

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
NICANOR MACATANGAY AND DAVID CUNANAN, DEFENDANTS AND
APPELLANTS.**

G.R. No. 12942. February 29, 1960

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

The Court of First Instance of Batangas finding Nicanor Macatangay guilty, as principal, and David Cunanan guilty as accomplice, of the crime of murder, aggravated by the circumstance of nocturnity, sentenced the former to life imprisonment, with the accessory penalties of law, to indemnify the heirs of the victim Constancio Estiron in the sum of six thousand pesos and to pay one-half of the costs; and the latter to imprisonment for an indeterminate term ranging from six (6) years, one (1) month and eleven (11) days of prision mayor, as minimum, to twelve (12) years, five (5) months and eleven (11) days of reclusion temporal, as maximum, with the accessory penalties of law, and to pay one-half of the costs.

Both accused appealed.

The court below found appellant Macatangay guilty as charged mainly because of the testimony of two alleged eye witnesses, Marciano Sinag and Cirilo Sakdalan who supposedly saw appellant Macatangay at the scene of the crime at the time it was perpetrated and under circumstances which indubitably show his participation therein.

The gist of their testimony is to the following effect: In the evening of December 9, 1955, in Barrio Dacanlao, Calaca, Batangas, Constancio Estiron was playing mahjong with Vicente Luistro, Francisco Bautista and Regino Murillo in the western part of the yard of Eufemio Secreto. The mah-jong table was placed under the eaves of Secreto's house. Estiron was facing the house and had his back to the "baklad" fence enclosing the yard. In another part of the same yard a game of blackjack was going on between Apolonio Mendoza and Cirilo Sakdalan. At about nine o'clock, Mendoza and Sakdalan stopped their game. As Sakdalan was leaving the yard, he saw appellant Macatangay going towards the mango tree near the place where the mah-jong players were. Sakdalan noticed that appellant Macatangay had a lamp in his left hand and a carbine slung on his right shoulder. However, he did not greet Macatangay but proceeded on his way. Meanwhile Marciano Sinag also saw appellant Macatangay walking towards the mango tree and then leaned on it. With him was another person whom Sinag did not recognize. Shortly thereafter two successive shots were heard and the victim Constancio Estiron slumped on the mah-jong table, with blood oozing from two bullet wounds on his back. Death was instantaneous. Immediately after the shots, Sinag saw appellant Macatangay and his unidentified companion fleeing from the place.

The lower court likewise found that appellant Macatangay had the motive to kill Estiron and that prior to the actual killing he had been offering money to anybody who would undertake to kill Estiron. It based its findings on the averment of Florentino Estiron, father of the deceased, that there had been previous altercations between his son and appellant Macatangay; and on the testimony of Regino Murillo that sometime after the elections of

November, 1955, appellant Macatangay and his brother, Conrado Macatangay, approached him and offered to pay him to kill Constancio Estiron.

A review of the record has convinced us that credence must not be attached to the testimony of the four prosecution witnesses mentioned above. Marciano Sinag and Cirilo Sakdalan incurred contradictions which lead us to believe that their identification of appellant Macatangay as one of the assailants cannot be relied upon. For one thing while Sinag averred that there was an unidentified person with Macatangay, Sakdalan categorically testified that Macatangay was alone. Also, Sakdalan contradicted himself as to the manner by which Macatangay was allegedly carrying his carbine. At first he demonstrated that Macatangay had the carbine slung on his right shoulder with his right hand on his shoulder holding the carbine strap in place. Then he declared that Macatangay's "right hand was holding the firearm near the trigger".

Sakdalan likewise claimed that appellant Macatangay was carrying a lamp in his left hand, which lamp presumably helped Sakdalan to recognize him. Sinag never mentioned such an important detail regarding it. Had Macatangay been carrying one, Sinag certainly would have noticed it. It would have caught his attention especially during the time that the assailants were escaping from the scene of the crime, because the vicinity was in comparative darkness and a lighted lamp would have been conspicuous.

By itself, Sakdalan's statement is incredible. Were appellant Macatangay indeed at the scene of the crime, with a carbine slung on his shoulder and murder in his heart, he would hardly have advertised his presence and hence invite premature discovery by carrying a lamp. If, as found by the lower court, Macatangay had deliberately sought nighttime in order that he may carry out his evil design under cover of darkness and without fear of recognition, surely he would not have brought a lamp and carried it at shoulder level, thus lighting up his own face. The inherent improbability of Sakdalan's statement brands it as a falsehood. Evidence to be believed must not only proceed from the mouth of a credible witness, but it must be credible in itself—such as the common experience and observation of mankind can approve as probable under the circumstances (Moran's Comments on the Rules of Court, 1957 edition, Volume 3, p. 574, citing Vice Chancellor Van Fleet, in *Daggin vs. Van Dyk*, 37 N. J. Eq., 130, 132),

Upon the other hand, Marciano Sinag, allegedly went towards the western part of Secreto's yard, near the "baklad" fence, in order to pass water; and while doing so the light coming from the house of a certain Turing Salazar, Secreto's neighbor, and the light from Secreto's house and yard combined to illumine the face of one of the assailants whom he recognized as appellant Macatangay. Yet, as admitted by Sinag himself, between Salazar's yard and Secreto's yard there were banana plants. These plants naturally prevented the light in Salazar's house from penetrating into Secreto's yard. Then, Chief of Police Benito Castillo, who investigated the incident, found that what was being used inside Secreto's house was a mere wick lamp which provided poor illumination. True, there was a kerosene lamp in the yard but this was intended for the mah-jong game. As a matter of fact a shade had been placed over the lamp and it was suspended barely a meter above the mahjong table so that the light therefrom was confined only to the table itself, and hardly reached a radius of four meters. The rest of Secreto's yard was practically in complete darkness, making it impossible for Sinag to recognize the assailants. Empty shells were found about three meters from the mango tree which in turn was one and a half brazas from the western side of the house. This was where the assailant must have stood when he fired at the victim. According to Chief of Police Castillo said place was outside of the area lighted by the kerosene lamp.

It is by no means probable that Sinag had been able to see the faces of the assailants. This conclusion may be derived from his testimony. He stated that the sound of the successive shots rendered him extremely agitated and afraid for his own life, so much so that he involuntarily stopped urinating; that his eyes were directed at the lower parts of the bodies of the fleeing assailants, so that what was impressed on his mind was the color of their pants;

and that immediately thereafter he himself started running away. Under these facts, he could not have seen the faces of the assailants. As a matter of fact, he could not say whether either of them sported any headgear. In such a state of mind he was incapable of observing accurately.

There are strong reasons to suspect that neither Cirilo Sakdalan nor Marciano Sinag was in the vicinity of Secreto's yard at the time of the commission of the crime. Sakdalan resided at Barrio Pantay, Calaca, Batangas, which is about four or five kilometers from Dacanlao. He claimed to have gone there solely to take a walk. But considering that it was a moonless night and Dacanlao was a secluded barrio without electric lights, it does not seem believable that Sakdalan, a married man, would have chosen to go for a walk to Dacanlao which is a two hours walk from his barrio.

Sinag, who lived at Barrio Sampaga, Balayan, Batangas, which is about two kilometers from Dacanlao, claimed that on the night in question he had intended to go to his aunt's house in Dacanlao on some highly urgent errand which he did not care to explain. Yet, without having attained his avowed purpose, he dropped in at Secreto's yard in order to kibitz, he says, at the blackjack game being played there. Then when he heard the fatal shots he ran to Barrio Pantay, which is four or five kilometers from Dacanlao and in the opposite direction to his place of residence. Our doubts as to his presence in Dacanlao on the fatal night are strengthened by the positive affirmation of Pedro Dasdas, barrio lieutenant of Barrio Sampaga, that from 7:30 in the evening to about midnight of December 9, 1955, Sinag was under Dasdas' house in Barrio Sampaga, playing blackjack with several other persons.

Sinag's erratic behavior after he allegedly heard the shots simply does not ring true. He could have run to his aunt's house which was only about fifteen meters from the place of the shooting, as he had intended to do in the first place. Or he could have run home to his own barrio, Sampaga. Either would have been the natural thing for him to do. There appears no valid reason why it was to Barrio Pantay that he went. And if we are to believe him, he went back to Barrio Sampaga that same night.

If Sakdalan and Sinag had really seen appellant Macatangay at the scene of the crime, they would have immediately informed the authorities. This they did not do. When Sakdalan was questioned by the chief of police about the shooting, he answered that he knew nothing about it. He admitted this during the preliminary investigation (Exhibits 2, S, 4 and 5), although during the trial he vehemently asserted that he never told the chief of police that he had no knowledge whatsoever about the shooting.

Sinag's behavior after the crime was of a pattern similar to that of Sakdalan. He did not mention to anyone that he saw Macatangay immediately after the shooting. It was only on February, 12, 1956, more than two months after the incident, that he went to the authorities. His long unexplained silence is an index of his lack of knowledge concerning the killing of Constancio Estiron. We doubt that the morning after the killing he informed Florentino Estiron about what he allegedly had seen. Had he done so, the elder Estiron would not have lost time in informing the authorities and the complaint against Macatangay should have been filed considerably earlier than February 15, 1956, the date when it was actually filed.

The witnesses who testified against appellant Macatangay were unmistakably biased. Florentino Estiron was father of the deceased. And even if we give credence to his statement respecting Macatangay's motive, in the absence of adequate proof establishing complicity, still Macatangay cannot be convicted. Mere proof of motive, no matter how strong, is not sufficient to support a conviction if there is no other reliable evidence from which it may be reasonably deduced that the accused was the malefactor.

Sinag was a cousin of the deceased and, nursed ill feelings against appellant Macatangay for the latter's failure to intercede in behalf of Sinag's son who was convicted of the crime of illegal possession of firearms. Sakdalan was

a "compadre" of the deceased and a bitter political enemy of Macatangay. Regino Murillo was an intimate friend and frequent companion of the deceased—a fact which certainly would, have deterred Macatangay from tempting him with money for the killing of Estiron. Besides, there was no need for appellant to hire anybody to kill Estiron. He could have done it himself, as in fact he did, if we are to believe the prosecution theory. But, by and large, the prosecution evidence does not adequately show that Macatangay was one of the assailants.

Let us now analyze the bases for the conviction of appellant David Cunanan. None of the prosecution witnesses testified having seen him at the scene of the crime. Indeed, Sakdalan was positive that appellant Macatangay was alone. The lower court relied purely on Cunanan's statements dated February 9, 1956 (Exhibit D) and June 15, 1956 (Exhibit E). While admitting his signatures on both statements, he claimed to have signed them unwillingly. Relating the circumstances under which he signed the first confession, Cunanan testified that while he was on his way to Dacanlao a PC soldier convinced him to go with him to Barrio Palico. When they arrived there said soldier and other soldiers already there tried to make Cunanan sign a prepared statement. He refused, so they maltreated him. Over his face they placed a wet towel which they then twisted from behind and they boxed him on the stomach. Unable to withstand the maltreatment, Cunanan signed the statement, Exhibit D. When the PC soldiers brought him to Justice of the Peace Eulalio Chavez so he could swear to the truth of the signed statement, Cunanan hinted to Judge Chavez that he would tell the truth in court, meaning that he would tell of the maltreatment to which he had been subjected. But inasmuch as he was still under the undue influence of the PC soldiers who were outside the room of Judge Chavez, Cunanan could not inform Chavez as to the details of the maltreatment. Cunanan's opportunity came during the preliminary investigation conducted by Fiscal Beloso to whom he revealed that Exhibit D was extracted from him by means of force and threats. In view of his repudiation of the first statement there arose a need to get another confession from him. While Cunanan was in the New Bilibid Prisons, he was again threatened by PC Agent Felix Malabanan that should he refuse to sign Exhibit E he would be tortured by one of the prisoners there with whom Malabanan was acquainted. So Cunanan signed the second statement. One important fact supports Cunanan's claim that he was intimidated and threatened to sign both statements on both occasions it was PC Agent Malabanan who had him and had been instrumental in his signing Exhibits D and E.

To make it appear that Cunanan made said statements willingly, the letter (Exhibit F) was introduced in evidence. This letter purports to have been written by appellant Cunanan asking Florentino Estiron to send PC Agent Malabanan to the New Bilibid Prisons so appellant Cunanan could give him another statement setting forth in detail the killing. Cunanan vehemently denied having written the letter or signing it. And we are inclined to believe him because a comparison of the signature thereon with Cunanan's admitted signatures on Exhibits D and E reveals that said letter was signed by a person other than Cunanan.

Exhibit D contains statements which are strikingly incredible. It states that after the elections of 1955, Macatangay offered Cunanan the sum of P500.00 if he would kill Constancio Estiron. The prosecution insist, that Macatangay was fully capable of, and indeed did the killing of the victim single-handed. If this were so, then it is ridiculous to think that he would still approach Cunanan with such an infamous proposal. Cunanan does not appear to have been a professional killer. Neither has it been shown that Macatangay was in a position to pay P500.00 for the killing. During the trial he stated that he was jobless.

According to the same extrajudicial confession, when Cunanan refused to kill Estiron, Macatangay still insisted on promising to pay him the same amount of money if Cunanan would only accompany him. But though Cunanan went with him, he did not commit any act that was indispensable or that materially tended to the killing of Estiron. All he seemed to have done was to witness the killing.

The statements in Exhibit E likewise cannot be believed because it states that it was Cunanan who wrote

Florentino Estiron that he would like to make a second confession. But it has been convincingly proven that the letter, Exhibit F was not written by Cunanan. Exhibit B also relates that Cunanan knew the other persons involved in the plot to kill Estiron and that these persons were with Macatangay and Cunanan during the actual shooting. Yet, in Exhibit D, Cunanan says that he was the only one with Macatangay and that he did not know the others who participated in the plot.

Except for Exhibits D and E, there is no other evidence establishing Cunanan's guilt. An extra judicial confession made by an accused, shall not be sufficient ground for conviction, unless corroborated by evidence of corpus delicti (Section 96, Rule 123, Rules of Court). A mere naked confession uncorroborated by any circumstance inspiring belief in the truth of the confession is not sufficient to warrant the conviction of the accused for the crime of which he is charged (U. S. vs. Agata, 40 Phil., 596). The lack of supporting evidence becomes particularly glaring in view of appellant Cunanan's absolute repudiation of the two confessions. Furthermore, he presented an alibi to the effect that from December 7 to 12, 1955, he was in his sister's house in Pasig, Rizal. This was corroborated by Emma Villamar who had attended the Pasig fiesta on December 8, 1955 and had stayed until December 10 in the house of Cunanan's sister. During the time she was there appellant Cunanan was also there.

The prosecution evidence falls short of the settled yardstick which will justify conviction of the appellants. These have not been proven guilty beyond reasonable doubt, and, hence, are entitled to acquittal.

Wherefore, the appealed judgment is reversed and both appellants are acquitted and ordered released from the custody of the law, with costs de oficio.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Concepcion, and Endencia, JJ., concur.
Padilla, Montemayor, Reyes, J.B.L., and Barrera, JJ., took no part.

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