

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MORO MOHAMAD, MONO ASLANG, MORO POLA AND MORO YUNOS, DEFENDANTS AND APPELLANTS.

G.R. No. 11081. February 11, 1916

Ponente: CARSON, J.

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CARSON, J.:

The death penalty having: been imposed on the four defendants and appellants in this case, by the Court of First Instance of Zamboanga, upon their conviction of the crime of asesinato, the record of the proceedings had in the court below, including a transcript of the evidence submitted at the trial, has been brought to this court for review (en consulta), in accordance with the general provisions of law in such cases.

The information upon which the accused were brought to trial charges the commission of the crime as follows:

"On or about the 3d day of December, 1914, in the hacienda of San Ramon, situated in the municipality of Zamboanga, Province of Zamboanga, Department of Mindanao and Sulu, Philippine Islands, the aforesaid accused, all being at that time, as at present, prisoners in the San Ramon prison, within the municipality of Zamboanga, in union with three others of the same prison, named Damang, Juljani, and Hadais, mutually aiding and conspiring together, willfully, illegally, and criminally, and with treachery, cruelty, and known premeditation, armed with hatchets and bolos, attacked and wounded the guard named Uping, who was at that time in charge of the aforesaid accused, inflicting mortal wounds, as the result of which he died.

"That at the time of committing the crime of assassination the accused Moro Mohamad had been already condemned to five years' imprisonment, for the crime of theft of large cattle, which penalty was imposed on him on February 2, 1914; the accused Moro Pola was serving a sentence of ten years for the crime of theft of large cattle, which penalty was imposed on him on the 4th of November, 1913; and the accused Moros Aslang and Yunos were serving a sentence of two years each for the crime of theft of large cattle, which sentence was imposed on them on the 13th of May, 1914. All contrary to law."

Upon arraignment each of the accused entered a plea of "guilty." No witnesses were called for the defense, but a number of witnesses were called for the prosecution, and their testimony, read together with the pleas of "guilty" entered by the accused, affirmatively establishes all the material circumstances which marked the commission of the crime.

On the 3d day of December, 1914, the accused were prisoners serving sentences at the San Ramon penal farm for robbery of large cattle. On that day, in furtherance of a conspiracy to escape from confinement, they treacherously (con alevosia) assaulted and killed a guard, named Uping. Taking the gun of their Victim they made their escape, but were captured ten days later. When they were brought back to the farm they all confessed their guilt to the superintendent, and, through an interpreter, told him in detail all the circumstances under which the crime was committed.

It appears that on the night of the day before the commission of the crime, the four defendants, together with three

other prisoners, agreed together to kill their guard at the first opportunity and make their escape. They do not appear to have had any particular guard in mind, but simply resolved to kill anyone in whose care they might be on the following day. This group of prisoners worked together under the supervision or leadership of one of their number named Damang, who acted as a boss or capataz, and seems to have been the leader in the conspiracy. The next morning the party were working in one of the coconut groves of the penal farm, and for that purpose were provided with bolos and hatchets. They were under charge of a guard named Uping. Between 9 and 10 o'clock, Damang gave the guard Uping a fresh coconut, and while he was drinking its contents Damang threw sand in his eyes and seized his gun. At the same time all the members of the party attacked the guard, did him to death with their hatchets, and escaped. The body of the guard was found the following day, lying face down, with the head almost severed from the trunk by a large wound on the back of the neck. Four large wounds and a number of smaller ones were found on the cadaver.

Counsel for the accused urges that the evidence of record does not satisfactorily establish the guilty participation of each and all of these accused in the unlawful taking of the life of the guard, and that even if it be found that they all united in the murderous assault on the guard, there is not sufficient evidence in the record to sustain a finding as to each of them, that his participation in the crime was marked with the aggravating circumstances of treachery (alevosia) and deliberate premeditation, one of which at least must be proven beyond a reasonable doubt, to sustain the imposition of the death penalty. Counsel bases his contention on the alleged indefiniteness of the extrajudicial confessions, and the alleged possibility of error in the interpretation of those confessions.

But having in mind the pleas of "guilty" of the commission of the crime in the manner and form charged in the information which were entered by each of the accused upon arraignment, and which in themselves are sufficient to sustain the judgment of conviction entered in the court below, we are of opinion that the guilt of each of the accused of the crime of murder is conclusively established by his extrajudicial confession, read together with the other evidence in the record. There is nothing in the record which would justify us in doubting the truth and accuracy of the testimony of the witnesses for the prosecution with reference to the extrajudicial confessions; and these extrajudicial confessions clearly establish the participation of each and all of the accused in the treacherous and murderous assault on their guard, and conclusively establish the existence of a conspiracy to do one of the guards to death and escape, entered into between some of these accused and certain other prisoners at the penal farm, who are not now on trial, on the night before the crime was committed. It may be admitted that while the evidence conclusively discloses that all of the accused took part in the treacherous attack, it does not conclusively appear from the evidence alone that each and all of them entered into the conspiracy on the night before the assault; and that a finding of the aggravating circumstance of deliberate premeditation (premeditacion conocida) could not, therefore, be maintained against all of them on the evidence of record without taking into consideration their separate pleas of "guilty."

We do not deem this defect in the evidence of any vital importance however, because there is nothing in the evidence which tends to put in doubt the truth and accuracy of their separate pleas of "guilty" as charged in the information; and, because, further, both the "pleas" and the evidence sustaining a finding that the commission of the crime was marked with the qualifying circumstance of treachery, each of the accused is undoubtedly guilty of the crime of "asesinato" (murder); and it appearing that all of the accused were serving sentence for the commission of a felony at the time of the murder, the prescribed penalty therefor is death, under the following provisions of article 129 of the Penal Code:

"Any person who shall commit a felony or misdemeanor after having been convicted by a final judgment, before beginning to serve such sentence or while serving same, shall be punished in accordance with the following rules:

"1. The maximum degree of the penalty prescribed by the law for the new felony or misdemeanor shall be imposed."

Counsel for the accused urges that the benefit of the provisions of article 11 as amended by Act No. 2142 should be extended to the convicts, it appearing that they are all Moros, not wholly civilized and of a somewhat low order of intelligence.

We regret that we are unable to secure our own consent to the application of the beneficent provisions of this statute in favor of these convicts. We are convinced however that the statute was not intended to reach a case such as that now before us. We do not think that the lack of instruction or education of these convicts had aught to do with their participation in the crime, or that it should be held to extenuate the gravity of their criminal liability. Their sole purpose and object was to escape from the prison farm. They were not led on by any religious or superstitious belief, and no tribal custom suggested the treacherous murder of their guard. The murderous assault was not the result of a passionate or savage outburst of rage and indignation aroused by some fancied or real wrong. Indeed the motive which inspired them in committing the crime, that is to say the desire to escape just chastisement for former offenses by flight from detention, is calculated to appeal alike to the highly educated, well informed man and the most ignorant member of an uncivilized tribe.

The ignorance or lack of instruction of convicts serving sentence in gaols and penitentiaries should not be held to extenuate their criminal liability for treacherous and murderous assault upon their guards, which are actuated by no other motive than the desire to escape from imprisonment; and the lawmaker having clearly indicated that discipline in the gaols and penitentiaries necessitates the imposition of the maximum penalties prescribed for offenses committed in such institutions, it becomes our duty to affirm the imposition of the maximum penalties in the case at bar.

The judgment in this case convicting and sentencing the four accused, Moro Mohamad, Moro Aslang, Moro Pola and Moro Yunos should be affirmed with a proportionate share of the costs of this instance against each of them. So ordered.

Arellano, C. J., Torres, Johnson, Moreland, and Trent, JJ., concur.

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