

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MARIANO SINGSON, ROBERTO SISTOSO, GREGORIO MENDOZA AND ADRIANO MENDOZA, DEFENDANTS. MARIANO SINGSON, APPELLANT.

G. R. No. 15697. September 06, 1920

Ponente: CARSON, J.

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CARSON, J.:

On the morning of June 23, 1919, the appellant, Mariano Singson, took a party of three or more men, all armed with bolos, to cut bamboo in a thicket which stood close by the house of Jose Solla. Singson claimed that he took the party of workmen there by direction of Roman Bermudez, his brother-in-law, the owner of the bamboo; but the evidence clearly discloses that title to the bamboo was in dispute, and that Solla also claimed ownership and the exclusive right to cut the thicket standing just by his house into which Singson sent his workmen.

Hardly had the party of workmen begun operations when Solla appeared on the scene, ordered them to stop, and demanded by what right and by whose orders they were cutting his bamboo. The workmen referred him to Singson who was standing close by, and words passed between these two. A minute or two thereafter Solla's wife found him lying about 70 or 80 meters away fatally wounded. Solla died within a few hours, but before his death he made a statement to the justice of the peace charging Singson and his coaccused in the lower court with murder.

The prosecution contends that when Solla attempted to stop the cutting of the bamboo, Singson drew a revolver and fired at him and that at the same time Singson's party attacked him with bolos, whereupon Solla ran away, but was overtaken by Singson and his three coaccused who hacked him to pieces at the point about 70 meters away where his wife found him.

The witnesses for the defense tell a very different story. They testified that Solla, when he learned that the men were cutting the bamboo under the direction of Singson, singled him out for attack, rushed upon him with a drawn bolo in hand, put him to flight, and pursued him a distance of about 70 meters; that as Solla was about to overtake Singson, Singson turned upon his pursuer, drew his bolo which was hanging by his side, and after an exchange of some blows, succeeded in fatally wounding him; and, in the excitement of the moment and of the struggle, struck him over and over again to make sure that he was rendered wholly powerless to continue the attack. Testifying in his own behalf, Singson swore that he did not have a revolver on that occasion; that no firearm was discharged that morning by any of the party; that he killed Solla in self-defense, after he had received a bolo cut in his left foot while endeavoring to make his escape; that his bolo was hanging by his side until he was compelled to turn upon his adversary; that in addition to the wound in his heel received while he was still in flight, he was wounded slightly in the left shoulder in the fight with Solla; and that his companions did not join in the pursuit, did not attack Solla with bolos, and did not come up with Singson until after the fight with bolos was over.

The trial judge, confronted by the direct conflict in the testimony, appears to have given the benefit of the doubt to the accused; and found that the account of the incident given by Mariano Singson was a substantially correct story

of what occurred. Accordingly, all of the accused, except Singson were acquitted; and Singson was found guilty of homicide.

Under the provisions of article 86 of the Penal Code, Singson was sentenced to eight years and one day of prison mayor, the trial judge being of opinion that he was not entitled to be wholly exempted from penal liability under his plea of self-defense, because, as the trial judge held, while he was justified in defending himself, he exceeded the bounds of what was rationally necessary to that end when he inflicted the seven separate wounds, bolo cuts, which were found upon the body of his victim after the fight.

From what has been said we think it is very clear that if the story told by the accused and his witnesses was worthy of credence, he should have been exempted from all criminal liability on the ground of self-defense; while, on the other hand, he was undoubtedly guilty of wilful homicide marked with no extenuating circumstances, if the ante-mortem statement of the deceased and the testimony of his widow should be accepted as the truth. The law does not require, and it would be too much to ask of the ordinary man, that when he is defending himself from a deadly assault, in the heat of an encounter at close quarters, he should so mete out his blows that upon a calm and deliberate review of the incident, it will not appear that he exceeded the precise limits of what was absolutely necessary to put his antagonist hors de combat; or that he struck one blow more than was absolutely necessary to save his own life; or that he failed to hold his hand so as to avoid inflicting a fatal wound where a less severe stroke might have served his purpose. Of course the victim of an unlawful aggression may not lawfully exceed the bounds of rational necessity in repelling the assault. But the measure of rational necessity in cases of this kind is to be found in the situation as it appears to the victim of the assault at the time when the blow is struck; and the courts should not and will not, in the light of after events or fuller knowledge, hold the victims of such deadly assaults at close quarters, to so strict a degree of accountability that they will hesitate to put forth their utmost effort in their own defense when that seems to them to be reasonably necessary.

It becomes our duty, then, under our practice, to acquit the appellant if we agree with the trial judge as to the degree of credit which should be accorded the witnesses for the defense; or to convict him of the crime of homicide unmarked with any extenuating circumstances, and to sentence him to the penalty prescribed therefor, if we find beyond a reasonable doubt that the trial judge erred in this regard, and that the story told by the witnesses for the prosecution should be credited rather than those of the accused and his witnesses.

The undisputed testimony of the justice of the peace and the chief of the local police who accompanied him at the investigation of the tragedy soon after it occurred and before Solla was removed from the spot where he fell desperately wounded, discloses that Solla's hat, with a bolo cut across the crown and stained with fresh blood, was found by the chief of police near by the house and the place where all are agreed the original altercation took place. The trial judge appears to have completely overlooked the corroboration furnished by this mute witness of the truth of the ante-mortem statement of the deceased and the testimony of his widow. No explanation appears in the record and none suggests itself at this time as to the discovery of this blood-stained and bolo-slashed hat at the place where it was found save only that it was struck from Solla's head with a bolo, not at the place where he fell fatally wounded, but rather at or near the place where the altercation arose. As we read the record the discovery of this blood-stained hat at the place where it was found conclusively demonstrates that the whole account of what occurred that morning as given by the accused and his witnesses is a tissue of falsehoods.

We think, furthermore, that the trial judge overlooked the vital importance of the statement of the dying man with regard to the revolver shot; a statement which was corroborated by his widow in the course of a most convincing account of the manner in which her attention to the quarrel was first aroused by the report of a firearm.

As we read the record there can be no reasonable doubt as to the truth of this strongly corroborated charge by the

dying man that Singson fired at him before he ran away. We are not unmindful of the fact that men on the very threshold of death have sometimes been shown to have been swayed by a spirit of vindictive revenge, or heated passion, or by a desire to shield themselves or others in making ante-mortem statements. But it is difficult if not impossible to understand any motive which would cause this thirst-crazed man, with his life's blood flowing from seven deadly bolo cuts, to invent such a falsehood, as his statement that Singson had fired at him at the same time that the others attacked him with bolos. He was so weak before he made his statement that the doctor who accompanied the justice of the peace had to give him restoratives before he could muster enough strength to answer the simple questions put to him by the justice of the peace. Why should he have thought of telling a false story as to the use of a firearm by his" assailant when the bolo wounds upon his body spoke for themselves as to how he came to death's door; and the fact that he was but one against four sufficiently explained his inability to defend himself, and the need for flight when he was attacked.

It is true that the justice of the peace testified that the dying man said that the shot wounded him in the arm, and it is also true that the medical officer found no bullet wound in his arm, and was of opinion that the frightful wounds in each of the dead man's arms, including the broken bones, were inflicted with a cutting instrument. But this apparent discrepancy may be explained either upon the possibility that the bolo wounds destroyed all trace of the bullet wound, or that the justice of the peace may have been mistaken in his understanding of what the dying man said, and confused the dying man's reference to the wounds in his arms with his assertion that Singson shot at him at the beginning of the attack. But however this may be, there can be no doubt or misunderstanding as to the statement that Singson fired at Solla, a statement which, as we have said already was strongly corroborated by the widow.

Holding, as we do, that the evidence discloses beyond a reasonable doubt that Singson did fire at Solla before the latter ran away, it is evident that all the testimony of the, witnesses for the defense in support of Singson's claim that he killed Solla in self-defense must be rejected as wholly unworthy of credence.

The accused, himself, introduced evidence tending to show that Solla was a dangerous man, and that he had served a term of imprisonment upon conviction of wilful homicide. This with a view to sustain the theory of the defense as to Solla's alleged deadly assault upon the accused. But without underestimating the value of this evidence as tending to support the theory of the defense, were the truth of the testimony of the witnesses for the prosecution in substantial doubt, we are of opinion that the proof as to the reputation of the deceased may also properly be considered for what it is worth, as tending to lend verisimilitude to the case made out for the prosecution.

If Singson knew that Solla was a dangerous man, who would be likely to resist forcibly any attempt to cut bamboo which he claimed as his property, and which stood close to his house, that knowledge taken together with all the other evidence in the record, serves to confirm our belief that Singson went to Solla's house that morning, determined to have his way despite any objections which might be interposed by Solla; that he took with him a revolver to intimidate Solla and overawe resistance; and that he and his party assaulted Solla and did him to death with their bolos when Solla attempted to insist upon his right of ownership in the bamboo.

Our findings upon the facts disclosed by the record brought here upon appeal justify and necessitate, under our practice, the reversal of the judgment entered in the court below imposing the penalty of eight years and one day of prison mayor; and thereafter the entry of judgment by this court convicting the defendant and appellant, Mariano Singson of the crime of homicide, marked with the aggravating circumstance of superior force, and with no extenuating circumstances, and imposing upon him the penalty of seventeen years, four months and one day of reclusion temporal together with the accessory penalties prescribed by law, and further requiring him to indemnify the heirs of the deceased in the sum of P500, and to pay the costs of both instances. So ordered.

Mapa, C. J., Araullo, Malcolm, Avanceña, Moir and Villamor, JJ., concur.

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