

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. VALENTIN SAMBILE ET AL., DEFENDANTS. VALENTIN SAMBILE, APPELLANT.*G.R. No. 29395. December 22, 1928*

Ponente: STREET, J.

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This appeal has been brought to reverse a judgment of the Court of First Instance of Tayabas, finding the appellant, Valentin Sambile, guilty of the complex offense of robbery with homicide and sentencing him to undergo the penalty of *cadena perpetua*, with the accessories prescribed by law, requiring him to return to Bonifacia Villosa the sum of P70.50, and to pay to the heirs of the deceased, Enrique Aldea, the sum of P500, as indemnity, and requiring him to pay the one-third part of the costs of prosecution.

It appears that at about midnight of December 17-18, 1927, while Enrique Aldea and his wife, Bonifacia Villosa, were sleeping in their house in the barrio of Mamala, Sariaya, Tayabas, some one produced a noise by opening the front sliding door. This sound aroused the sleepers, and Enrique rose to a sitting posture. Just then two men were seen to enter the room, one behind the other; and they directed themselves to the place where Enrique and his wife were sleeping. The one in front carried a revolver, and Bonifacia recognized him as Getulio Albitos, father-in-law of Marta, a Bister of Bonifacia. The man following Getulio was also recognized by Bonifacia as Valentin Sambile, the present appellant.

The house was lighted at the time by a small lamp, and, upon seeing the intruders approach, Enrique said to them, "I know you." Upon this Getulio pointed the revolver at Enrique and fired point-blank into his body. At the same time the villain kicked over the little lamp, and the room was left in darkness except for a flash light which Valentin Sambile carried. With this light Valentin now approached Bonifacia and took from her the sum of P70.50, which she carried in a belt. When this had been accomplished, Bonifacia heard some one outside call out, "Hurry, hurry!" and the two intruders withdrew. Bonifacia says that she recognized the voice of the person thus calling as that of Fructuoso Gaviola. Before leaving the house Getulio threatened Bonifacia with death if she should denounce the crime.

The bullet fired by Getulio Albitos entered the body of Enrique Aldea 2 or 3 inches below the left nipple, passed near the heart and, after perforating the lung, buried itself in the vertebral column. As a result of this wound Enrique died instantly. The deceased was a young man only 22 years of age; and his wife, Bonifacia Villosa, was scarcely more than a child, her age, at the time of the trial being stated as 19 years.

After the robbers had withdrawn Bonifacia went to find her sister Marta, in the nearby house of the latter's father-in-law, who was none other than the homicide, Getulio Albitos. Having procured the company of her sister, Bonifacia went to the home of her own parents and gave information of the perpetration of the crime.

Bonifacia says that after the crime was committed, both Getulio Albitos and his wife Barbara repeatedly threatened her with death if she should denounce him. In subsection no doubt to the fear engendered from these

and the previous threats, Bonifacia at first refrained from giving the names of the three culprits, and when she was interviewed by Gabino Reyes, the acting municipal president of Sariaya, she told him that she could not tell the names of the robbers for she was afraid, but she said that she could recognize the guilty if they should be presented to her.

Soon after the offense was committed, the three whom we have mentioned as participating in the offense were arrested, and the present appellant, Valentin Sambile, made a written confession, in which he gave a circumstantial account of the perpetration of the crime by him and his two coaccused in this case. In order, however, no doubt, to exculpate himself as far as possible, Sambile pretended in this confession that he was the one who had remained outside while Getulio and Fructuoso entered the house and perpetrated the crime as already described.

Of the justice of the conviction of this appellant we entertain no doubt whatever; and the circumstance that his two companions in the crime have escaped punishment by their acquittal in the trial court does not entitle the appellant to any consideration whatever at our hands. Not only was this appellant identified by Bonifacia Villosa as the man who robbed her, but we have his own confession, from which his guilt is apparent. In view of the proximity with which this appellant approached to the person of Bonifacia when he robbed her, she had ample opportunity for recognizing him as one with whom she was well acquainted. And not only did she recognize him before the little lamp in the room was, extinguished but she recognized him afterwards, by means of the flash light, in the act of robbery.

It should be stated that P70 of the money taken by the appellant from Bonifacia Villosa had been taken in by her, some two weeks before the robbery, from her father, upon the occasion of his returning a loan for that amount. Getulio Albitos and his wife were present when this money was paid over, thus giving Albitos ample opportunity to know that Bonifacia was carrying the money on her person.

At the hearing of the cause, the appellant pretended that his confession (Exhibit C) had been extorted from him by threats and by the application of electrical currents and water, to which the Constabulary authorities had treated him. These acts are denied by the persons concerned, and the story told by the appellant bears the ordinary marks of fabrication designed to assist him in evading the effects of said confession.

His recantation should not in our opinion be given any weight, because of the evident marks of perjury in his testimony with respect to the making of the confession. But, even if it be supposed, that said confession (Exhibit C) was obtained under conditions which render it inadmissible in evidence, we are of the opinion that the identity of the appellant as the man who robbed Bonifacia Villosa is sufficiently proved by her testimony alone. In the opinion of the court, the appellant is guilty; and the penalty imposed by the trial court is in manifest conformity with the law and the facts.

The judgment will therefore be affirmed, and it is so ordered, with costs against the appellant.

Johnson, Malcolm, Villamor, Ostrand, and Villa-Real, JJ., concur.

DISSENTING

ROMUALDEZ, J.:

With all due respect to the majority opinion, it seems to me that Bonifacia Villosa's testimony, which suffers from certain inconsistencies, and as the identification of Valentin Sambile, was overthrown by the testimony of Getulio Albitos and Inocente Gabriela, is not enough proof that the appellant took part in the commission of the crime

charged.

As to the so-called confession of Valentin Sambile (Exhibit C), I am of opinion that the record furnishes enough data to cast doubts on its voluntariness.

Entertaining, as I do, a reasonable doubt of the appellant's guilt, I vote for his acquittal.

Judgment affirmed.

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