

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
CIRILO MONROY ALIAS CIRILO SARTE AND CELERINO, IDICA,
ALIAS MARCELINO, DEFENDANTS AND APPELLANTS.**

G. R. No. 11177. October 30, 1958

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Cirilo Monroy (alias Cirilo Sarte) and Celerino Idica (alias Marcelino Idica) were charged and convicted in the Court of First Instance of Ilocos Sur of the crime of murder defined and penalized under Article 248 of the Revised Penal Code. Each was sentenced to suffer the penalty of reclusion perpetua, with the accessory penalties prescribed by law; to indemnify the heirs of the deceased Elpidio Agdeppa in the amount of P6,000; and to pay the costs. Against this judgment, both appealed to this Court. Later, however, we granted permission for Celerino Idica's appeal to be withdrawn (Resolution of September 19, 1958). Accordingly, the judgment of the lower court, as to him, was entered on the 23rd of the same month for execution.

We believe that the records of this case establish that on the night of October 10, 1954, Cirilo Monroy, Celerino Idica and Guillermo Lacuesta, all residents of barrio Jordan, Sinit, Ilocos Sur, went to barrio Nagbalawartian of the same municipality at the store-residence of one Eladio Fiesta, for Idica wanted to make payment for an article he previously bought on credit from Fiesta. Upon arriving at the place, the trio met, aside from some immediate members of Fiesta's family, other persons, among whom were their barrio-mates Jose Sarte and the deceased Elpidio Agdeppa. They stayed there for about two hours, spending the time talking and drinking "basi" (a native drink). It was about 11:00 o'clock that evening when they, this time together with the deceased Agdeppa and Jose Sarte, started for home.

On their return journey, they passed through the usual trail by the bank of a small river. Nearing the house of one Maria Duran, Elpidio Agdeppa suggested to Cirilo Monroy, Celerino Idica and Guillermo Lacuesta (Jose Sarte was walking a little ahead of them) that they abduct the daughter of Maria Duran. The trio, apparently, did not agree to this proposition for some reasons known only to them. Their refusal must have infuriated Agdeppa for he was alleged to have said, "If you do not agree, beware", and then proceeded on his way, turning his back to the others.

About two minutes later, the assault against the deceased began. On what transpired during these two minutes preceding the attack, Guillermo Lacuesta (a co-accused himself who was discharged to become a state witness) declared that Celerino Idica clandestinely proposed to the other two (Monroy and Lacuesta) that they injure Agdeppa. To this scheme, Cirilo Monroy readily agreed, while Lacuesta refused to accede. Their position at this precise moment was stated to be thus: Jose Sarte, as usual, was walking ahead, closely followed some distance behind by Agdeppa. Celerino Idica, who was obliquely behind Agdeppa's right, then picked up a list-sized stone and hurled it at the deceased, hitting him on his right cheek. Agdeppa was seen to have instinctively covered his face with both hands upon receiving the blow. While in that position, Idica and Monroy continued pelting him

with stones until Agdeppa collapsed and fell to the ground face downward. Seeing this, Idica approached the fallen Agdeppa, snatched from his waist a sharp-pointed bolo, and with it stabbed the deceased several times, while Monroy kept hitting him with stones. Believing that their victim was already dead, the duo dragged his body to the edge of the river, helped by Lacuesta. Celerino Idica then went to the house of Maria Duran, took a bucket of water and with it, tried to wash away the blood stains on the scene of the crime. Thereafter, they left.

While the foul play was in progress, Jose Sarte was so overcome with fear that he fled from the group upon seeing the deceased collapse.

The violent death of Elpidio Agdeppa on the night of October 10, 1954 is not questioned. The necropsy report, confirmed by the testimony of doctor Avelino, leaves no doubt that Agdeppa died as the result of a homicidal attack. With the corpus delicti thus independently established, the voluntary confessions of appellant Monroy and his companion Idica (who withdrew his appeal) fully support the conviction, specially because they confirm the testimony of eyewitnesses Guillermo Lacuesta and Jose Sarte (People vs. Quianzon, 62 Phil. 162; People vs. Bantagan, 54 Phil. 834). The confessions themselves, Exhibits D and E, recite as follows:

"When we were on the way near the house of Maria Duran, Marcelino Idica struck Elpidio Agdeppa with a stone on the right side of his face, then as Elpidio was falling to the ground, I struck him also with a stone twice on the head. Then Marcelino Idica grabbed the bolo of Elpidio Agdeppa and stabbed Elpidio several times on the back, after which, I also stabbed Elpidio on the back once. Casimiro (Lacuesta) also struck Elpidio Agdeppa on the head several times with stone." (Sworn declaration of Cirilo Monroy, Exhibit "D")

"When we passed thru the Sinait river I picked up two (2) fist-size stones and on the way I threw one to the right jaw of the late Elpidio Agdeppa and when he stumbled I again threw the other stone to the back upper part of his head. Thereafter, I took hold of the bolo of the late Elpidio Agdeppa placed on his hip and struck his back twice. After that Cirilo Sarte threw another stone on the head of Elpidio Agdeppa and stabbed him also. Guillermo Lacuesta also threw stone on the head of Elpidio Agdeppa." (Sworn declaration of Celerino Idica, Exhibit "E")

It is but to be expected that the defense should assail the voluntariness of these confessions, although they were signed and sworn to before the Justice of the Peace of Sinait on the day following the incident, i.e. on October 11, 1954. It is contended that the confessions were made because of fear of maltreatment by the Chief of Police. This claim, however, is unacceptable. No evidence was presented to show what excited this, purported fear, the defense relying solely on the naked statements of both accused that they were afraid. On the other hand, the disinterested testimony of the Justice of the Peace, Adelaida C. Salom, belies any irregularity in the manner they were made. She categorically declared that before the affiants signed their names, she apprised them of their constitutional rights and warned them of the fatal consequences of their admissions; and that she read the contents of the affidavits to them, translating it from English to their native dialect (Ilocano). The affiants, she continued, even told her that "they were just telling the whole truth and nothing but the truth." This testimony, coupled with the substantial uniformity of both declarations as to the details in the commission of the crime, which only the accused knew and could relate in the way it was given, more than convinces us of their veracity. (Cf. People vs. Andallo and Cardona, G. R. No. L-9173, May 29, 1957).

The defense assails the lower court's finding of conspiracy between the two accused, arguing that the interval between the idea of injuring the deceased and the time the act was committed was too brief (two minutes more or less) for them to have come into conspiracy; and that the absence of evident premeditation, as found by the trial court, substantiates this view.

This Court has repeatedly decided that conspiracy may be inferred from the acts of the accused themselves when such acts point to a joint purpose and design (see People vs. Upao-Moro, G. R. No. L-6771, May 28, 1957, and

cases cited therein). Unlike in evident premeditation, where a sufficient period of time must elapse to afford full opportunity for meditation and reflection and for the perpetrator to deliberate on the consequences of his intended deed (U.S. vs. Gil, 13 Phil. 530), conspiracy arises on the very instant the plotters agree, expressly or impliedly, to commit the felony and forthwith decide to pursue it. Once this assent is established, each and everyone of the conspirators is made criminally liable for the crime committed by anyone of them (People vs. Abrina, et al., 102 Phil., 695). Here, the accord between the accused is evidenced by their concerted assault upon their victim, rendering each assailant liable for the entire consequences of the unlawful act.

At any rate, it appears that appellant himself inflicted some of the head injuries, by pelting stones on the victim before and during the stabbing, and since any one of the lesions (excepting that inflicted by Idica on the right side of the face) could have caused the death of Elpidio Agdeppa, according to the Municipal Health Officer, Dr. Jose B. Avelino, Monroy himself can be deemed guilty as principal by direct participation. Appellant's own confession is to the effect that he struck the deceased with stones twice on the head, and that he stabbed him once at the back (see pertinent portions of Exhibit "B"; and also Exhibit "E", supra). The gravity of such actions bars him from invoking the mitigating circumstance of not having intended to commit so grave a wrong as that committed.

The existence of treachery is attested by the suddenness of the attack that caught the deceased Agdeppa (who was walking ahead of the aggressors) completely unaware, deprived of any chance to ward off the assault. Guillermo Lacuesta and Jose Sarte testified that when Idica stoned Elpidio Agdeppa for the first time, the latter faced forward, while the hurler was a few paces behind and to the right of Agdeppa. The location of the injury on the face, as shown by the medical certificate (Exhibit "C") and as graphically illustrated in Exhibit "C-1", clearly indicates that the assailants were diagonally behind the victim when the attack began.

We find no error in the penalty imposed by the lower court. The victim's mere utterance "if you do not agree, beware"; without further proof that he was bent upon translating his vague threats into immediate action, cannot be considered as sufficient provocation or threat immediately preceding the act. "Sufficient" provocation or threat has been held to be one which is adequate to excite a person to commit the wrong charged, and which must, accordingly, be proportionate to its gravity (see People vs. Nabora, 73 Phil. 434). Wherefore, the appealed judgment should be, and hereby is affirmed. One-half of the costs shall be borne by appellant Monroy. So ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion and Endencia, JJ., concur.

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