

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ANICETO CARDONA OR PALMA, DEFENDANT AND APPELLANT.

G.R. No. 11686. March 15, 1917

Ponente: CARSON, J.

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CARSON, J.:

On the 22d day of April, 1901, the house of a man named Hugo Millan was assaulted by a band of armed marauders, who carried away goods and property, including 28 carabaos, valued at some P2,000, and, in the course of the assault, shot and killed Millan.

On the 28th day of April, 1915, a little more than 14 years after the commission of the crime, the defendant and appellant in this case was charged, at the instance of Asuncion Millan, a daughter of the deceased, with the complex crime of "robbery in an armed band with homicide" committed upon that occasion; and, upon conviction of the crime in the court below, he was sentenced to life imprisonment, together with the accessory penalties prescribed by law.

The principal witness against the accused was Asuncion Millan, the daughter of the murdered man, who testified in detail as to the commission of the crime, and swore that she saw the accused discharge a gun against or close to the abdomen of the deceased, who was at that time held by the arms by some of the members of the band that assaulted the house. Two other witnesses testified for the prosecution, both of whom were dependents in the employ of the deceased. One of these witnesses testified that he saw the deceased shot to death in substantially the form and manner described by the principal witness; and the other identified the accused as a member of the armed band that robbed the house, but did not testify directly as to the murder, because, as he said, he was not present when it was committed.

The testimony of these witnesses, if it should be accepted as true beyond a reasonable doubt, fully sustains the judgment of conviction entered in the court below.

Under all the circumstances, however, we are inclined to doubt that the testimony of these witnesses should be accepted as conclusive of the guilt of the accused of the grave crime with which he is charged. The record discloses no sufficient explanation of the long delay in instituting criminal proceedings against the accused; and the excuses offered by the daughter of the deceased for her failure for so many years to denounce her father's murderer are highly unsatisfactory.

Of course, the criminal responsibility of an offender is in nowise affected by the silence of those with knowledge of his guilt prior to the institution of criminal proceedings; but the long continued and unexplained silence of a complaining witness may well give rise to questions as to his motives for breaking that silence; and his creditability will be put in grave doubt if under all the circumstances there is ground to suspect that he is actuated by sinister or ulterior motives in appearing and testifying against the person whom he charges with the commission of a crime.

The evidence discloses that some time prior to the arrest and detention of the accused in this case, a dispute arose between him and the daughter of the deceased, who was the principal witness against him at the trial, as to the title to a parcel of land occupied and cultivated by him. Upon cross-examination she admitted that after the arrest of the accused and about a week before the trial, while he was in detention, she had taken possession of the land in dispute and turned it over to one of her tenants. Under these circumstances, it is impossible to rid the mind of a suspicion that her motive in appearing and testifying against him, more than fourteen years after the commission of the crime, was not solely to bring the murderer of her father to justice, but rather to get the accused out of the way, in order that she might the more easily secure possession of the land in question. With such a doubt cast upon the sincerity of the motive actuating the complaining witness, her testimony should not be permitted to overcome the presumption of innocence in favor of the accused, unless it is supported by unimpeachable corroborative evidence, and unless further, all the evidence taken together is found to be clear and convincing, and such as to carry a conclusive conviction of its truth, despite the existence of selfish or ulterior motives actuating the principal witness when testifying against the accused.

When, as in the case at bar, a prosecution for a criminal offense is not instituted until many years after the alleged offense was committed, it may well happen that the presumption of innocence is the only shield which the accused can efficiently interpose between himself and a false, malicious or ill-founded accusation. The mere lapse of time may have destroyed all the affirmative evidence tending to establish his innocence which might have been produced had the proceedings been instituted soon after the commission of the crime. This will often happen in cases wherein proof of an alibi is the defense which might naturally be expected, should the accused attempt to introduce affirmative evidence of his innocence of the crime with which he is charged; and it may also occur in cases wherein judgment of conviction or innocence turns upon the identification of the accused as one of several perpetrators of a crime of violence.

The accused attempted to establish an alibi, but, as might be expected, the witnesses called to testify as to his whereabouts at a particular hour of a certain day more than fourteen years prior to the date of the trial were wholly unable to speak with that degree of certainty which would justify a court of justice in relying upon their testimony. But this merely emphasizes the difficulties which confronted the accused in concerting his defense, and the need of extreme caution in accepting the evidence of the prosecution.

Assuming the innocence of the accused, as we should, until his guilt has been established, it will readily be seen that under the peculiar circumstances of this case it would be extremely difficult to break down by cross-examination the testimony of the three witnesses for the prosecution, if, actuated by some sinister motive, they were conspiring together to procure his conviction. There can be no doubt that the father of the complaining witness was shot to death by a member of the band of marauders in substantially the form and manner described by his daughter, and if she and the two other witnesses desired to do so, it would be very easy for them, after the lapse of fourteen years, to charge the accused with the crime, without much risk of the falsity of the charge being developed by the most rigid cross-examination. All they had to do was to testify in detail and at length as to all that occurred, adhering rigidly to the truth, except only in so far as they should falsely substitute the name of the accused for that of the robber who actually fired the fatal shot. If they did so, and if they were present at the scene of the crime, as undoubtedly they were, their testimony as a whole should then bear all the earmarks of truth; and they might submit themselves to the most rigid cross-examination without much fear that their testimony would be shaken by cross-examination, or disclose any substantial contradictions or inconsistencies, since all they had to do was to tell all that occurred as they remembered it, only falsifying their account of what occurred by identifying the accused with the real murderer. Such a falsification would not involve any extraordinary exhibition of memory or imagination on the part of the conspirators; and in its very nature would be almost proof against detection on cross-examination.

Coming now to examine the corroborative evidence submitted by the prosecution in support of the testimony of the complaining witness, we find that it consists, exclusively, of the testimony of two witnesses both of whom were dependents in the service of the father of the complaining witness, and possibly if not probably more or less under the influence and control of the complaining witness herself. Their testimony, read together with that of the complaining witness, is not entirely satisfactory; and in some minor details it is conflicting and contradictory, though not so much so, in view of the lapse of time, as to justify or necessitate a reversal of the judgment of conviction were there no ground to suspect that, conspiring together against the accused, they were actuated by a sinister or ulterior motive in testifying against him. But we shall not stop to set out an analytical review of the testimony of these witnesses, and it must suffice to say that in the light of the proof as to an ulterior motive actuating the principal witness, and having in mind the dependent relation to this witness of the witnesses called to corroborate her testimony, their testimony is not so clear, satisfactory and convincing as to overcome the presumption of innocence in favor of the accused and to set at rest the reasonable doubt that arises in our minds as to his guilt.

The judgment entered in the court below should therefore be reversed, and the accused acquitted of the crime with which he is charged and set at liberty forthwith, with the costs of both instances de officio. So ordered.

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

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