

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MAHARAJA ALIM, LAHAMAN, MUNAGIL, AND SALATUNG, DEFENDANTS.
MAHARAJA ALIM, AND SALATUNG, APPELLANTS.**

G.R. No. 13312. April 01, 1918

Ponente: AVANCEÑA, J.

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AVANCEÑA, J.:

The complaint filed in this case textually reads as follows:

"That in or about the month of March, 1917, and prior to the said month, in the settlement of Daap, barrio of Bolong, in the municipality and Province of Zamboanga, Department of Mindanao and Sulu, P. I., the said accused Maharaja Alim, being a person who had influence and exercised authority over his coaccused, the Moros, Lahaman, Munagil, and Salatung, did, willfully, unlawfully and criminally conspire with and induce his coaccused, through the means of pay and promise of reward to kill the Moro Tantung; that, in view of the said inducement, the said coaccused did conspire among themselves and, acting mutually, on the night of March 16, 1917, on the sea within the jurisdictional limits of the municipality and Province of Zamboanga, Department of Mindanao and Sulu, P. I., did, willfully, unlawfully, and criminally, with treachery and premeditation, taking advantage of the darkness of the night, and one of them being armed with a lance, and the others with bolos, attack and assault with said weapons the said Moro Tantung, inflicting upon him several fatal wounds, as a result of which said Moro Tantung immediately died; which acts were all committed in violation of law."

Upon motion of the prosecuting attorney, separate proceedings were instituted against Munagil and Lahaman on the one hand, and Maharaja Alim and Salatung, on the other. Munagil and Lahaman pleaded guilty and were sentenced by the trial court, for the crime of murder, each being condemned to the penalty of death and to pay an indemnity of P500 to the family of the deceased. Upon the hearing of the evidence against Maharaja Alim and Salatung, the court also found them guilty of the crime of murder and sentenced each of them to 20 years of reclusion temporal and to pay an indemnity of P500 to the family of the deceased. As Munagil and Lahaman pleaded guilty, it is not necessary to discuss the evidence given with respect to them.

As regards Maharaja Alim and Salatung, the evidence consisted of the testimony of Munagil and Lahaman who succinctly related in full detail how the crime was committed. The Moro Panglima Salani was the chief of the settlement to which the deceased and the defendants belonged, and Maharaja Alim was his assistant. Salatung is married to a niece of Maharaja Alim. Tantung and his wife Baa are Salatung's nephew and niece, respectively. Munagil is married to Cubulan, a sister of Baa; and Lahaman is the husband of another of Baa's sisters. About a year prior to the commission of the crime, Maharaja Alim had proposed to Munagil, Lahaman, and Salatung to kill Tantung and later, about one month prior to its commission, Maharaja Alim again made to them the same proposal, offered them P100, and advanced on that same occasion P10, which sum was received by Munagil. Said proposal was accepted by all three of them. On the morning of March 16, 1917, while Munagil, Lahaman, and Salatung were on a piece of land belonging to the first of them, Maharaja Alim appeared, again spoke to them of

the proposal to kill Tantung, and advised them that the latter would go fishing on the afternoon of that day. At noon, all the defendants separated from each other and withdrew to their respective homes. That afternoon, Maharaja Alim again saw Lahaman, in the latter's house, for the purpose of again talking to him about the killing of Tantung. On that same afternoon, Salatung saw Munagil in a coconut grove and told him that they should hasten to go because Maharaja Alim had told Salatung that Tantung was already out on the sea. On that same afternoon, Salatung also went to see Lahaman to tell him that at nightfall they would go in search of Tantung. When night came, Munagil, Lahaman, and Salatung met on the seashore; Salatung was carrying a lance belonging to Maharaja Alim, which he had taken from the house of Pancalan. Munagil, Lahaman, and Salatung then embarked in a vinta and went out to sea in the direction of the vinta in which Tantung was engaged in fishing. On the way, Salatung suggested that, on their drawing up alongside Tantung's vinta, he would ask the latter for some bait and when Tantung was in the act of giving it to them Munagil should thrust him with the lance. Salatung steered the vinta. When they had drawn up alongside of Tantung's vinta, Salatung took hold of the edge of the vinta to keep the two boats together, and asked for the bait; and when Tantung stretched out his arm to give the bait, Munagil pierced him with the lance below the armpit, after which Lahaman took the same lance and gave the wounded man another thrust in the breast. Tantung fell into the water. Salatung then rowed towards the place where Tantung was and when the latter was near the vinta Munagil struck him on the back with a bolo, and Tantung disappeared. Munagil, Lahaman, and Salatung returned to the shore and, after disembarking, dispersed, whereupon Munagil went to seek Maharaja Alim in order to report to him that they had already killed Tantung. After Maharaja Alim had learned of the killing, he looked for and found Lahaman that same night and they both went out to sea in search of Tantung's body, for the purpose, as Maharaja Alim testified, of preventing the discovery of the crime. Later, Tantung's body, bearing several wounds, having been found floating on the water the authorities proceeded to investigate the cause of his death. They were aided by the Moro Barahama, to whom Munagil and Lahaman had confessed that they, accompanied by Salatung and acting under Maharaja Alim's orders, had killed Tantung.

Although the evidence against Maharaja Alim and Salatung consists solely of the testimony of their accomplices Munagil and Lahaman, we are nevertheless of the opinion that it establishes the facts charged beyond all reasonable doubt. In the case of *The United States vs. Ocampo* (5 Phil. Rep., 339), this court has said that if the uncorroborated testimony of a confederate or accomplice satisfies the court as to the guilt of the accused beyond a reasonable doubt, it is sufficient. As regards Maharaja Alim this testimony has not in any way been controverted. With respect to Salatung, the only evidence presented in his defense was his own testimony denying his participation in the crime. But he admits that on the morning of the day in question he was on Munagil's land working in company with the latter, together with Lahaman and Maharaja Alim, and that in the evening he accompanied those men when they killed Tantung. He states, however, that he had been invited only to fish, and that he was entirely ignorant of their purpose to kill Tantung, until he saw that he had been assaulted by them. Nevertheless, it is repugnant to sound judgment to suppose that Salatung was taken along by Munagil and Lahaman without his being associated with them in the plan to kill Tantung. Munagil and Lahaman must have thought that Salatung would be a witness who could reveal the commission of the crime. Since the time of the first proposal made to those men by Maharaja Alim to kill Tantung, they had expressed to Alim their fear that the crime might afterwards be discovered, and, for this reason, at first declined the invitation, and did not accept it until Alim had assured them that in any event he would take care of them; all of which makes it appear unlikely that, for the killing of Tantung, the defendants mentioned would have taken Salatung with them, if he had not been involved both in the responsibility to be incurred and in the interest to avoid punishment. Moreover, Salatung is a relative of the deceased, Tantung, and could have taken up the latter's defense.

The foregoing facts determine Maharaja Alim's liability as the author of the crime by inducement, and this

inducement was completely efficacious, not so much on account of the influence of the authority he exercised over his codefendants, as it was of the assurances he made to them that he would take care of them, should the crime be discovered, and, above all, because of the price that he promised and delivered to them and which caused them to decide upon the killing of their victim. They were relatives of the deceased, and, as for themselves, had no reason whatever to kill the latter. They killed him only because they had been induced to do so by Maharaja Alim.

The liability of Munagil and Lahaman as principals, being the actual perpetrators of the crime, is evident.

As regards Salatung, although he did not assault the deceased, he is equally liable as principal. He plotted the commission of the crime with his codefendants; he carried the glance with which the deceased was to be wounded; he suggested the treacherous manner in which the assault was to be effected; he steered the vinta in which he and his companions were embarked to the place where the boat of the deceased was, in accordance with the plan suggested by him; he asked the deceased for the bait, in order that the latter might be assaulted, when he (the latter) should stretch out his arm to give the bait; when the deceased, after being struck twice with the lance, fell into the water and was swimming, this defendant Salatung steered the vinta to him, thus enabling Munagil to strike him on the back with the bolo, causing him to disappear. All those acts tended directly to the execution of the crime, were as effective as the assault itself, and, it may properly be said that they formed an integral part of the assault.

As a price and reward were offered by Maharaja Alim to the other defendants, this circumstance classifies the crime as murder. As all the defendants contributed toward the attendance of this circumstance, it should affect each and all of them.

Premeditation, as an aggravating circumstance, should be held to have attended the commission of the crime, and it likewise should affect all the defendants.

As the crime was committed at sea, there is the additional aggravating circumstances of desoblado. (U. S. vs. Angeles, 6 Phil. Rep., 480.) This circumstance should affect not only the actual perpetrators Munagil, Lahaman, and Salatung, but also the inducer Maharaja Alim, because as the latter was the one who had advised in the morning that the deceased intended to fish in the sea that afternoon, he virtually induced the commission of the crime precisely at that place.

Nocturnity should also be considered as an aggravating circumstance. The advice which Munagil, Lahaman, and Salatung received was that in the afternoon of that day the deceased intended to fish in the sea; those defendants, however, awaited the coming of the night for the commission of the crime, and this indicates that they precisely chose night time that they might commit it with a better chance of the success of the execution and with less danger of punishment. But, as the record does not show that Maharaja Alim shared in the determination to kill the deceased precisely at night, nor that he had knowledge thereof, this circumstance of the crime should not affect him. (Article 79, par. 2, Penal Code.)

Finally, the aggravating circumstance of treachery should be counted against Munagil, Lahaman, and Salatung, considering the evidently treacherous manner employed in the commission of the crime. This circumstance should not affect Maharaja Alim, inasmuch as it was not shown that he induced the commission of the crime in that particular way, nor that he was even present at its commission.

The only extenuating circumstance that may be considered in favor of the defendants is that of article 11 of the Penal Code, as amended by Act No. 2142. This circumstance, however, has not always been taken into account by this court in similar cases. It was not taken into consideration in the case of U. S. vs. Panglima Indanan (24 Phil. Rep., 203), wherein the defendant, as in the case at bar, was also a Moro. And although it be taken into account, it

is not of such special importance as to counter-balance the weight of the two aggravating circumstances against Maharaja Alim, and the four against the other defendants, all of which are very clear and well defined. Maharaja Alim is the second chief of the settlement, and this fact implies that, relatively speaking, he was fairly intelligent. Although the other defendants are of a lower intellectual level, yet their scant intelligence can not be considered as sufficient to show that they were mere unconscious instruments in the hands of Maharaja Alim, whose will they could not resist. The proposal to kill the deceased had been made to them about a year before, yet they had refrained from committing the deed and finally decided to do it only when Maharaja Alim had assured them that he would take care of them in case that the crime would be discovered, and after he offered them the reward and advanced them P10 in partial payment of it. In several cases prosecuted against moros and members of non-Christian tribes, this court did not hold this circumstance as compensated by more than one aggravating circumstance. (U. S. vs. Ancheta, 15 Phil. Rep., 470; U. S. vs. Laoyan Dolinen, 14 Phil. Rep., 747; and U. S. vs. Liwakas [Manobo,] 17 Phil. Rep., 234).

It is hereby held that the defendants Maharaja Alim, Munagil, Lahaman, and Salatung are guilty of the crime of murder, with the qualifying circumstances above mentioned. Although we are of the opinion that it would be proper to impose the death penalty upon all the defendants, yet, inasmuch as the court has not arrived at a unanimous decision in respect to the imposition of this penalty, that of cadena perpetua should be imposed, in accordance with the provisions of Act No. 2726. Therefore, modifying the judgment appealed from and submitted to us for review, we hereby sentence each one of the defendants Maharaja Alim, Munagil, Lahaman, and Salatung to the penalty of cadena perpetua, and in all other respects affirm the said judgment, with the costs against the appellants. So ordered.

Arellano, C. J., Torres, Johnson, Carson, Street, and Fisher, JJ., concur.

DISSENTING OPINION

MALCOLM, J., dissenting:

I dissent because I am of the opinion that Maharaja Alim should be acquitted and Salatung should receive the penalty of life imprisonment.

DISSENTING AND CONCURRING OPINION

ARAULLO, J., dissenting in part and concurring in part:

I concur with Justice Malcolm in that Maharaja Alim should be acquitted. As to the rest, I agree with the majority.

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