

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. CATALINO RIOARIN, DEFENDANT AND APPELLANT.

G.R. No. 23757. September 05, 1925

Ponente: OSTRAND, J.

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OSTRAND, J.:

This is an appeal from a judgment of the Court of First Instance of Ilocos Sur finding the appellant guilty of the crime of homicide and sentencing him to suffer fourteen years, eight months and one day of reclusion temporal, with the accessory penalties prescribed by law, to indemnify the family of the deceased Anacleto Ogalde in the sum of P500, and to pay the costs.

The crime was committed in the evening of February 24, 1924, at a wedding celebration in the house of one Feliciano Soliven in the barrio of Sapata, municipality of Candon, Province of Ilocos Sur. The evidence for the prosecution tends to show that there was ill feeling between the accused and the deceased Anacleto Ogalde; that on the occasion in question the two quarreled; and that as a sequel to the quarrel the accused stabbed the deceased in the left side of the neck with a pocket knife which resulted in almost immediate death. After having inflicted the wound and without withdrawing the knife therefrom, the accused ran away.

The defendant's version of the affair is to the effect that the deceased attacked him with the knife found in the wound; that he, the defendant, endeavored to escape, but was pursued by the deceased; and that in the course of the pursuit the deceased fell on his face and, in doing so, accidentally stabbed himself in the neck. The court below found the defendant's story improbable and accepted the testimony of the witnesses for the prosecution as true. We are of the same opinion and think the defendant has been proven guilty beyond a reasonable doubt.

Under his first assignment of error counsel for the appellant argues that the court below erred in sustaining the fiscal's objection to the admission in evidence of certain affidavits executed before the justice of the peace in the course of the preliminary investigation of the case, and tending to show that one Ciriaco Toquero and not the defendant killed the deceased. The ruling was entirely proper. Affidavits are sometimes admissible to impeach the testimony of the affiants given at the trial of the case, but here the affiants did not testify and the affidavits could therefore not be used for that purpose. That they under the circumstance were nothing but mere hearsay and as such clearly inadmissible, is too obvious for argument.

The judgment of the court below is in accordance with the established facts and with the law and is affirmed with the costs against the appellant. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Villamor, Johns, and Villa-Real, JJ., concur.

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