

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE PATRIARCA, JR., ALIAS 'KA DJANGO,' CARLOS NARRA, ALIAS 'KA JESSIE,' AND TEN (10) JOHN DOES, ACCUSED-APPELLANT.

G.R. No. 135457. September 29, 2000

Ponente: BUENA, J.

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BUENA, J.:

Accused-appellant Jose Patriarca, Jr., with the aliases of "Ka Django," "Carlos Narra" and "Ka Jessie," appeals the decision of the Regional Trial Court at Sorsogon, Sorsogon, Branch 52, in Criminal Case No. 2773 entitled "People of the Philippines versus Jose Patriarca, Jr. alias 'Ka Django,' 'Carlos Narra,' 'Ka Jessie,' and 21 John Does" convicting him of murder and sentencing him to reclusion perpetua.

On August 16, 1990, an information for murder was filed against Jose Patriarca, Jr., alias "Ka Django," "Carlos Narra", "Ka Jessie," et al., charging them of murder committed as follows:

"That on or about the 30[th] day of June, 1987 at about 10:00 o'clock in the evening in the Municipality of Donsol, Province of Sorsogon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping one another, armed with guns, forcibly took away ALFREDO AREVALO from his residence and brought him to Sitio Abre, Mabini, Donsol, Sorsogon, and did then and there willfully, unlawfully and feloniously with intent to kill, with treachery and evident premeditation, attack, assault and shoot ALFREDO AREVALO thereby inflicting upon him mortal wounds, which directly caused his death to the damage and prejudice of his legal heirs.

"CONTRARY TO LAW."

Accused-appellant Jose Patriarca, Jr. was also charged with Murder for the killing of one Rudy de Borja and a certain Elmer Cadag under Informations docketed as Criminal Cases Nos. 2665 and 2672, respectively.

Upon arraignment on November 25, 1993, accused-appellant, assisted by his counsel de parte, pleaded not guilty to the crimes charged. Joint trial of the three cases was conducted considering the substantial identity of the facts and circumstances of the case.

Prosecution witness Nonito Malto testified that on June 30, 1987, the accused, with ten (10) armed companions, requested permission to rest in his house, which was granted. They had with them a person who was hogtied. Accused Patriarca asked that the lights in Malto's house be extinguished and Malto complied.

Around 2:00 o'clock in the early morning of July 1, 1987, Malto was awakened by a gunshot. When he looked out, he saw Patriarca holding a gun and ordering the person who was hogtied to lie down. After several minutes, Malto heard two gunshots. He then heard the accused direct his companions to carry away the dead man.

Nonito Malto, later on, learned that the dead man was Alfredo Arevalo when Patriarca went back to his place,

together with the military, on March 29, 1990.

The skeletal remains of Alfredo Arevalo were recovered in the property of a Rubuang Tolosa and were identified by Elisa Arevalo, the mother of the victim.

The second witness for the prosecution was Elisa Arevalo. She knew Patriarca, alias "Ka Django", as he told her on March 10, 1987 not to let her son join the military. She, however, replied that they were only seeking employment. Her son Alfredo was her companion in attending to their farm and he was a member of the Civilian Home Defense Force (CHDF) in their locality.

After she was informed by her tenant Alegria Moratelio Alcantara that her son was abducted by the New People's Army (NPA) led by Patriarca, she reported the matter to the military and looked for him. She was informed by the residents of the place where the NPA passed, that they saw her son hogtied, that her son even asked for drinking water, and complained that he was being maltreated by the NPA. After three days of searching, a certain Walter Ricafort, an NPA member and a relative of hers, notified her that her son Alfredo was killed by Jose Patriarca, Jr.

In the municipal building, Nonito Malto likewise informed her of her son's death in the hands of Ka Django. Consequently, a Death Certificate was issued by the Local Civil Registrar.

When the skeletal remains of a man were recovered, she was able to identify them as belonging to her son by reason of the briefs found in the burial site. Her son, Alfredo Arevalo, used to print his name on the waistband of his briefs so that it would not get lost.

The defense presented accused Jose Patriarca, Jr. and Francisco Derla who admitted that accused is a member of the NPA operating in Donsol, Sorsogon, but denied ever abducting the victims in the three criminal cases filed against him.

On January 20, 1998, a decision was rendered convicting the accused and imposing the following penalty:

"WHEREFORE, premises considered, the Court finds accused Jose Patriarca, Jr. alias Ka Django, alias Carlos Narra guilty beyond reasonable doubt of the crime of Murder for the death of Alfredo Arevalo and hereby sentences him to suffer an imprisonment of reclusion perpetua with all the accessory provided by law and to pay the amount of P50,000.00 as civil indemnity to the heirs of the victim Alfredo Arevalo, without subsidiary imprisonment in case of insolvency and as regards Crim. Case No. 2665 and Crim. Case No. 2672, for failure of the prosecution to prove the guilt of the accused beyond reasonable doubt, said Jose Patriarca alias Carlos Narra, Ka Django, is hereby acquitted.

"In the service of his sentence, the accused shall be given full credit of his period of detention.

"With cost de-oficio.

"SO ORDERED."[1]

Hence, this appeal where accused-appellant assigns the following lone error allegedly committed by the trial court:

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT GUILTY OF THE CRIME OF MURDER, AN OFFENSE COMMITTED IN PURSUANCE OR IN FURTHERANCE OF REBELLION.

Accused-appellant applied for amnesty under Proclamation No. 724 amending Proclamation No. 347, dated March 25, 1994, entitled "Granting Amnesty to Rebels, Insurgents, and All Other Persons Who Have or May Have Committed Crimes Against Public Order, Other Crimes Committed in Furtherance of Political Ends, and Violations of the Article of War, and Creating a National Amnesty Commission." His application was favorably

granted by the National Amnesty Board. Attached to appellant's brief is the Notice of Resolution of the National Amnesty Commission (NAC) dated November 17, 1999 which states:

"Quoted below is a resolution of the National Amnesty Commission dated 22 October 1998.[2]

'RESOLUTION NO. D-99-8683 refers to Application No. 02125 of MR. JOSE NARRA PATRIARCA filed with the Local Amnesty Board of Legazpi City on 18 February 1997.

'Applicant admitted joining the NPA in 1977. He served under the Sandatahang Yunit Pampropaganda and participated in the following armed activities:

'a)

Encounter with the Philippine Army forces at Barangay Hirawon, Donsol, Sorsogon on 14 February 1986;

'b)

Encounter with elements of the Philippine Constabulary at Barangay Godon, Donsol, Sorsogon on 15 February 1986;

'c)

Encounter with the Philippine Army forces at Barangay Banwang, Gurang, Donsol, Sorsogon in 1987;

'd)

Liquidation of ELMER CADAG an alleged military informer at Barangay Boroan, Donsol, Sorsogon, on 21 March 1987, in which a case of Murder in Criminal Case No. 2672 was filed against him before the Regional Trial Court, Branch 52, Sorsogon, Sorsogon;

'e)

Liquidation of a certain RUDY DEBORJA, a thief and nuisance of the community, at Donsol, Sorsogon, on 09 March 1984, in which a case of Murder in Criminal Case No. 2665 was filed against him before the Regional Trial Court, Branch 52, Sorsogon, Sorsogon;

'f)

Liquidation of a certain ALEJANDRINO MILITANTE for his misconducts at San Antonio, Donsol, Sorsogon, on 12 February 1986, in which a case of Murder in Criminal Case No. 2664 was filed against him before the Regional Trial Court, Branch 52, Sorsogon, Sorsogon;

'g)

Liquidation of a certain ALFREDO AREVALO, a former member of the CHDF at Sitio Abe (sic), Mabini, Donsol, Sorsogon, on 30 June 1987, in which a case of Murder in Criminal Case No. 2773 was filed against him before the Regional Trial Court, Branch 52, Sorsogon, Sorsogon;

'h)

Liquidation of one DOMINGO DONQUILLO, a barangay captain, at Barangay Tinanogan, Donsol, Sorsogon, on 20 September 1986 in which a (sic) Criminal Case No. 2663 was filed against him.

'After a careful verification and evaluation on (sic) the claims of the applicant, the Local Amnesty Board concluded that his activities were done in the pursuit of his political beliefs. It thus recommended on 20 May 1998 the grant of his application for amnesty.

'The Commission, in its deliberation on the application on 22 October 1999, resolved to approve the recommendation of the Local Amnesty Board.

'WHEREFORE, the application for amnesty of MR. JOSE NARRA PATRIARCA under Proclamation No. 724 is hereby GRANTED for rebellion constituted by the acts detailed above, provided they were committed on or before the date he was captured on 22 June 1988. Let a Certificate of Amnesty be issued in his favor as soon as this Resolution becomes final. It shall become final after the lapse of fifteen (15) calendar days from receipt of this Notice, unless a Motion for Reconsideration is filed with the Commission by any party within said period.'"[3]

On March 9, 2000, Hon. Alfredo F. Tadiar, Chairman of the National Amnesty Commission, wrote the following letter to the Provincial Prosecutor of Sorsogon, Sorsogon:

"Notice of Amnesty Grant to Jose N. Patriarca"

"Pursuant to NAC Action No. 95-358-C, we are transmitting herewith the attached copy of RESOLUTION NO. D-99-8683 granting amnesty to JOSE N. PATRIARCA. The grantee was accused of the following cases:

"1.

Murder in Criminal Case No. 2672 filed before the Regional Trial Court, Branch 52, Sorsogon, Sorsogon.

"2.

Murder in Criminal Case No. 2665 filed before the Regional Trial Court, Branch 52, Sorsogon, Sorsogon.

"3.

Murder in Criminal Case No. 2664 filed before the Regional Trial Court, Branch 52, Sorsogon, Sorsogon.

"4.

Murder in Criminal Case No. 2773 filed before the Regional Trial Court, Branch 52, Sorsogon, Sorsogon.

"5.

Murder in Criminal Case No. 2663 filed before the Regional Trial Court, Branch 52, Sorsogon, Sorsogon.

"He is currently detained at the Provincial Jail, Sorsogon, Sorsogon.

"The purpose of this transmittal is to provide you, as the chief prosecutor of the province, the opportunity to take

whatever action you may deem appropriate from receipt of this note. This grant of amnesty shall become final after the lapse of fifteen (15) calendar days from receipt of this Notice, unless a Motion for Reconsideration is filed with the Commission by any party within said period.

"Thank you for your continued support for the Peace Process."[4]

The Office of the Solicitor General, in its letter dated June 23, 2000 to the National Amnesty Commission, requested information as to whether or not a motion for reconsideration was filed by any party, and the action, if there was any, taken by the NAC.[5]

In his reply dated June 28, 2000, NAC Chairman Tadiar wrote, among other things, that there has been no motion for reconsideration filed by any party.[6]

Accused-appellant Jose N. Patriarca, Jr. was granted amnesty under Proclamation No. 724 dated May 17, 1996. It amended Proclamation No. 347 dated March 25, 1994.

Section 1 of Proclamation No. 724 reads thus:

"Section 1. Grant of Amnesty. - Amnesty is hereby granted to all persons who shall apply therefor and who have or may have committed crimes, on or before June 1, 1995, in pursuit of their political beliefs, whether punishable under the Revised Penal Code or special laws, including but not limited to the following: rebellion or insurrection; coup d'etat; conspiracy and proposal to commit rebellion, insurrection, or coup d'etat; disloyalty of public officers or employees; inciting to rebellion or insurrection; sedition; conspiracy to commit sedition; inciting to sedition; illegal assembly; illegal association; direct assault; indirect assault; resistance and disobedience to a person in authority or agents of such person; tumults and other disturbances of public order; unlawful use of means of publication and unlawful utterances; alarms and scandals; illegal possession of firearms, ammunitions, and explosives, committed in furtherance of, incident to, or in connection with the crimes of rebellion and insurrection; and violations of Articles 59 (desertion), 62 (absence without leave), 67 (mutiny or sedition), 68 (failure to suppress mutiny or sedition), 94 (various crimes), 96 (conduct unbecoming an officer and gentleman), and 97 (general article) of the Articles of War; Provided, That the amnesty shall not cover crimes against chastity and other crimes for personal ends."

Amnesty commonly denotes a general pardon to rebels for their treason or other high political offenses, or the forgiveness which one sovereign grants to the subjects of another, who have offended, by some breach, the law of nations.[7] Amnesty looks backward, and abolishes and puts into oblivion, the offense itself; it so overlooks and obliterates the offense with which he is charged, that the person released by amnesty stands before the law precisely as though he had committed no offense.[8]

Paragraph 3 of Article 89 of the Revised Penal Code provides that criminal liability is totally extinguished by amnesty, which completely extinguishes the penalty and all its effects.

In the case of *People vs. Casido*,[9] the difference between pardon and amnesty is given:

"Pardon is granted by the Chief Executive and as such it is a private act which must be pleaded and proved by the person pardoned, because the courts take no notice thereof; while amnesty by Proclamation of the Chief Executive with the concurrence of Congress, is a public act of which the courts should take judicial notice. Pardon is granted to one after conviction; while amnesty is granted to classes of persons or communities who may be guilty of political offenses, generally before or after the institution of the criminal prosecution and sometimes after conviction. Pardon looks forward and relieves the offender from the consequences of an offense of which he has been convicted, that is, it abolishes or forgives the punishment, and for that reason it does 'not work the restoration of the rights to hold public office, or the right of suffrage, unless such rights be expressly restored by the terms of the pardon,' and it 'in no case exempts the culprit from the payment of the

civil indemnity imposed upon him by the sentence' (Article 36, Revised Penal Code). While amnesty looks backward and abolishes and puts into oblivion the offense itself, it so overlooks and obliterates the offense with which he is charged that the person released by amnesty stands before the law precisely as though he had committed no offense."

This Court takes judicial notice of the grant of amnesty upon accused-appellant Jose N. Patriarca, Jr. Once granted, it is binding and effective. It serves to put an end to the appeal.[10]

WHEREFORE, IN VIEW OF THE FOREGOING, the decision of the Regional Trial Court at Sorsogon, Sorsogon, Branch 52 in Criminal Case No. 2773 is REVERSED and SET ASIDE. Accused-appellant Jose N. Patriarca, Jr. is hereby ACQUITTED of the crime of murder.

Pursuant to Resolution No. D-99-8683,[11] Criminal Case Nos. 2663 and 2664, which are both filed in the Regional Trial Court, Branch 53, Sorsogon, Sorsogon,[12] are ordered DISMISSED. The release of Jose N. Patriarca who is presently detained at the Provincial Jail of Sorsogon is likewise ORDERED unless he is being detained for some other legal cause.

The Director of Prisons is ordered to report within ten (10) days his compliance with this decision.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and De Leon, Jr., JJ., concur.

[1] Rollo, p. 56.

[2] Per Notice of Correction of the NAC dated March 1, 2000 the date reflected in the Notice of Resolution of November 17, 1999 was corrected to October 22, 1999.

[3] Rollo, pp. 58-59.

[4] Ibid., p. 63.

[5] Ibid., pp. 69-70.

[6] Ibid., p. 89.

[7] 202 SCRA 844, 867 [1991].

[8] Barrioquinto, et al. vs. Fernandez, et al., 82 Phil. 642 [1949].

[9] 269 SCRA 360 [1997] .

[10] People vs. Crisola, 128 SCRA 1 [1984] .

[11] In the decision rendered by the trial court on January 20, 1998, accused-appellant had already been acquitted in Criminal Case Nos. 2665 and 2672 for failure of the prosecution to prove accused's guilt beyond reasonable doubt.

[12] See letter of Judge Honesto A. Villamor of the Regional Trial Court at Sorsogon, Sorsogon, Branch 52 dated May 31, 1999; Rollo, p. 28.

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