

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JOSE DIAZ TAN-BAUCO, DEFENDANT AND APPELLANT.

G.R. No. 2282. February 12, 1906

Ponente: CARSON, J.

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CARSON, J.:

The information in this case is as follows:

"The undersigned accuses Jose Diaz Tan-Bauco of the crime of frustrated assassination, committed as follows:

"That the said accused, on or about the 1st day of May, 1904, in the town of Lucena, Province of Tayabas, induced one Santiago Salazar to try to kill the Chinaman Vicente Queblar Su-Tingco, promising the said Salazar the sum of 200 pesos as a reward for committing the crime; whereupon Salazar, on the night of the 2d of the said month and year, stabbed the Chinaman Su-Tingco, inflicting upon him a wound which only failed to produce the death of the said Su-Tingco for reasons independent of the will of the aggressor."

The most conclusive evidence connecting the accused with the crime was the testimony of the said Santiago Salazar, who confessed that he had stabbed Su-Tingco in the manner and form set out in the information, alleging that he did so at the suggestion of the accused, who promised him 200 pesos in payment for the commission of the crime. He said, further, that he had not in fact received the money, but that the accused had given him a memorandum of the agreement in writing.

Some days after the commission of the crime and before the arrest of Salazar a document was found in the pocket of a coat belonging to Salazar, and this document was introduced at the trial and identified by Salazar as the memorandum given him by the accused. This document appears to have been lost or extracted from the record, and without it we are unable to make a finding as to the guilt or innocence of the accused, and the judgment and sentence appealed from must therefore be reversed, with the costs of both instances de oficio, and the cause remanded for a new trial.

Let judgment be entered in accordance herewith, and let the record be returned to the trial court through the Attorney-General of the Philippine Islands, whose attention is directed to the loss of the above-mentioned document, for such action as may be proper in the premises. So ordered.

Torres, Mapa, Johnson, and Willard, JJ., concur.

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