

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. REMIGIO ARANIL, DEFENDANT AND APPELLANT.*G. R. No. 10737. October 19, 1915*

Ponente: TORRES, J.

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On February 1 of the present year a complaint was filed with the Court of First Instance of Sorsogon by the provincial fiscal, charging Remigio Aranil with the crime of homicide in that he had maltreated Bernardo Arabaca and had thrown him into a river where he was drowned. After due trial, judgment was rendered on February 17 of the same year whereby defendant was sentenced to the penalty of cadena perpetua, to the accessory penalties, to indemnify the family of the murdered man in the sum of P500, and to pay the costs. From this judgment defendant's counsel has appealed.

In the case these are the facts duly proven: That upon the morning of Sunday, November 8, 1914, on the information of the boy Jesus Tuason, Pedro Mosalve, a policeman of the barrio of Esperanza, pueblo of Pilar, Sorsogon, removed from the bottom of the Kagbakong River the corpse of one Bernardo Arabaca who had been drowned in the said river. This policeman testified under oath that he had not found on the body of the drowned man after it had been removed from the water and placed on the bank of the river any indication of violence or wound, and that no blood issued either from the mouth or nose; that after removing the body he went away leaving the Tuason boy beside the body and that, upon meeting another policeman on the way, he told this man to report to the barrio lieutenant that a person had been drowned in the said river.

For the purpose of investigating the cause of the drowning of the said Bernardo Arabaca, and notwithstanding the evidence adduced at the trial and the report of the said justice of the peace to the effect that the said individual had been drowned during the morning of the said date while bathing in company with the said boy Jesus Tuason, and that nobody was responsible for the accident, the said boy Jesus Tuason was nevertheless subjected to an examination. He declared under oath (p. 54, record) that one Saturday morning after breakfast he and the deceased Bernardo left the house of a certain woman named Anacleto, to go to the barrio of Esperanza; that, on their arrival at the house of Francisco Atractivo, to whose house they went in order that his companion Bernardo might light his cigarette, deponent, who remained beneath the house, noticed that defendant Remigio was striking Bernardo with his fist on the forehead; that thereupon Bernardo immediately left the said house, accompanied by deponent; that upon approaching the Kagbakong River defendant overtook them and immediately began again to strike Bernardo Arabaca, at first with his fist, afterwards with a chunk of wood; that, the deceased happening to be in a weak condition, was picked up by his assailant and thrown into the water, where he was drowned; that, when the defendant noticed that the deponent was near by and that he had witnessed the occurrence, the defendant warned him that if he told anyone of what had happened he, the defendant, would kill him and his parents and brothers and his sisters; that being afraid, he returned home, but reported the deed to the mother of the murdered man; that on leaving the bank of the said river he met Pedro Mosalve, whom he begged to recover the body of the drowned man, Bernardo Arabaca; that in that way he obeyed Remigio's instructions by telling the police; that during the

short time that the decedent remained in the house of Francisco Atractivo and while he was being maltreated by the accused, no other person came to the house and that deponent did not see the mother of the accused, Barbara Lospe, there; that at the time of the occurrence in the house of Atractivo the latter was absent; he added that in the house where the accused first attacked the decedent there were present Juan, Isidro, and Juana Morata, the latter a daughter of Anacleto, although later at page 68 he says that the house at which they stopped and where the assault first took place was the one where Juana Baena lived.

Witness for the defense, Juana Baena, being duly sworn, testified: that she knew the accused because, being a neighbor who lived close by, he sometimes visited her house; but she denied that she saw him and that he had visited her house on the 7th of November, 1914; that she had only seen him on the fourth of the month, a few days previous, at which time he was harvesting rice in the field belonging to her uncle Francisco Atractivo, a short distance from her house. The other witnesses mentioned by Tuason, named Juan, Isidro and Juana, were not examined.

Barbara Lospe, the decedent's mother, stated that her son Bernardo Arabaca died on the 7th of November, 1914, as the result of a quarrel he had with Remigio Aranil in Juana Baena's house, in the sitio of Bariis, municipality of Albay; that, after the quarrel, her son left the house in the company of Jesus Tuason; that the defendant left afterwards but she did not know where he went; that when she again saw her son, he was then dead; that she was informed of his death by Jesus Tuason and consequently she went to the bank of the Kagbakong River where she saw that he was already dead and that he had a swelling on the forehead; that the quarrel her son had with defendant took place one Saturday, and that it was on the following day that she saw her son dead on the bank of the said river; that, upon her intervening in the quarrel in Juana Baena's house, the assailant, after asking her who she was, slapped her on the mouth and kicked her on the breast; that she did not succeed in learning the cause of the quarrel; that she was crying when she left the house; that the said Jesus Tuason was then present and that he went away from the house when her son set out for the barrio of Esperanza.

Pedro Mosalve corroborated the statement of Jesus Tuason, saying that, while about to cross the said river on November 7, the boy Tuason begged him to pick up the body of the man which was on the river bottom, and that he did so.

Defendant pleaded not guilty and alleged that on the date of the occurrence he was in Francisco Atractivo's house, without having seen therein the murdered man, with whom he was acquainted and whom he had seen on another occasion in the sitio of Bariis; that in Atractivo's house, situated in Hipanao, lived the married couple Juana and Isidro and that he was in this house on the 5th of November; that at that time and until the 12th he was occupied in harvesting rice; that Atractivo had another house in the locality called Kawitan where Juana Baena and Isidro resided; that, from the 6th to the 12th of November he had not gone away from Atractivo's house in Hipanao; that it is not true that he had a fight on the 7th day of November with Bernardo Arabaca, nor is it true that he had maltreated the same near the Kagbakong River, or that he had in any way threatened the Tuason boy, because he never had been in the company of the murdered man, nor had felt resentment toward or had any trouble with him or with his family; and that he did not know where Bernardo Arabaca's house was situated.

Francisco Atractivo testified that he was acquainted with the defendant who was with him the 7th of November of 1914 in the barrio of Sugoy, visita of Hipanao, engaged in harvesting rice since Friday morning without having gone away from that locality until after completing the work; that the defendant was with witness all day Saturday, the 7th, engaged in the said labor; that then the murdered Bernardo Arabaca was not there nor did he appear in the rice field, and that the murdered man lived with his family in Bariis, five kilometers distant from Bagkacay, where defendant resided.

From the testimony of Jesus Tuason, a boy 14 years of age, of the deceased's mother, Barbara Lospe, and also of the other witnesses examined during the course of the trial, it is impossible to arrive at the conclusion that the deceased, Bernardo Arabaca, was maltreated, killed, and drowned by forced submersion in the Kagbakong River and that the defendant, Remigio Aranil, was the perpetrator of the violent death of Arabaca.

Neither wounds nor signs of maltreatment were found on the body of the man that was taken from the bottom of the river by the policeman Pedro Mosalve. This was certified to by the policeman and his testimony is corroborated by the report of the justice of the peace (who went to the cemetery of the pueblo with several policemen and the municipal sanitary inspector) because at the examination of the said body no indication of any violence was found. The justice of the peace stated in said report that, according to the statements made to him by the relatives of the decedent, Bernardo Arabaca was drowned while bathing in the said river in company with the above-mentioned boy, Jesus Tuason, and that he had not succeeded in finding anybody responsible for the unfortunate event and that Barbara Lospe, the deceased's mother, also testified to the same effect.

The record of the preliminary investigation held by the justice of the peace in these proceedings was not exhibited at the trial as evidence but, disregarding that, the trial does not furnish convincing proof, nor even circumstantial evidence that would tend to show that decedent had met a violent death, and that defendant was the perpetrator thereof by direct participation in the execution of the deed under consideration.

The divergent, if not contradictory, testimony of the boy Jesus Tuason, the sole eyewitness to the acts alleged to have been committed on the bank of the Kagbakong River and in the channel thereof, and that of Barbara Lospe, mother of the supposedly murdered man, which contradicts in some particulars Tuason's testimony, are not corroborated by any witness, or by any other evidence. On the contrary, their testimony is shown to be false by the witness Juana Baena, in whose house it is said the decedent was first maltreated by the accused Aranil and therefore the said testimony falls far short of proving the criminal acts attributed to the defendant. The maltreatment that is said to have been administered by defendant in the house of either Francisco Atractivo or Juana Baena, wherein were several eyewitnesses, has not been properly proven because no other witnesses were summoned who claim to have been eyewitnesses of the affair (remembering that the owner of the house, Francisco Atractivo, was not present therein on the date and hour of the occurrence), whereas Juana Baena, in whose house they say the said maltreatment took place, denies that it occurred. Wherefore, with much less reason, can the acts of maltreatment and forced submersion in the river imputed to defendant be considered proven, for there was no eyewitness other than the aforementioned boy, Jesus Tuason, and his testimony is not corroborated by any witness, or even by any circumstantial evidence which might cast doubt on the innocence of the accused. On his part, the latter absolutely denies that he performed the deed and refuses to accept the liability therefor. Moreover, by the testimony of Atractivo himself, he was able to establish the fact of his prolonged stay in the rice field of Francisco Atractivo, engaged in harvesting rice, during the days and hours of the month of November during which the alleged crime is supposed to have been committed.

The case at bar is not one wherein the acquittal of the accused should be predicated on the grounds of reasonable doubt. It is one wherein there is absolutely no proof that a crime was committed or that the accused was guilty thereof, since the death of Bernardo Arabaca must be attributed to an accident, pure and simple, for which nobody was to blame, since the record shows not the slightest proof to the contrary.

For the foregoing reasons the judgment appealed from must be reversed and the defendant, Remigio Aranil, must be and he is hereby freely acquitted, with the costs of both instances de officio. If he is not held in detention on any other charge he will immediately be released. So ordered.

Arellano, C. J., Johnson, Trent, and Araullo, JJ., concur.

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