

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. GENOVEVA AQUINO AND LAZARO CASIPIT, DEFENDANTS AND APPELLANTS.*G.R. No. 11653. August 19, 1916*

Ponente: TORRES, J.

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The present proceedings were brought by a complaint filed by the provincial fiscal on January 31 of the present year in the Court of First Instance of the Province of Pangasinan, charging Genoveva Aquino and Lazaro Casipit with the crime of parricide; on February 9, following, judgment was rendered in which Genoveva Aquino was sentenced to the penalty of reclusion perpetua for parricide, and Lazaro Casipit, to cadena perpetua for murder, to the accessory penalties, to pay jointly and severally an indemnity of P1,000 to the heirs of the deceased, and each of them to pay one-third of the costs. From this judgment the defendants appealed.

The record shows it to have been duly proven that on January 1st of the present year, 1916, Genoveva Aquino, a widow, and the married couple Lazaro Casipit and Antonina Bautista were engaged in reaping rice in a field of the pueblo of Binalonan, Pangasinan. At about six o'clock in the evening the first-named, Genoveva Aquino, commenced to feel the pains of approaching childbirth. They therefore requested lodging in a house nearby belonging to one Pedro Zabala where the woman Genoveva, in the last stage of pregnancy, awoke her working companion, Casipit, in order that he might assist her, as she was about to give birth. In effect, a few moments afterwards she did give birth to a child, which, as it was born dead and lifeless, was wrapped in one of its mother's dresses and Genoveva arranged to have Casipit bury the body. Casipit therefore carried the newly-born child out of the house in its wrapping and, on account of the darkness of the night, instead of digging a grave to bury it, deposited it in a hole, one meter deep, partly filled with water, which he accidentally found in the field at a distance of about 150 meters from the house above mentioned.

On the following day, the 2d of January, the lieutenant of the barrio of San Felipe, where was situated the hole in which Casipit had left the dead child, having learned of the occurrence, reported to the justice of the peace of Binalonan that the body of the child was in the said hole and when this latter official and the policemen who accompanied him reached the spot they found the dead child in said hole wrapped in a dress, together with the placenta. The justice of the peace forthwith ordered that the body be taken up and carried in a box to the municipal building.

After some investigation, it was discovered that Genoveva Aquino was the woman who, the night before, had given birth to the child whose body had been found in the pit.

Upon the married couple Pedro Zabala and Magdalena Cortes, the owners of the said house, and their relative Felipe Cortes, being examined, they all testified that they awoke at a late hour of the night of January 1 when Genoveva Aquino was giving birth to a child; witnesses stated the child was born alive, for which reason they believe that it was thrown into the pit by Lazaro Casipit while still alive, in obedience to the orders of its mother, though they all testified that they had not approached the said Genoveva to aid her in her travail, nor had they seen

the newly-born child at close range; that they did not get up, but that when they awoke, they saw, by merely raising their heads, that the child was born alive.

The defendants pleaded not guilty. Genoveva Aquino swore that according to her calculation she had been pregnant since she ceased menstruating, eight months prior to the date of her childbirth; that when she felt the pains of approaching childbirth in the afternoon when she was working in the fields, two days had elapsed during which she had noticed that the child she carried in her womb did not move; that at about six o'clock in the evening of that day, realizing that she was in danger of giving birth, she went with her companions to beg lodging in a house nearby and she gave birth to a child therein at a late hour that night; that the child was born dead, which she knew to be a fact because it did not cry, nor move, nor show any signs of life; that it was therefore wrapped in a skirt, together with the placenta, and she directed her companion Casipit to bury it; that she afterwards learned that he had deposited and left it in a small pit containing a little water. The defendant added that while she was being delivered the owners and inmates of the house were lying down and asleep and that she did not know whether all or any of them approached her after the child was born because she was dizzy and for quite a while was unconscious.

Lazaro Casipit corroborated the testimony of the defendant Aquino, and stated that the child to which the latter gave birth was born dead, did not move and showed no signs of life, as it did not cry; that, therefore, in compliance with the directions given him by its mother he proceeded to bury it, not in the grounds of the house where they had taken lodgings, but in a pit 150 meters away which he had discovered in spite of the darkness; that he put the child's corpse in this pit and covered it with earth; and that the owners and inmates of the house remained lying down and did not get up. This witness' wife, Antonina Bautista, also corroborated her husband's testimony and said that the child to which Genoveva Aquino gave birth was born dead, for it did not cry, and that during its birth the owners of the house and the other inmates thereof continued to sleep and did not approach the mother.

From the foregoing facts, it cannot be concluded that any of the crimes of parricide, infanticide, or of abandonment of a child under 7 years of age with danger of causing its death, were committed, nor the crime of murder, inasmuch as it was sufficiently and satisfactorily proven that the child of Genoveva Aquino was stillborn, for this is shown by the testimony, not only of its mother, but also of Lazaro Casipit and his wife Antonina Bautista; this testimony cannot be considered as offset by that of the owners of the house and a relative of theirs, since these latter stated that, though awake, they remained lying down and did not approach the defendant during her travail.

The record discloses nothing which tends to show that Genoveva Aquino was actuated by the need of hiding the disgrace of being pregnant as a motive which may have induced her to have her codefendant Casipit throw her child into a pit in order that it might die. Genoveva Aquino was a widow and had no scruples in going about the town in a pregnant condition and about two weeks before her confinement, in company with others, she worked for several hours exposed to the heat of the sun in a field flooded with water. Nor, so long as the contrary be not fully proven, is it to be supposed that she wickedly intended to deprive of its life the child she had brought into the world because, against this supposition, the natural law of maternal love would prevail and consequently there is much less reason to suppose that, through her codefendant Casipit, she intended to abandon her own child and expose it to the danger of certain death.

The suspicion that might arise from the testimony of the owners of the house in which the defendant gave birth is in no wise sufficient to establish the truth of the criminal charge preferred, nor to convict the defendants. A post mortem examination of the body of the defendant's child would have shown whether it was born dead or alive, but the record does not show that such an examination was made, as it ought to have been, and the failure to make

such examination ought not to prejudice the woman who gave birth to the deceased child.

With respect to the defendant, Casipit, the record discloses no circumstantial evidence of his having had any malevolent intention of burying a live child. In compliance with the instructions given him by Genoveva Aquino, he proceeded to inter the dead child which she had given birth to, and as in the darkness of the night he found a shallow pit containing a little water, he took advantage of it to save himself the trouble of digging a grave to comply with his instructions to bury the child's body. At most, the defendant Casipit may have incurred the penalty provided in article 334 and 581 of the Penal Code for having violated the laws relating to the burial of the dead.

Therefore, in view of the evidence taken in the investigation of the criminal charges against the defendants, and as it was indisputably proven that the child delivered of Genoveva Aquino at a late hour of the night of January 1 of the present year, was stillborn and showed no signs whatever of life, it is evident that the record contains no proof whatever of the commission of any acts that would constitute parricide, infanticide, or the crime of the abandonment of a child under 7 years of age to the danger of death, or of the crime of murder; in consequence, strict justice demands the defendants' acquittal.

For the foregoing reasons, the judgment appealed from is reversed and Genoveva Aquino and Lazaro Casipit should be, as they hereby are, acquitted of the crimes of which they were prosecuted, with the costs of both instances de officio. The defendants will be set at liberty forthwith, if not held for any other crime. So ordered.

Johnson, Moreland, Trent, and Araullo, JJ., concur.

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