

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ALEJANDRO AGATEA, DEFENDANT AND APPELLANT.

G.R. No. 15177. December 18, 1919

Ponente: MALCOLM, J.

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MALCOLM, J.:

This case of parricide, together with a case of asesinato[1] with which it was jointly tried, relating to the cold-blooded murder of the wife and her sister by the husband, has been elevated to this court by reason of the death penalty imposed by the Court of First Instance sitting at Zamboanga, Mindanao.

The motive for the horrible crime is found in the illicit infatuation of the accused Alejandro Agatea for Lorenza Fernando, his young sister-in-law, who had insinuated that if the wife was out of the way, it would be possible for them (the accused and his paramour) to live together. Having tasted of the forbidden fruit and found it to his liking, the man yielded to the blandishments of his Eve, and matter of factly planned the death of the unsuspecting spouse. Knowing that his wife, Beatriz Fernando, and another sister of hers, Aurea Fernando, had left on an errand, the accused secured a bolo, awaited them at night in an isolated spot, invited them to join him there far a moment, and then suddenly attacked his wife and killed her, and pursued the sister and killed her.

The principal evidence connecting the accused with the crime, is the extrajudicial confession, denominated affidavit, which the accused made before the justice of the peace of Zamboanga. As this document contains all the salient facts, and as its admissibility has been strongly impugned in this court, we quote it verbatim as follows:

"Yo, Alejandro Agatea, 27 de años de edad, de estado casado, oficio labrador, residente del barrio de San Jose Gusu, Municipio de Zamboanga, Provincia de Zamboanga, Islas Filipinas, por la presente bajo juramento en forma legal declaro:

"Como las doce (12) de la noche del día jueves 9 de enero de 1919, Lorenza Fernando, mi cunada, (enseñando a esta) bajó en el entresuelo de nuestra casa, donde yo y mi esposa estábamos dormidos y me despertó diciendo en voz baja: Andoy, despiertate y vente a cohabitar.' Acto seguido consumamos el coito. Después del coito, Lorenza se marchó otra vez arriba en la casa de mi tío Emilio Fernando. Desde aquel día ya tenía fija la mente de quitar la vida de mi esposa, porque Lorenza mi cunada me dijo de que si yo quitara la vida de mi esposa ella y yo podemos estar libres de casarnos. Esto me dijo el jueves 9 de enero de 1919.

"Como las 4 de la tarde, del día 10 (viernes) Lorenza me dijo que no prosiga más mi ida a Maasin para encontrar a mi esposa y hermana que a la sazón se encontraban en Maasin, Ayala, sino solamente esperarlas en un sitio lóbrego para perpetrar el crimen que es el de asesinar a mi esposa y de la otra hermana Aurea Fernando.

"Como las 8 de la noche del día viernes (10 de enero de 1919) salí de mi casa en San Jose, con el fin de ir a Maasin. Al llegarme cerca del primer puente que dirige a Maasin, Ayala, cerca de la plantación del americano Gallagher, y después de esperarlas unos cuantos minutos las encontré a mi esposa y su hermana Aurea que calculo eran de 9 a 10 de la noche, viniendo de Maasin, y las invité para descansar un rato a la playa, y allí nos sentamos un momento y luego dije a mi esposa: 'Ahora te voy a quitar la vida porque tu hermana Lorenza me

dijo que hiciera así, a fin de podernos casar Luego despues desenvain6 este bolo (enseñandolo, Exhibit A) y la di un fuerte tajo a la cabeza de mi esposa en la parte occipital y la di calculo seis tajos hasta dejarla muerta.

"Luego despues de matarla, la arrastre hacia la playa y la abandone alia. Despues de aquel acto persegui a mi cunada Aurea y la alcance a una distancia de unos 100 metros poco mas o menos hacia el terreno del americano Gallagher. Acto seguido, la di el primer tajo en la cara usando el mismo bolo que use contra mi esposa, y calculo haberla dado unos cinco bolazos por todo, hasta dejarla muerta. Una vez muerta la arrastre hacia la mar y la amarre con una vina (vaguino) la cabeza, con el proposito de atarla en una piedra y no he conseguido amarrarla puesto que la cuerda se reventó.

"Despues de consumir el ultimo acto criminal, me he vuelto a mi casa en San Jose Gusu, y llegue alia como las 11 de la misma noche. Como las 8 del dia (dia 11 de enero) participe a mi cunada Lorenza del hecho cometido y ella se demostró satisfecha, y otra vez cohabitamos.

"Esta declaracion lo hago bajo mi espontanea voluntad, sin que nadie me haya forzado, intimidado, violentado, o haber hecho promesa de alguna remuneracion o recompensa.

"Asi mismo hago constar que esta declaracion o confesion es contraria a mi persona y que la misma me puede conducir al presidio o al patibulo.

"En fe de todo lo cual, firmo este affidavit, en Zamboanga, hoy 12 de enero de 1919.

(Fdo.) "ALEJANDRO AGATEA.

(Su signo)

"Subscrita y jurada ante mi hoy el dia 12 de enero de 1919.

(Fdo.) "ANT. E. RUIZ,

"Juez de Paz, Zamboanga.

"Testigos:

(Fdo.) "J. E. MAGNO.

(Fdo.) "ANGEL FRANCISCO.

(Fdo.) "JOSE ESTRADA."

For a confession to be admissible in evidence, it is a general rule that it must have been made without hope of benefit, without fear or duress, and without the use of threats, torture, violence, artifice, or deception. The age of the person making the confession and his mental condition or intelligence are also important factors determining whether it was voluntarily made. The authorities which counsel for appellant cites in support of his first assignment of error relating to the admission in evidence as Exhibit A of the confession, are not applicable, for counsel has confused confessions made under oath before committing magistrates or coroners with extrajudicial confessions of the nature of that before us in this case. An extrajudicial confession is not like a deposition in a judicial proceeding, hence the constitutional provision that the defendant in a criminal case shall not be compelled to be a witness against himself also has no application. The prevailing rule is, that extrajudicial confessions are not rendered inadmissible or involuntary by reason of failure to caution the accused that he need not talk and that if he does what he says will be used against him, even though such extrajudicial confessions were under oath. A confession offered in evidence and not objected to by the defendant is regarded as-prima facie voluntary. (See 1 R. C.L., 467 et seq.; U. S. vs. De Leon and De Leon, [1914], 27 Phil., 506.)

In so far as the facts are concerned, we find that the confession of the accused was introduced in evidence as Exhibit A, without objection on the part of the attorney for the defense. Not only this, for we would not care to stand on a technicality when human life is involved, a perusal of the exhibit, shows that the accused there said that "esta declaracion lo hago bajo mi espontanea voluntad sin que nadie me haya forzado, intimidado, violentado o

haber hecho promesa de alguna remuneracion, o recompensa (This declaration is made of my own free will without force, intimidation, threat or promise of any kind of reward whatsoever)." The testimony of the justice of the peace, the chief of police, and of the sergeant of police, also clearly demonstrates that the confession was voluntarily made. The justice of the peace, on the witness stand, said: "Se ha redactado esta declaracion (Exhibit A) en la misma estacion de policia. Yo puedo explicar el motivo por que se ha hecho eso. Me participaron que el acusado se va a declarar culpable y yo dije que tomen la declaracion. Despues de hecha la declaraci6n, se me llamo para que yo lea delante de el. Esa declaracion redactada en la estacion de policia antes de ser firmada por el acusado y jurada ante mi, le he leido claramente y le he explicado el contenido y despues le pregunte si estaba conforme con su declaracion y contesto que si, que es la misma declaracion que habia hecho ante el Jefe de Policia (This testimony [Exhibit A] has been taken down in the same police station. I can explain why it has been so done. They advised me that the accused was going to plead guilty and I told them to take the declaration. After the declaration had been made, I was called to read the same to him. Before the accused was sworn by me, and signed said declaration, written in the police station, I clearly read and explained to him its contents, then asked if he conformed to this testimony. He answered that he did, the declaration being the same he had made before the chief of police)."

Another rule of evidence is, that 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. Turning again to the facts of record, we find present numerous corroborating circumstances which bear out to the last detail the story told in the confession. Among these circumstances can be mentioned the attitude of the accused and his suspicious and evasive bearing when first questioned by the police; the place of the crime and the disposition of the bodies, together with the number of wounds found by the physician which tally exactly with the statement of the accused; the fact that the wounds were made by a cutting instrument such as the bolo of the accused, and that blood stains were found on this bolo and on his clothes. Against such incriminating testimony the defendant offered no evidence.

The second assignment of error of counsel is to the effect that the trial court erred in taking into consideration the circumstances of known premeditation, alevosia [treachery], nocturnity, and despoblado [uninhabited place], and in not giving the accused the benefit of any mitigating circumstance. The argument of counsel, however, goes more to the facts which concern the charge of murder than the charge of parricide. As to the latter, with which alone we concern ourselves herein, there can exist no measure of doubt, if we are to take into consideration the confession of the accused, which we do, that he had especially prepared himself for the atrocious deed, that he invited his wife and his sister-in-law to a remote place and, there, armed and ready to perpetrate the crime under cover of night and without help being available, accomplished his dastardly purpose. The scene of the crime, it may be mentioned, was near the sea and a considerable distance from the nearest house. All this shows that the trial judge made no mistake in applying these qualifying and aggravating circumstances.

Counsel finally suggests that the defendant should be given the benefit of the mitigating circumstance of lack of instruction and education as provided for in article 11 of the Penal Code as amended. On this point the trial court said: "El acusado no aparenta ser ignorante, su porte y sus modales parecen ser de un hombre de cierta instruccion y el hecho de entender el castellano y poseerlo, segun declararon en la vista de esta causa el Juez de Paz y el Jefe de Policia, prueban de que el acusado es hombre de alguna instruccion; por tanto, no se le puede aplicar legalmente la circunstancia atenuante, articulo 11 del C6digo Penal como esta reformado (The accused does not appear to be ignorant; his behavior and manners are those of a man of certain amount of culture. The fact that he understands Spanish [according to the testimony of the justice of the peace and the chief of police in this case], proves him a man of some education; wherefore, the mitigating circumstance mentioned in article 11 of the Penal Code as amended cannot be applied legally)." Without good reason, which does not here exist, we should not

disturb this finding of the trial court.

It results that no error was committed by the trial court in finding the defendant, Alejandro Agatea guilty of the crime of parricide, and in sentencing him to suffer the penalty of death, to indemnify the heirs of the deceased wife in the sum of one thousand pesos, and to pay the costs. This is the unanimous conclusion of this court.

Judgment is affirmed, with costs against the appellant. So ordered.

Arellano, C.J., Johnson, Araullo, Street, and Avanceña, JJ., concur.

CONCURRING

TORRES, J.,

The undersigned concurs with the majority opinion, but believes that, in accordance with article 58 of the Penal Code, if pardoned the accused nevertheless, ought, to suffer disqualification and subjection to the surveillance of the authorities.

Judgment affirmed.

[1] R. G. No. 15178, decided on the same date as the above mentioned case, and not published.

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