

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ANTONIO SALADINO, DEFENDANT AND APPELLANT.

G.R. No. L-11893. May 23, 1958

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Together with Roman Tabios, Basilio Macalinao, one Payabyab and six (6) other persons, whose names are unknown, appellant Antonio Saladino is accused of kidnapping with multiple murders. It is alleged in the amended information:

"That on or about April 12, 1943, in the municipality of Laur, province of Nueva Ecija, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Roman Tabios, Antonio Saladino, Basilio Macalinao, one alias Payabyab, and six (6) other John Does, ail being private individuals conspiring together, mutually aiding and abetting one another, did then and there, wilfully, unlawfully and feloniously take, carry away and kidnap one BERNARDO RIVERA, who has never appeared since then and up to the present time, and with intent to kill, with evident premeditation and treachery, did then and there, wilfully, unlawfully and feloniously, inflict stab wounds and several physical injuries on the persons of MARIANO RIVERA, JUANA AQUINO, OLYMPIA RIVERA and MARCELINO RIVERA, which caused their immediate death.

"That the said crime was committed with the following aggravating circumstances, to wit: (a) evident premeditation; (b) at night time; (c) taking advantage of superior strength; (d) with the aid of armed band; and (e) in an uninhabited place."

After due trial, as regards Saladino only, for none of his co-defendants were apprehended, the Court of First Instance of Nueva Ecija rendered judgment, the dispositive part of which reads as follows:

"WHEREFORE, the defendant Antonio Saladino is sentenced to four reclusion perpetua for the murder of Mariano Rivera, Juana Aquino, Olympia Rivera, and Marcelino Rivera; and he is further sentenced to indemnify the heirs of each of the said victims in the sum of P6,000.00. In accordance with Art. 70 of the Revised Penal Code, the maximum duration of the defendant's sentence shall not be more than three fold the length corresponding to one penalty, and in no case shall it exceed forty years. The defendant shall pay 1/3 of the costs."

It is not disputed that on April 12, 1943, at about 3:00 a.m. a group of armed men went to the house of Mariano Rivera, in the barrio of San Juan, municipality of Laur, Nueva Ecija; that Marian Rivera, his wife, Juana Aquino, and their children, Olympfe, Marcelino, Lazaro and Cecilio, all surnamed, Rivera, were taken from said house; that, when sunlight came, the corpses of Mariano Rivera, Juana Aquino and Olympia and Marcelino Rivera were found, about 50 meter away from their aforementioned house; and that the necks of said spouses were slashed and their hands were tied, whereas Olympia was seriously wounded on the breast and Marcelino had a bid wound on one shoulder. According to the evidence for the prosecution, Cecilio Rivera, was, also, found unconscious in said place, with a ghastly wound on the nape. At about the same time, several armed man went to the neighboring

house, belonging to the spouses Pedro de Vera and Aurelia Rivera, and took therefrom her brother, Bernardo Rivera, who was never seen thereafter. The only question in this case is whether or not appellant Antonio Saladino formed part of either group or both.

Cecilio Rivera testified that, while he was asleep in the house of his aforementioned parents, where he lived, the barking of dogs woke him up. Then he felt that someone was coming up their stairs. As his mother lighted a lamp, two (2) persons, namely, defendant Antonio Saladino and Roman Tabios, entered the house. There were about ten (10) persons outside. Tabios bade Saladino to tie the members of the Rivera family. Thereupon, Saladino laid his gun against the wall and did as he was told. Cecilio was brought down, followed by his parents and then his brothers and sister, Marcelino, Lazaro and Olympia. He was taken by an unknown person to the open field, where he was told to lie down face downward. Then his body became numb and he lost consciousness. He came to about a week later, in the house of Estanislao Domingo, in the poblacion of Laur, with wounds on the back and on the nape. The scar on the latter appeared, during the trial (December 5, 1946), to be 3 inches long and about 3/4 of an inch wide.

Aurelia Rivera stated on the witness stand that Basilio Macalinao was the only person she recognized among those who took Bernardo Rivera from their house in the evening of the occurrence, whereas Pedro de Vera said that he could not establish the identity of any of them.

Testifying on his behalf, Saladino denied any participation in the commission of the crime charged and said that he did not leave his house, about a kilometer from the scene of the crime, in the evening of April 11-12, 1943. He, likewise, placed, on the witness stand, the mayor of Laur at the time of the occurrence, Pedro Aquino who asserted that he investigated Cecilio Rivera in the municipal building on April 13, 1953, and that Cecilio then said that he had not recognized any of those who killed his parents.

On rebuttal, Estanislao Domingo declared that when he returned home on April 13, 1943, at noon time, he found therein Cecilio Rivera with a big wound on the nape, and that Cecilio could not speak for over a week. Moreover, Cecilio denied having been investigated by mayor Aquino, or having told him that he (Cecilio) could not identify any of the malefactors.

The lower court gave no credence to the evidence for the defense and, to our mind, correctly. Apart from the fact that appellant's house was not far enough from the scene of the crime to render it either impossible or improbable for him to have been there at the time of the occurrence, he admitted that Cecilio Rivera had no possible motive to make a false imputation against him, particularly of an offense as grave that charged in this case. Neither could this be a case of mistaken identify, for appellant was known to Cecilio Rivera before the occurrence. Prior thereto they lived, and were neighbors,, in the same barrio of Sapang Biclai.

Upon the other hand, the testimony of Mayor Aquino to the effect that Cecilio Rivera told him, on April 13, 1943, that he (Cecilio) did not know any of the malefactors, is patently incredible. The bolo slash on Cecilio's nape was so serious, that the malefactors believed him dead and he could not speak for about a week. In fact, Cecilio testified that he was unconscious during that period of time. And this testimony must be true for, thirteen (13) years after the occurrence, his scar was still 3 inches long and 3/4 of a centimeter in width.

Appellant lays stress on the failure of the prosecution to introduce the testimony of Lazaro Rivera, one of the survivors of the Rivera family, who, according to his brother Cecilio Rivera, was one of those taken from their house by the malefactors. The defense deduces from this omission that, in all probability, his testimony would have been adverse to the prosecution. If this were true, however, appellant would have placed him on the witness stand. Moreover, the record shows that at the time of the trial, December 5, 1956, Lazaro was 19 years of age, so that when the crime was committed on April 12, 1943, he must have been six (6) years old. This circumstance

explains, not only why he was spared by the assassins, but, also, why the prosecution did not introduce his testimony. He was evidently too young to remember, if not too afraid to notice with precision, the pertinent phases of the tragic event that practically obliterated the entire Rivera family.

The last argument of the defense is that it took Cecilio thirteen (13) years to point an accusing finger at appellant herein. This is not true. What happened is that appellant was tried, and Cecilio took the witness stand, thirteen (13) years after the occurrence. The crime took place during the occupation. For a number of years after liberation, peace and order in Nueva Ecija, particularly, in Laur, were far from satisfactory. The ambush of Mrs. Quezon and members of her family in that region, is a matter of public knowledge. Hence, when a policeman, whom Cecilio Rivera consulted about this case, told him to take it up with the Constabulary, Cecilio relayed this advice to his relatives, but, the latter dissuaded him from taking said course of action, owing to the state of insecurity still prevailing in the locality. Later on, as the conditions improved, he reported the matter to the National Bureau of Investigation. The result of its intervention was the filing of the information herein.

Moreover, His Honor, the trial Judge, had the following to say about Cecilio Rivera:

"* * * The Court, however, had carefully observed the manner in which this witness and the defendant had testified, and is convinced beyond reasonable doubt that Cecilio Rivera had told the truth. His testimony was devoid of exaggeration or improbabilities. He testified frankly and answered questions directly and in straightforward manner. On the other hand, the defendant did not appear to be convincing on the witness stand, * * * There is no reason why Cecilio Rivera should testify falsely against the accused. Cecilio Rivera and Saladino were neighbors during the occupation in Sapang Biclai and he could not have been mistaken as to the identity of Saladino,"

We find in the record before us nothing that would warrant interference with this finding, which is fully borne out by the transcript of the stenographic notes taken during the trial.

We, likewise, agree with the lower court that the facts surrounding the case indicate, beyond reasonable doubt, that, as a component part of the group, seemingly belonging to a guerrilla organization, that killed four members of the Rivera family, under circumstances indicating clearly a unity of purpose among the members of said group, appellant is guilty of four murders—though not of the kidnapping alleged in the information, the evidence being insufficient to link him with the same—and was properly sentenced by the lower court.

WHEREFORE, the decision appealed from is hereby affirmed, with costs against appellant.

IT IS SO ORDERED.

Paras, C.J., Bengzon, Montemayor, Reyes, A., Baustista Angelo, Labrador, Reyes, J.B.L., Edencia, and Felix, JJ., concur.

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