

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. ROMARICO PARCON. ET AL., DEFENDANTS. ROMARICO PARCON, APPELLANT.*G. R. No. 34448. August 20, 1931*

Ponente: STREET, J.

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This appeal has been brought to reverse a judgment of the Court of First Instance of the Province of Surigao, finding the appellant, Romarico Parcon, guilty of the offense of homicide and sentencing him to undergo imprisonment for fourteen years, eight months and one day, reclusion temporal, and requiring him to indemnify the heirs of the deceased (Felix Viril) in the amount of P1,000 with the accessories prescribed by law, and requiring him to pay half the costs of prosecution.

It appears that at about 11 o'clock on the night of July 12, 1930, Romarico Parcon, Felix Viril, Jose Verdun and Inocencio Bual, presented themselves at the house of Petra Febrero in the municipality of Gigaquit, Surigao, asking for her husband. She replied that he was away. Upon this the appellant, Romarico Parcon, asked her if she had any tuba. She replied that her tuba of that day had been used up, but there was still on hand some of the tuba made the day before, of strong quality. Parcon indicated that he wished to sample it. Petra accordingly procured some of this tuba and delivered it to Parcon, each of the four taking one glass except Felix Viril who, upon the invitation of Parcon, took two glasses. A few moments later Parcon ordered ginger ale, of which each of the four visitors took one glass. Parcon then paid the woman 90 centavos for the refreshments received, and the visitors left.

After the four had been walking around for a while Felix Viril separated from his companions, claiming to be tired, and his example was shortly followed by Inocencio Bual. This left only Jose Verdun and Romarico Parcon together. Viril appears to have turned in for rest in a house owned by Fruto Japay in the barrio of Babay, a house which, at the time, had no other occupant.

At about 1 o'clock in the morning of the same night, one Emeterio Degran happened to be out looking for a horse that had gotten loose from the place under the house where the animal had been tied; and as Degran was passing in front of the house of Fruto Japay, he saw Jose Verdun standing near the foot of the steps leading up into the house and another, whom he recognized to be Romarico Parcon, hurriedly descending the same steps. Both were armed with cudgels. Seeing Degran, Parcon approached and told him to tell nobody that he had seen the two come down out of the house of Fruto Japay, otherwise they would kill him.

Degran went on his way, and the explanation of the incident was not forthcoming until the next afternoon when Degran learned that the dead body of Felix Viril had been found in the house of Fruto Japay, whereupon in the company of a friend, Numeriano Voisin, Degran went to the house of Fruto Japay, and upon arrival they found a number of persons assembled, on account of the discovery of the dead body of Felix Viril. Finding Fidela Larong, the widow of the deceased, among those present, Degran informed her that he had seen Parcon and Verdun come

out of the house in the early hours of the morning and that he had been threatened with death in case this fact should be revealed by him. This revelation led to the arrest and prosecution of Parcon and Verdun upon an information charging murder.

After the accused had been arraigned a severance was requested, but in the trial of the case against Parcon, Jose Verdun was used as a witness for the prosecution. Later, after the proof in the case against him had been submitted, Verdun, through his attorney, accepted the proof that had been adduced in the case against Parcon as proof in his own case. The cases were accordingly submitted together, and the judge entered judgment absolving Verdun from the information and sentencing Parcon as stated in the opening paragraph of this opinion.

The homicide appears to have had its origin in the ill will developed against Viril in the afternoon preceding the killing, upon the occasion of a game of *cara y cruz* wherein Viril had won a peso and a half which Parcon had placed in the hands of Verdun to be bet on the game.

In testifying as a witness for the prosecution, Jose Verdun stated that Parcon and he, upon being left alone by their two other companions, continued strolling around, until Parcon finally suggested to Verdun that they should go up into the house of Fruto Japay, the same to which, as subsequently appeared, Felix Viril had retired to rest. Verdun says that he did not wish to do so as that house was unknown to him. He accordingly remained on the steps, while Romarico Parcon went up alone. Presently Verdun heard a heavy sound, like a blow, after which Parcon came down and told him to keep silent. They then continued their stroll and later separated.

Doctor Medina, who examined the body of the deceased, stated that he found the corpse, face down, on a couch with the left hand twisted backwards. On the back part of the head a dark swelling was found where blood was coagulated under the skin. The face also had become livid, and blood was oozing from the mouth. Death had evidently been due to the blow in the back of the head, which had apparently been inflicted with a stick having an irregular surface.

The proof submitted on the part of the appellant tends to show an alibi, and he even denied having visited the house of Petra Febrero on the evening of the 12th of July just before the homicide was committed. The trial judge was in our opinion well justified in ignoring this testimony as well as the testimony of one Julito Larong tending to show that Jose Verdun had acknowledged to Larong that he himself was the sole author of the crime.

The testimony of Jose Verdun should of course be accepted with caution, because he was undoubtedly either a coauthor or an accomplice in the homicide, and his testimony cannot properly be credited against Pareon without being corroborated by other proof. We are of the opinion, however, that the necessary corroboration is found in the testimony of Emeterio Degran, who testified that Pareon and Verdun were seen by him together late at night at the door of the house wherein the body of the deceased was found. Slight discrepancies between the testimony of Degran and Verdun do not, in our opinion, impair the substantial force of the inference to be drawn from the presence of said two individuals at that time and place where they were seen. In our opinion there can be no reasonable doubt that this appellant, Pareon, is guilty of the homicide in question.

Error is assigned by the appellant to the use of Jose Verdun as a witness for the prosecution, without prior dismissal of the case against him. The contention, in our opinion, is without merit, for the reason that Act No. 2709, while limiting the exercise of the discretion of the court in discharging an accused person who is to be used as a witness, does not prohibit the use of one co-defendant as a witness for the prosecution, when such co-defendant voluntarily takes the stand to testify against a co-defendant (*U. S. vs. Remigio*, 37 Phil., 599; *People vs. Badilla*, 48 Phil., 718).

The judgment, in our opinion, is correct, and the same will be affirmed, with half the costs of first instance and all

the costs of this instance against the appellant. So ordered.

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

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