

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. AVELINA TEODORO, DEFENDANT AND APPELLANT.

G.R. No. 32828. August 12, 1930

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

This case is here on appeal taken by Avelina Teodoro from the judgment of the Court of First Instance of Pampanga sentencing her to life imprisonment, with the accessory penalties of article 59 of the Penal Code, P1,000 indemnity to the deceased's heirs, and costs, for the crime of murder.

This appeal is based upon three assignments of error, to wit: (1) That the lower court admitted her codefendant's extra judicial statements, Exhibits R and U, in evidence against her; (2) that the lower court held the defendant's guilt established beyond a reasonable doubt; and (3) that the lower court sentenced the defendant to life imprisonment.

The trial court did not, in our opinion, consider the co-defendant Hilario Lugtu's extra judicial statements found in Exhibits R and U, as evidence against her. Reference was made to Exhibits R and U in the judgment appealed from in order to explain the court's finding that the evidence is insufficient against the defendant Hilario Lugtu who made such statements; but it does not appear that the court based its finding of the appellant's guilt on those statements.

The second assignment of error refers to the sufficiency of the evidence as to the appellant's guilt. Such evidence is, indeed, merely circumstantial. But it is no less certain that such circumstantial evidence has proved the defendant's guilt beyond a reasonable doubt.

It has been proved without discussion that the deceased, Constancia Pineda, a 16-year old girl, met a violent death in the evening of September 25, 1929, within the jurisdiction of the municipality of Arayat, Pampanga, Philippine Islands. It has in like manner been proved, without contradiction, that the appellant was in company with the deceased that afternoon in the market place of the municipality, and remained with her until they came to the toilet of the Anderson Intermediate School situated in the same locality, in the immediate vicinity of which the corpse was found the following day. These facts have been admitted by the appellant in her sworn statement, Exhibit T.

It also appears that the appellant bore the deceased a grudge, as appears from her testimony, Exhibit T:

"A. Constancia Pineda asked me to go with her to the market to ask her mother, who was selling fish, for some money. When we arrived at the market we placed our books on the table, and Constancia left me, going alone to her mother. She came back with lanzones, of which she gave me some. As we were eating them seated at opposite sides of the table, Hilario Lugtu whom we knew, came up. He spoke to Constancia Pineda, and after doing so, he spoke to me; Hilario Lugtu and I had a conversation and I told him that she was displeased with her companion, and was spreading shameful reports about me everywhere in the barrio, and that when there were any letters for me, although they were not addressed to her, and were marked 'care of' she opened them.

After I had told all this to Hilario Lugtu, he said he would take care of Constanica Pineda, and that she and I should pass along the way to the closed schoolhouse; and, having finished our conversation, Hilario Lugtu left." (Folio 117, record.)

Witness Cristino Reyes testified that on September 19, 1929, six days before the crime was committed, the defendant asked him for the loan of a knife, the size and shape of which he indicated by a drawing found in Exhibit J, folio 49, record. Doctor Alioalas, who performed the autopsy, found 37 wounds, caused by one instrument which "must be an ordinary single-edged penknife, with a blade about one inch wide." (Exhibit K, folio 50, record, and testimony of said physician, folios 65-77, t. s. n.) Cristino Reyes testified that on September 20, 1929, he asked the defendant to return the penknife, and she replied that she had lost it. Counsel contends that this statement of defendant's to Cristino Reyes must be given credit because it was not proved to be false, and because the penknife in question was not subsequently found in defendant's possession. This observation is not without weight; however, if the rest of the circumstantial evidence sufficiently shows that it was the defendant who assaulted the deceased and inflicted the wounds which, according to expert evidence, were caused by a penknife, then the fact that the defendant secured the loan of a penknife from Cristino Reyes would corroborate the defendant's guilt as shown by the rest of the circumstantial evidence, giving rise to the persuasion that it was that knife which she used in committing the crime; and therefore, either the said penknife was not lost at all, or it was found again by the accused before the crime.

It has also been sufficiently shown that the defendant and the victim were seen and heard by Maximo Bundoc, who thus testified on that point:

"Q. After carrying water, what did you do?—A. I went to the Arayat Church.

"Q. And what did you do there?—A. Carry water, too.

"Q. And, then?—A. Having left the market for the church, I was passing along in front of the door of the Anderson Intermediate School, when I heard a girl's voice, saying: 'In this world there's no devil like one's neighbor,'

"Q. Who said that?—A. The small girl said that to the big one, and often repeated it. When I heard it I left my pails on one side of the road, and went towards the two acacia trees which stood there, in order to hear what they said.

"Q. What did the other, the big one, answer?—A. She said, 'I think so too, myself. There's no devil on earth like one's neighbor, but not all of them.' Said the big one to the small girl.

"Q. What else did you hear?—A. 'Haven't you noticed that for some days I've been displeased with you? But after a few days, you must have seen that I was again cheerful in your company.' Then the small girl answered, 'And it is for the very reason that there's no devil on earth like one's neighbor, and therefore, you must not believe rumors.'

"Q. What else did you hear?—A. And the big girl said after the small one's answer, 'I have a stomach ache.' The small girl said, 'There's no devil in this world like one's neighbor, and you should not believe rumors. Then the big one said, 'I have a stomach ache' and invited her to take the second door leading to the closet; but the small one pulled her by the hand saying, 'That can be done at home'. And the big one held the small girl's hand, saying, 'I am ashamed (to do so) in the house where you stay, and it is better to come here, and she succeeded in dragging her through the second door.

"Q. Who succeeded in dragging her through the second door?—A. The big girl; and the small one said, 'AH right; let us,' and went in.

"Q. Did they pass through the second door?—A. Yes, and on entering it, they turned towards the toilet; and as

they went behind the shed and I could not see them, I picked up my pails and went towards the church.

"Q. At what time did that take place?—A. At nightfall.

"Q. You recognized those two girls?—A. Yes, sir.

"Q. Do you know their names ?—A. No, sir.

"Q. Their faces?—A. Yes, sir.

"Q. Look about the courtroom and tell us whether you see one of those two girls whom you saw conversing.—
A. There she is (pointing to accused).

"The Court. Is this the big girl or the small one?—A. That's the big one.

"Fiscal. And how tall was the small one?—A. Much smaller than this one (pointing to accused.)

"The Court. Did you see that smaller girl afterwards?— A. No, sir, I never saw her again.

"Q. Not even the following day?—A. Yes, sir, the next day,

"Q. Alive or dead?—A. Dead.

"Fiscal. Where did you see that small girl dead?—A. In front of the closet.

"Q. How is it you went there?—A. I went as one of the curious.

"(J. You said that after having heard the conversation between those two girls, and they went towards the toilet, you went towards the church. Did you say that ?—A. Yes, sir; I could not see them.

"Q. Where did you go, when you went towards the church?—A. There is a tap near the church. I went there.

"Q. What did you intend to do there?—A. To get water.

"Q. Did you remain a long time at the tap to secure water?—A. Yes, sir; until a slight rain caught me.

"Q. And while you were there, where you took some water, did you see anybody?—A. After having filled my two pails, growing impatient, I went towards where I had heard the conversation between those two women, and coming almost in front of the door of Mr. Salvador Alcala, I saw a woman walking somewhat hurriedly, and I had to follow her with my eyes; she went towards the tap, stopped, looked round, and walked onwards toward the other tap and the protestant chapel, and I remembered she was the woman I had seen in conversation with the small one.

"The Court. Who was that woman who walked hurriedly?—A. The one I have just pointed out.

"Q. While you were listening to the conversation between the defendant and the victim, did you see any other man" going to or from the place, or lingering about?—A.-I did not see any.

"Q. And upon your return when you saw the defendant walking away hurriedly, did you see any other man going away from the schoolhouse?—A. I did not.

"Q. And as you went towards the schoolhouse, did you see any man?—A. No, sir.

"Fiscal. When, as you said, that woman whom you recognized to be the defendant Avelina Teodoro, was going towards the tap, where did you go?—A. I returned to the place where I had heard those two women, and afterwards I went home.

"Q. Did you learn the name of the small girl whom you saw the next day, near the closet?—A. No, sir.

"Q. Have you heard the name of that girl?—A. No, sir, I heard it, but as I am not familiar with it, I cannot remember it; even now, if I don't hear the name, I cannot say it." (Folios 49-53, t. s. n.)

This testimony given by Maximo Bundoc is to a certain extent corroborated by the defendant herself in her affidavit Exhibit T mentioned above, where she admitted that she was in company with the victim engaged in conversation at the place and on the occasion of the crime.

It is likewise shown that a finger of the defendant's left hand became stained with the deceased's blood, and thus the note-book Exhibit N was also stained. In her sworn statement Exhibit T the defendant admits that she touched the victim's wounded arm with her left hand, and that she caught up the latter's books by mistake. Among these must have been the notebook Exhibit N, upon the back cover of which are bloody finger prints.

It is also shown that some moments after the appellant had been seen in company of the deceased near the scene of the crime, she was seen walking hurriedly away.

The record also shows that when the accused was arrested by the Chief of Police Mutuc, he noticed bloodstains upon her chemise and skirt.

Applying to the case at bar the provisions of rule 52 of the Provisional Law for the application of the provisions of the Penal Code in the Philippine Islands, which is still in force in this jurisdiction and has been repeatedly applied (U. S. vs. Santos,¹ Phil., 222; U. S. vs. Rosal, 12 Phil., 135), we find: That there is more than one circumstantial evidence; that the facts upon which such evidence is based have all been established, as indicated above; and the conviction produced by said circumstantial evidence, taken as a whole, leaves no room for reasonable doubt as to the defendant's guilt, in the natural and ordinary course of events.

As to the qualification of the crime, it has been shown that the qualifying circumstance of evident premeditation has been present, and therefore, the crime is murder.

However, the lower court considered as aggravating circumstances the abuse of confidence and cunningness, which are really, in this case, included in the evident premeditation ; and, on the other hand, the extenuating circumstance of obfuscation cannot be taken into account because, considering all the circumstances of the case, it does not appear that when the defendant committed the crime, she was seized with passion and obfuscation.

Wherefore, the crime for which the defendant must answer is murder without any modifying circumstance, and the penalty to be imposed is the medium degree of that fixed by law (article 403, and article 81, No. 1, Penal Code), that is, life imprisonment, (article 95, do.) because the culprit is a woman; and this is the penalty imposed upon her by the trial court, and recommended by the Attorney-General.

The judgment appealed from is affirmed, with the costs of both instances against the appellant. So ordered.

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

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