wounded Atty. Pedro Benedito was shot at by the Accused thereby hitting Corporal Reinerio on a fatal portion of his body which caused his almost instantaneous death. That with respect to the crime committed by the accused, the accused had already performed all the acts of execution which would have produced the crime of MURDER BUT COULD NOT produce it on account of the stoppage of the pistol of the Accused after killing CORPORAL REINERIO BUENAFE to death and due to the immediate medical attention to Atty. Pedro Benedito although his physical condition is under prognostic observation in the Abra Provincial Hospital.

"CONTRARY TO LAW, and with the aggravating circumstances in the commission of the crime to wit:

"1. That the crime was committed by the use of Firearm.

"2. By the use of stealth and strategy. Generic Circumstances of treachery and qualifying circumstances of evident premeditation and that Corporal Reinerio Buenafe was an Agent of a Person in Authority."

Two days later, after admitting the amended complaint, the respondent Justice of the Peace issued another warrant of arrest but recommended no bail.

Immediately after the shooting incident petitioner voluntarily surrendered himself and his pistol to M/Sgt. José G. Estolas, P.C., and was thereafter detained at the Philippine Constabulary stockade located outside the poblacion of Bangued, where he remained so detained until he was transferred to the Abra Provincial Jail on December 6, 1961, where he continues to be under detention up to the present.

On February 24, 1961, petitioner filed with the court a motion for bail, to which the prosecution objected upon the ground that petitioner was charged with murder and the evidence of his guilt was strong. Hearings on this motion were held on February 25 and 27, 1961, in the course of which the prosecution presented as evidence (1) the amended criminal complaint; (2) the affidavit of one of the offended parties, Pedro Benedito; (3) the affidavit of Santos Bersalona; (4) the affidavit of Sgt. Malengen, P.C., (5) the affidavit of M/Sgt. Estolas of the same outfit; (6) the medico-legal autopsy report on the cause of the death of the deceased Buenafe; (7) the medical certificate concerning the physical injuries inflicted on Pedro Benedito; and (8) an affidavit subscribed by petitioner himself. In connection with the sworn statements just mentioned, petitioner stated during the hearing that he was willing to have them admitted as evidence in connection with the incident before the court as if the affiants had actually testified in accordance with tenor of their respective statement, and further waived his right to cross-examine said affiants.

The prosecution likewise presented as Exhibits D-2 to 2-D five empty shells; as Exhibit 2-E one slug found in the scene of the shooting; as Exhibit F another extracted from the body of the deceased Buenafe; as Exhibit 2-D another slug extracted from the body of Benedito; as Exhibit 2-H one dud bullet allegedly found inside the magazine of petitioner's pistol, which was in turn marked as Exhibit 3; and as Exhibit 2-1 one live bullet found inside the magazine of the same firearm.

After the parties had submitted the incident for resolution, the respondent denied the same. Thereafter, claiming that the respondent, in so doing, had committed a grave abuse of discretion amounting to a refusal to comply with a ministerial duty, as a result of which petitioner was illegally detained, he filed the present petition for Habeas Corpus and/or Certiorari or Prohibition.

The issue before Us, therefore, is whether the respondent was justified in denying the petition for bail mentioned heretofore.

The case of the prosecution is based on the sworn statement of Pedro Benedito, the offended party as far as the frustrated murder case is concerned, the substance of which is to this effect: that prior to the shooting incident there was a long-standing grudge between him and petitioner; that at around 4:00 o'clock in the afternoon of February 18 when affiant passed in front of the house of one Regino Bernardez, where petitioner and his wife were standing, petitioner asked him for the sum of P50.00 as advance payment for the amicable settlement of a criminal case filed by a client of petitioner charging Benedito with having run over and killed an old woman in Lagangilang two years before, and that petitioner was enraged when he refused to pay the amount; that between 7:00 and 8:00 in the evening of the same day, he (Benedito) had some drinks at the New York Restaurant located in the poblacion of Bangued, together with Sgt. Estolas and Cpl. Buenafe, while petitioner, his wife and another woman were in the same place occupying another table; that after affiant and his companions had left the restaurant they were followed by petitioner who asked him to return to the restaurant for some more drinks; that they returned to the place and took beer; that in the course of their conversation petitioner remarked that it was strange that although they were relatives he seemed to be unfriendly towards him, and when affiant denied this, petitioner stood up and drew his gun; that although affiant immediately grabbed petitioner's hand, the latter started

firing at him; that after being hit, he fell down on the floor and sought cover under one of the tables; that petitioner kept on firing and one of the shots hit and killed Cpl. Buenafe who had entered the restaurant and attempted to approach Benedito, telling petitioner at the same time to stop firing.

The other affidavits submitted by the prosecution were of persons who did not actually witness the shooting but their statements may be said to have the general tendency of corroborating the sworn statement of Benedito regarding the events' posterior to the shooting.

While the charge against petitioner is undeniably a capital offense, it seems likewise obvious that the evidence submitted by the prosecution to the respondent judge for the purpose of showing that the evidence of petitioner's guilt is strong, is not sufficient to establish that the offense committed by petitioner, if any, was that of murder. On the basis of the sworn statement of Benedito himself petitioner could only be held liable for homicide. It must be observed in this connection that a person charged with a criminal offense will not be entitled to bail even before conviction only if the charge against him is a capital offense and the evidence of his guilt of said offense is strong. In the present case, as already stated, the evidence submitted by the prosecution in support of its opposition to the motion for bail could prove, at most, homicide and not murder, because it does not sufficiently prove either known premeditation or alevosia.

IN VIEW OF THE FOREGOING, the order of the respondent judge denying the motion for bail filed by herein petitioner in Criminal Case No. 1089 of the Justice of the Peace Court of Bangued is hereby set aside, and said respondent is hereby directed to order the release of petitioner upon the filing and approval of a bailbond in the sum of P25,000.00.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Paredes, and De Leon, JJ., concur.

Barrera, J., took no part.

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