

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. DINULON AND BIMUSAO, DEFENDANTS AND APPELLANTS.

G.R. No. 23417. August 05, 1925

Ponente: JOHNSON, J.

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JOHNSON, J.:

This is one of a very few cases which have come to the Supreme Court showing the legendary and historical customs of the so-called head-hunting tribes. The custom to which reference is made is that which demands in their inter-tribal relations "a head for a life." In the background of the present cases and which apparently was the real cause of the present alleged murders, the following facts appear. All of the parties concerned in the present actions belonged to non-Christian tribes in the mountains of northern Luzon. All the defendants belonged to the Balangao tribe. The deceased Palaad and his son Bonhaon belonged to the Mayaoyao tribe. For sometime there existed a standing feud or enmity between the two tribes. Before the murder complained of in the complaint of Palaad took place, one Balengua who belonged to the tribe of the defendants—the Balangao tribe,—had been killed. Balengua, it appears, was an uncle or near relative of the defendant Dinulon. It also appears that Balengua had been murdered by members of the Mayaoyao tribe, or the tribe to which Palaad and his son Bonhaon belonged.

The record also discloses the fact that at the suggestion or initiative of the defendant Dinulon, he and the other defendants entered into an agreement, on behalf of their tribe, to avenge the death of Balengua. Accordingly, in the month of April, 1924, Dinulon and his companions set out on a head-hunting expedition. When they arrived at a sitio called Mangayan in the subprovince of Ifugao, they lay in ambush along a path or road and waited for their victims. Sometime thereafter, and the record does not show how long, Palaad, the deceased, and his son Bonhaon appeared and were suddenly attacked by the defendants. As a result of that sudden attack Palaad was killed. His head was severed from his body and carried away. The son, Bonhaon, who was able to escape unhurt, reported the death of his father to the authorities, which resulted in an investigation and the presentation of the complaints in the present cases.

Thereafter and on the 5th day of May, 1924, complaints were presented against said defendants, charging them with murder and attempted murder, respectively, in two separate complaints in the court of the justice of the peace of the municipality of Kiangnan, subprovince of Ifugao, Mountain Province. After a preliminary examination in both causes the justice of the peace found that there was reasonable ground to believe that the defendants committed the crimes charged, and held them for trial in the Court of First Instance of said province. On the 21st day of May, 1924, the prosecuting attorney filed two separate informations. In the cause for murder against Dinulon and Bimusao, R. G. No. 23417, the information alleged:

"Que en o hacia el dia 20 de abril de 1924, en el Distrito Municipal de Mayaoyao, Subprovincia de Ifugao, Provincia Montanosa, Islas Filipinas, los referidos acusados, conspirando entre si y obrando juntos y confederados, voluntaria, ilegal y criminalmente y con premeditacion conocida, alevosia y ensanamiento, mataron con lanzas de caña bojo y bolos a Palaad (igorrote), habiendole inferido varias heridas graves y

mortales de necesidad en diferentes partes de su cuerpo que causaron su muerte instantanea, y una vez muerto cortaron la cabeza de dicho Palaad.

"Hecho cometido con infraccion de la Ley."

In the cause for attempted murder against Daoyan and Taeg, R. G. No. 23418, the information alleged:

"Que en o hacia el dia 20 de abril de 1924, en el Distrito Municipal de Mayaoyao, Subprovincia de Ifugao, Provincia Montañosa, Islas Filipinas, los referidos acusados, previa conspiracion y confabulacion entre si, voluntaria, ilegal y criminalmente, con premeditacion conocida y alevosia, intentaron matar con sus lanzas y bolos a Bonhaon (igorrote) mientras este estaba caminando, habiendo dado principio a la ejecucion del delito directamente por hechos exteriores, persiguiendo con dichos bolos desenvainados y lanzas a dicho Bonhaon mientras este corria para escaparse de silos, le tiraron dichas lanzas contra su espalda para conseguir su proposito de matarle, no habiendo practicado dichos acusados todos los actos de ejecucion que debieran producir el delito de asesinato por haber podido escaparse de ellos.

"Hecho cometido con infraccion de la Ley."

On the 5th day of November, 1924, the prosecuting attorney filed an amended information in R. G. No. 23417, charging the original defendants therein with the same crime of murder, and included Baoyan and Taeg as additional defendants therein. However, the amended information was withdrawn for the sake of expediency.

The two causes were tried together by agreement of the parties. At the conclusion of the trial and after a detailed and thorough study of the evidence, pro and con, the Honorable Anastasio R. Teodoro, in a very interesting and illuminated opinion, found the defendants Dinulon and Bimusao in cause R. G. No. 23417, guilty of the crime of murder with the qualifying circumstance of evident premeditation and with the aggravating circumstances of treachery and cruelty and the mitigating circumstance of article 11 of the Penal Code, and sentenced them to life imprisonment, with the accessory penalties of the law, to indemnify the heirs of Palaad in the sum of P500 and to pay the costs. In cause R. G. No. 23418 the judge also found the defendants Daoyan and Taeg guilty of the crime of attempted murder, with the qualifying circumstance of evident premeditation, and with the aggravating circumstance of treachery and the mitigating circumstance of article 11 of the Penal Code, and sentenced them each to suffer six years and one day of presidio mayor, with the accessory penalties of the law, to indemnify the offended party Bonhaon in the sum of P250 and to pay the costs.

The defendants in both causes appealed from the sentence of the lower court, and now raise a question of fact only.

It appears from the record that sometime in the month of April, 1924, while Bonhaon and his father Palaad were passing along a road or path in the sitio of Mangayan, municipal district of Mayaoyao, subprovince of Ifugao, Mountain Province, they were suddenly attacked by four persons; that those persons were Dinulon, Bimusao, Baoyan and Taeg, the defendants in the above-entitled causes; that Palaad, who was walking behind his son, was hit with a bamboo spear thrown by Dinulon; that Palaad fell; that Daoyan and Taeg threw their spears at Bonhaon, but they hit only the basket he was carrying on his back, without touching his body; that Bonhaon was pursued by Daoyan and Taeg, but he succeeded in running away from them; that Daoyan and Taeg joined Dinulon and Bimusao, who were then stabbing Palaad with their bolos, and helped them kill Palaad; that Palaad's body received numerous wounds, his head was cut off and carried away by Dinulon.

The foregoing facts establish beyond a reasonable doubt the crime of murder with the qualifying circumstance of evident premeditation, committed by the defendants Dinulon and Bimusao in cause R. G. No. 23417 upon the person of Palaad, with the aggravating circumstances of treachery and cruelty. Said facts also prove conclusively the crime of attempted murder with the qualifying circumstance of evident premeditation, committed by the

defendants Daoyan and Taeg upon the person of Bonhaon, with the aggravating circumstance of treachery. All of said aggravating circumstances, however, are offset by the lack of education and instruction of the defendants.

Counsel for the defense now insists, in his first assignment of error, that the lower court erred in fully believing the evidence for the prosecution and in disregarding entirely the evidence for the defense.

The evidence for the prosecution consisted of the testimony of Bonhaon, Tanaynay, Cudal, Del Rosario, Pagulayan, and Bangalen. Bonhaon, one of the offended parties and the son of the deceased Palaad, was present in the execution of the criminal acts by the defendants. After escaping from his assailants, he hid in a thicket in an elevation about 35 meters from the place where his father fell, and from that thicket he witnessed all of the details of the commission of the crime. In the course of his testimony he clearly stated the individual acts perpetrated by each of the defendants and he fully identified each one of them. The occasional contradictions noted by counsel for appellants in his testimony have been cleared and explained by him at the trial when his attention was called thereto. There is absolutely no ground to doubt the veracity of this witness.

The other witnesses for the prosecution, Tinaynay, Cudal, Del Rosario, Pagulayan and Bangalen were all peace officers of the Government. In substance they testified that, upon their receiving notice of the murder of Palaad by the Balangao people, order was issued to the councillors of the municipal district of Natonin to gather all the men in that district; that the defendants Dinulon, Daoyan and Taeg were absent from the gathering; that they were sent for and were brought before the authorities; that they confessed to the commission of the crimes, explained their conspiracy to commit the same and the motive behind it, and mentioned the defendant Bimusao as their companion; that after their confession, and when already under arrest, they requested permission from the proper authorities to hold their tribal feast called "cañao" in order to celebrate the murder of Palaad; that the same night of their arrest the defendants together with the people of the district celebrated the "cañao" under the vigilance of the Constabulary soldiers; that the defendants reiterated their confessions before Lieutenant Pagulayan, of the Constabulary, who took them down in writing as Exhibits E, F, G and H; that said exhibits were read to them in their own dialect, and were ratified and authenticated by them with their thumbmarks in the presence of the justice of the peace.

The evidence for the defense consisted in the testimony of the defendants and their witnesses Labaddan, Daoagan and Matalem. The defendants testified that they did not take any participation in the commission of the crime, and that their confessions were extorted from them by sergeant Del Rosario, of the Constabulary, through force, violence and torture, publicly inflicted upon them. Witnesses Labaddan, Daoagan and Matalem also testified that the defendants were tortured by sergeant Del Rosario in an open public place, in full view of the people of the district of Natonin and the councillors thereof, who were all present at the place on that occasion; and that Del Rosario boxed and kicked them continually till they confessed to the commission of the crimes.

The evidence for the defense can hardly be believed. It is inherently improbable. Torturing a suspected person in public, in the presence of many people, especially councillors of the district, as in the present case, in order to extort confession of guilt to be used for his conviction in court, is contrary to common sense and common experience. It is believed that if torture would ever be resorted to by Constabulary soldiers as a means to secure confession, that they would inflict the same with reasonable privacy in order to forestall any attempt to thereafter attack said confession as having been secured by means of force, violence and torture. They would not do it publicly, as alleged in the present case, because the very publicity of the torture would easily render the confession inadmissible against the accused.

Furthermore, there is another feature of the evidence for the defense which throws suspicion on the veracity of the witnesses. Daoagan and Matalem testified that they went to Bontoc (seat of the court) for the purpose of buying

salt only, and that they did not know that they would be required to appear in court as witnesses. This pretended ignorance; reflect very much on their credibility. The testimony of the witness Labaddan conflicts in one essential point with that of the defendants. He declared that when he placed his thumbmark on the confessions of the defendants as a witness, the defendants were not present and he did not see them place their thumbmarks thereon. On the other hand, the defendants Bimusao and Dinulon testified that Labaddan was present when they placed their thumbmarks on their confessions and that they were also present when Labaddan put his thumbmark, as witness to said confessions.

The foregoing critical analysis, of the evidence for both the prosecution and the defense shows that the trial court was justified in giving full credit to the evidence for the prosecution and in disregarding entirely the evidence for the defense. It also shows that the first error assigned" by counsel for appellants has no any foundation whatsoever.

In his second assignment of error counsel contends that the lower court erred in admitting in evidence Exhibits A, B, C, D, E, F, G, and H, He contends that Exhibits A, B, C, and D have not been satisfactorily identified.

Exhibit A is the spear of Dinulon which he left sticking into the breast of the victim Palaad. Bonhaon, son of Palaad, pulled it out and presented it to the Constabulary soldiers. Said exhibit was identified at the trial by Bonhaon and sergeant Tinaynay. Exhibits B and C are the bolos used by Bimusao and Dinulon in the commission of the crime. They voluntarily surrendered them to the Constabulary soldiers. Sergeant Tinaynay identified them at the trial. Exhibit D consists of a bunch of human hairs found by the soldiers scattered about, the place where Dinulon had left the head of Palaad. Even granting that those hairs were not those of Palaad, that fact will not affect the guilt of the accused. The crimes committed by them have been proven independently of this Exhibit D. As to Exhibits E, F, G, and H, which are the confessions of the defendants before Lieutenant Pagulayan, counsel contends that said confessions are not voluntary, but extorted from them through force and violence, and that they placed their thumbmarks on said exhibits without knowledge of the contents thereof. The merits of said exhibits as evidence against the defendants have been fully demonstrated in the discussion of the credibility of the witnesses for the prosecution and the defense. The contention of counsel as to their admissibility is untenable.

Therefore, the sentence of the lower court is hereby affirmed in each case, with costs. So ordered.

Avanceña, C. J., Street, Malcolm, Villamor, and Johns, JJ., concur.

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