

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CESAR GALVEZ, ACCUSED-APPELLANT.

G.R. No. 149884. December 11, 2001

Ponente: VITUG, J.

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VITUG, J.:

Petitioner Cesar Galvez was indicted in Criminal Case No. 1816 for murder before the Regional Trial Court, Branch I, of Isabela, Basilan, in an Information that read:

"That on or about the 27th day of July, 1991, and within the jurisdiction of this Honorable Court, viz, at Matarling, Municipality of Lantawan, Province of Basilan, Philippines, the above named accused, armed with an M16 armalite rifle, with treachery and evident premeditation, and with intent to kill, did then and there willfully, unlawfully and feloniously assault, attack and shoot one Rosalio Enojarda with the said M16 armalite rifle, thereby inflicting gunshot wound on the body of the latter which caused his death."[1]

Petitioner pleaded "not guilty" at his arraignment. Trial ensued. In a decision promulgated on 27 February 1995, the trial court held the accused guilty of the offense charged; it concluded:

"WHEREFORE, all factual and circumstantial matters surrounding the commission of the crime, being carefully and meticulously examined and studied, this Court finds the accused SPO2 Cesar Galvez, a member of the Philippine National Police GUILTY beyond reasonable doubt as principal in committing the crime of Murder as alleged in the Information and which crime is defined and penalized under Art. 248 of the Revised Penal Code, but considering his good military records after the commission of the crime, hereby sentences him to suffer an imprisonment of SEVENTEEN (17) YEARS, FOUR (4) MONTHS and ONE (1) DAY as minimum, to TWENTY (20) YEARS as maximum, which is the minimum period of Reclusion Temporal in its maximum period to death. And to indemnify the heirs of the late Rosalio Enojarda, the amount of P50,000.00 as moral damages and to pay the Court the amount of P500.00 as judicial costs and other accessory penalties attached to the penalty of Reclusion Temporal.

"And further this accused is hereby stripped of all the military ranks he now hold in the Armed Forces of the Philippines.

"And upon the promulgation of this decision, the accused shall immediately be committed to the Provincial Jail where the Provincial Warden is directed to immediately transfer him to the National Penitentiary at San Ramon Penal Colony at Zamboanga City for commitment thereat.

"And the property bail bond he has posted for his provisional liberty is hereby ordered cancelled and its pertinent papers returned, upon receipt to the bondsman."[2]

The case was appealed to the Court of Appeals (docketed CA-G.R. CR No. 18255) which, after scrutiny and review, rendered its judgment, on 30 March 2001, affirming appellant's conviction but modifying the penalty to be imposed thusly -

"WHEREFORE, with the MODIFICATION that appellant CESAR GALVEZ is hereby sentenced to reclusion

perpetua, the decision appealed from is hereby AFFIRMED in all other respects."[3]

The convicted accused, through counsel, forthwith filed with this Court a petition for review assailing the decision of the appellate court.

The second paragraph of Section 13, Rule 124, of the Rules of Criminal Procedure, as amended, provides:

"Sec. 13. Quorum of the court; certification or appeal of cases to Supreme Court. - x x x

"Whenever the Court of Appeals finds that the penalty of death, reclusion perpetua, or life imprisonment should be imposed in a case, the court, after discussion of the evidence and the law involved, shall render judgment imposing the penalty of death, reclusion perpetua, or life imprisonment as the circumstances warrant. However, it shall refrain from entering the judgment and forthwith certify the case and elevate the entire record thereof to the Supreme Court for review." (Emphasis supplied.)

It is thus expected that the Court of Appeals would not enter judgment and, instead, would elevate the entire records thereof to this Court for review conformably with the rules aforementioned.

WHEREFORE, the instant petition for review is NOTED WITHOUT ACTION and deemed closed and terminated. Let a copy of this resolution furnished the Court of Appeals for its records and guidance in CA-G.R. CR No. 18255.

SO ORDERED.

Melo, (Chairman), Panganiban, Sandoval-Gutierrez, and Carpio, JJ., concur.

[1] Rollo p. 7.

[2] Rollo pp. 73-74.

[3] Rollo p. 60.

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