

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SIXTO COMIGJOD, DEFENDANT-APPELLANT.*G.R. No. 23113. May 30, 1967*

Ponente: CONCEPCION, C.J.

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Appeal by Sixto Comigjod from a decision of the Court of First Instance of Davao, convicting him of the crime of murder, with which he is charged, and sentencing him to life imprisonment, with the accessory penalties prescribed by law, and to indemnify the heirs of the deceased, Pastor Ladesa, in the sum of P4,000, without subsidiary imprisonment in case of insolvency, as well as to pay the costs.

It is not disputed that on July 28, 1960, at about 7:30 p.m., the body of Pastor Ladesa was found in a coffee grove, about 200 to 300 meters from his house, in Balaban, Astorga, municipality of Sta. Cruz, Davao, with several incise wounds on the head, which must have caused his death at about 2:00 p.m., due to cerebral concussion and cerebral hemorrhage, as well as internal and external hemorrhage. The only question for determination in this case is: who killed him? Appellant Sixto Comigjod is married to Juliana Calungsod, daughter of Ana Albano. The latter is, in turn, Ladesa's common-law wife. Hence, the witnesses herein refer to Ladesa as appellant's father-in-law.

Early in the morning, July 29, 1960, Juliana informed vice-barrio lieutenant Victorino Andres, that Ladesa's killer is her husband, appellant herein. Soon thereafter, that same morning, Andres transmitted the information to Policemen Frank Bumpus and Modesto Alama, who had come to investigate the occurrence. Thereafter, the policemen pro-ceeded to the scene of the occurrence, where appellant was. Bumpus asked him whether it was he who killed Ladesa, but, appellant did not reply. When policeman Alama confronted him with the report given by his wife to Andres, appellant admitted being the killer. Queried about the instrument used to commit the offense, Comigjod answered that it was a bolo he had in his house. Forthwith, the policemen ac-companied him thereto, where Comigjod turned over to them the bolo Exhibit D, which was still stained with blood.

Brought to the police station, appellant was further investigated by Bumpus, to whom the former confessed that he had killed Ladesa because he had been too harsh at him. Thereupon, Bumpus typewrote the statement Exhibit E, which appellant thumbmarked and swore to, on July 30, 1960, be-fore the Justice of the Peace of Sta. Cruz, Artemio Cometa.

Appellant testified that, on July 28, 1960, he was with his wife in the house of the aforementioned Victorino Andres, from 11:00 a.m. to 4:00 p.m.; that when the policemen asked him, at the scene of the occurrence, why he had killed Lade-sa, he (appellant) denied having done so; that the bolo Ex-hibit D was taken from his house by the policemen, not de-livered by him to them; that he thumbmarked the statement Exhibit E without knowing its contents, because the police-men assured him that, after affixing his thumbmark thereon, they would release him; and that, instead, however, they took him back to his cell, where, later in the evening, they boxed him on the stomach and kicked him on the forehead.

Needless to say, the policemen denied having used the alleged duress. Indeed, the same was obviously unnecessary because it was resorted to, according to appellant, after he had thumbmarked the statement Exhibit E. Moreover, the justice of the peace affirmed positively that he had caused the contents of the statement to be translated, in his presence, to appellant herein, into the Visayan dialect; that he checked whether the translation was accurate or not; that he (Cometa) even inquired from appellant whether the translation into English contained in the statement was, likewise, accurate; and that appellant answered in the affirmative. Again, nobody ever saw any external sign of appellant's alleged maltreatment, or was even informed by him about it. It seems only too obvious that appellant's testimony cannot prevail over that of the justice of the peace.

Upon the other hand, appellant's alibi was contradicted by Victorino Andres, who declared that appellant went to his (Andres') house at 4:00 p.m., and was not, accordingly, there at 2:00 p.m., when the crime charged was committed. What is more, appellant did not introduce the testimony of his wife, who according to the theory of the defense, was with him when they allegedly went to said house at 11:00 a.m. and stayed there continuously up to 4:00 pm. And the reason seems obvious for, had she testified for the defense, she would have been cross-examined on the fact that it was she who revealed to Andres, early in the morning of July 29, 1960, that the murderer was her husband. This was impliedly confirmed by appellant himself, he having admitted, on the witness stand, that, while at the scene of the occurrence, the policemen asked him why he had killed Ladesa. It will be recalled, in this connection that, before proceeding to said place, the peace officers had passed by the house of Andres, who conveyed to them the information given to him by appellant's wife.

We are fully satisfied, therefore, that appellant has committed the act charged. The nature and location of the injuries found in Ladesa's body indicate that he was attacked from behind. This and other circumstances set forth in appellant's confession sufficiently establish the fact that appellant had acted with treachery, and that the offense committed is, murder. No modifying circumstance having attended the perpetration of the crime, the penalty prescribed therefor should be imposed in its medium period, which is that meted out in the decision appealed from.

WHEREFORE, the same is hereby affirmed, with costs against appellant Sixto Comigjod.

SO ORDERED.

Reyes, J.B.L., Dizon, Regala, Makalintal, Bengzon, Zaldivar, Sanchez, and Castro, JJ., concur.

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