

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO CAJIGAL, JR., PLAINTIFF-APPELLANT.

G.R. No. L-1930. April 26, 1950

Ponente: MORAN, C.J.

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MORAN, C.J.:

Antonio Cajigal, Jr. was found guilty by the People's Court of the crime of treason and was sentenced to reclusion perpetua with the accessory penalties of the law, to pay a fine of P10,000, and the costs. The accused appealed.

The appellant is a native-born citizen of the Philippines, residing in Badoc, Ilocos Norte. He was, before the war, a public school teacher, and in July, 1942, he was appointed by the Japanese military forces as municipal policeman of Badoc. One month later, he was promoted to Chief of Police, and three months thereafter, he was elevated to the mayorship of the Municipality, which position he held till 1944.

He was found guilty of treason on counts 1, 2, 4 and 5 alleged in the Information.

Under the first count, the facts as proven by witnesses Leon Cabading, Iñigo Oganán and Evaristo Vertido, are as follows:

In October, 1942, defendant-appellant who was then the Chief of Police, with two municipal policemen, arrested Pedro Vertido, in the Municipality of Badoc, near the house of one Bibiano Arzadon. Pedro Vertido was then suspected as a member of the 'guerrilla', and was confined in the Japanese garrison where he was tortured by Japanese soldiers. Defendant-appellant told a Japanese interpreter that Pedro Vertido was a guerrilla spy and should be killed. In effect, Pedro Vertido was shot to death at the seashore of Badoc.

The defense tried to prove by witnesses Catalina Evangelista (appellant's mother), Cornelio Raña, and Josefa Agapay, that it was policeman Liberato Gamatero alone who arrested and brought Pedro Vertido to the Japanese garrison, appellant having had absolutely no participation in that arrest. Appellant's mother attempted to prove further that early in the morning of September 15, 1942, her son, Cipriano Cajigal, was invited by Pedro Vertido to go to Kabugao to buy rice and they both rode in a bull cart driven by Nicanor Pagdilaw. The driver, Pagdilaw, returned to Badoc on the afternoon of the same day without the passengers, and he told Catalina Evangelista that on their way to Kabugao, Cipriano Cajigal was taken by three 'guerrilleros'. Catalina Evangelista, with her daughter-in-law, informed the Japanese soldiers of the kidnapping, pointing to Pedro Vertido as one of the probable kidnappers. Consequently, Pedro Vertido was arrested by policeman Liberate Gamatero upon orders of the Japanese soldiers, and was later executed by the latter. Catalina Evangelista learned later that her son Cipriano had been killed by members of the guerrilla'.

No evidence has been presented by the defense to show that the three witnesses for the prosecution had any ill motive to falsify the truth against defendant-appellant. Upon the other hand, if Pedro Vertido had been arrested because of his probable participation in the kidnapping of appellant's brother, it is easy to understand that to avenge his brother's death, appellant, who was then the Chief of Police, took part in the arrest of Vertido and

denounced him to the Japanese soldiers as a guerrilla spy.

We find, therefore, no reason to disturb the findings of the trial court on count no. 1.

Regarding the second count, the evidence shows that at about 3 o'clock in the morning of a day in October, 1942, a group of Japanese soldiers led by defendant-appellant raided the house of Cirilo Polindoy who was ordered to come down with his wife. Cirilo Polindoy was investigated by defendant-appellant as to the whereabouts of two guerrilla officers, Captain Madamba and Lieutenant Cajigal, and upon his refusal to give the information requested of him, he was beaten up by defendant-appellant with a place of wood measuring about two feet long, and the Japanese soldiers also hit Mm on the head with their steel helmets. He was left prostrate and unconscious in the yard of his house and his wife was taken to the town by the assailants. His personal belongings and those of his family were taken by the Japanese. These facts were proven by witnesses Lorenzo Pagat, Hermenegildo Soliven and the victim Cirilo Polindoy.

The defense admits that Cirilo Polindoy had been maltreated by Japanese soldiers, but claims that defendant-appellant was forced by the Japanese soldiers to accompany them, and that while his companions were investigating and maltreating Cirilo Polindoy, he simply stood by without participating in the brutal punishment. This mere denial, of course, cannot prevail over the positive testimonies of the three witnesses for the prosecution.

In connection with count no. 4, the facts as proven by Pedro Cajigal (appellant's uncle), Leon Cabading and Florentina Cabading, are as follows:

In January, 1943, the appellant, who was then the Mayor of the town of Badoc, and two municipal policeman, brought Romulo Galarce and Valeriano Estabillo to the municipal building; that said Romulo Galarce and Valeriano Estabillo, upon their refusal to disclose the names of their guerrilla companions, were beaten up with clubs by appellant and the two policemen; and that the two victims were screaming when they were thus being maltreated.

The defense admits that Romulo Galarce and Juan (not Valeriano) Abadilla were imprisoned, tortured and later executed by the Japanese in January of 1943, but claims that said two persons were common robbers and not guerrillas who had been arrested by policemen Paulino Palafox, Clemente Rodriguez and one Abraham and turned over to the Japanese, and that appellant had nothing to do with said arrest. Witnesses for the defense testified that some stolen jewelry was found in the possession of said supposed robbers who for that reason were turned over to the Japanese garrison; that one boy by the name of Enrique Abzuara informed the Japanese that his father had been kidnapped by Romulo Galarce and Juan Abadilla; that sometime later the two supposed kidnappers were brought out from the garrison and were never seen again.

Granting that Romulo Galarce and Juan Abadilla were common robbers and kidnappers, appellant and his policemen had no right to torture them as they did. Even admitting that it was policemen Palafox, Rodriguez and Abraham who arrested said guerrilla-robbers, it is not at all improbable that, as testified to by the witnesses for the prosecution, appellant who was then the Mayor and was active against the guerrilla movement, had actively participated in the arrest and ill treatment of the two victims.

Certain discrepancies are said to exist between the testimony of Leon Cabading and his affidavit, Exhibit 1, wherein he said that Romulo Galarce "was arrested by the policemen of the Mayor of Badoc who was Antonio Cajigal", apparently meaning thereby that Galarce was not arrested by Antonio Cajigal himself. But the affidavit was not prepared by Leon Cabading but by someone else and we know how affidavits are prepared. The one who prepared the affidavit might have, by a misunderstanding, stated therein something different from what was meant by the affiant. And this is what happened, as evident from the fact that after the witness' attention was called to the

wording of his affidavit, he reiterated that "Antonio Cajigal with the two policemen arrested them" (referring to Romulo Galarce and Valeriano Estabillo).

As regards count no. 5, we believe that the two witness rule has not been sufficiently complied with. Four witnesses testified to having heard appellant deliver speeches in public meetings at the town plaza of Badoc stating that the Americans could not and would never return to the Philippines and that the people should cooperate with the Japanese. But none of said witnesses could specify the particular date in which he heard these speeches.

FOR ALL THE FOREGOING, judgment is affirmed with costs against appellant.

Ozaeta, Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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