

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. M. AKANATSU (ALIAS CAMATCHANG), DEFENDANT AND APPELLANT.*G. R. No. 25148. July 30, 1926*

Ponente: ROMUALDEZ, J.

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The accused does not deny having inflicted the injuries on Sixto Asesor and thereby caused his death. What he contends through his attorney in this instance is that, besides the extenuating circumstance of not having had the intention to cause so great an evil, the fact that he was carried away by passion and obfuscation should be considered in his favor, and the penalty next lower to that provided by law imposed upon him in view of the presence of these two extenuating circumstances.

The fact that the said deceased paid him but P2 instead of P4, for the use of the accused's banca, for eight days at the rate of P0.50 daily; that the deceased showed in-difference as a laborer of the accused towards his work of cutting wood; that the deceased left the accused's house without the latter's permission and did not return to said house, and the deceased's conduct and attitude when he met him are the facts which the defense alleges produced passion and obfuscation. In our opinion, however, said facts, either alone or together, do not constitute sufficient cause for naturally producing passion and obfuscation. Of the four facts mentioned, the first three, in view of the manner in which they occurred as shown by the record, amount, at most, to breaches of contract which, under ordinary conditions, would not produce, nor should they produce, excitement, passion or obfuscation. In regard to the conduct and actions of the deceased upon being found by the accused, qualified by the defense as defiance to authority of a master, we do not find sufficient grounds in the record for such conclusion. The very few, hardly any, explanations given by the deceased to the accused, taken into consideration with the circumstances of the case, do not imply any defiance, not even a provocation or an insult. The deceased was a simple sexagenarian laborer who on meeting his master face to face, whom he had failed in his duties and obligations as a workman, did not know at the moment how to excuse himself, finding himself compelled either to keep silent or give insufficient explanations, perhaps incoherent (it does not appear from the record that they were either provoking or insulting), prompted not by the desire to defy or provoke, but by his depression on that occasion, so overwhelming on account of his ignorant simplicity. Neither does this fact produce, nor should it produce, passion or obfuscation.

Consequently, we do not find sufficient grounds for taking into account the extenuating circumstance mentioned.

The Attorney-General, on the other hand, cites the aggravating circumstance of offense or disregard of the age of the offended party which, according to one witness, must, at that time, have been about 75 years, and according to another, about 65 years. In our opinion, the record does not show that the commission of the crime in question was attended by any offense or disregard of the age of the offended party, taking into account the circumstances under which the act in question developed and the pre-existing relations between the accused and the deceased.

The crime proved in the record is that of homicide, modified by the extenuating circumstance that the accused did not intend to commit so grave an evil as was caused.

Finding no error in the judgment appealed from, it is hereby affirmed in all its parts, with the costs against the appellant. So ordered.

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

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