

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. MARIA ORIFON, DEFENDANT AND APPELLANT.

G. R. No. 36173. November 25, 1932

Ponente: BUTTE, J.

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BUTTE, J.:

Maria Orifon was sentenced to cadena perpetua for the murder of her father. She pleaded guilty to the charge at the preliminary investigation but on the arraignment upon the information filed in the Court of First Instance she pleaded not guilty. The principal evidence against the accused consisted of her confession which she wrote out" in her own handwriting and in her own dialect (Ilocano). It appears in the record in Spanish as follows:

"Yo, Maria Orifon, que firmo al pie de estas mis declaraciones, soltera, de 24 anos de edad y residente en el lugar llamado Sagpatan del Municipio de Dingras, Ilocos Norte, declaro la pura verdad en los siguientes parrafos y no declaro nada que no sea verdad y solo declarare lo que realmente ocurrio y he hecho.

"Si no me equivoco, recuerdo que el 2.º año atras o sea el año 1930 sin recordar el mes, en una noche en que yo estaba durmiendo, aquel mi difunto padre Lazaro Orifon, sin mas ni mas, note que el estaba encima de mi y, a pesar de mi resistencia, pudo fornicarme violandome, pues decia que si yo iba a gritar o si yo iba a dar cuenta de aquello a mi madre que era su esposa, me mataria o mataria a nosotras dos de mi madre. Cuando mi padre hizo aquello que hizo de mi, no estaba entonces mi madre en nuestra casa porque se habia ido entonces a Laoag. Y desde aquella ocasion en que tuvo acceso carnal conmigo, ya no podia mas negar a mi padre el gusto de gozar de mi porque le tenia miedo. La ultima vez que yacio conmigo mi padre, fue la noche del miercoles anterior a su muerte. Yo no he estado premeditando el hecho de dar muerte a mi padre. Pero en vista de que ahora ya pronto se va a notar alguna serial de lo que ha estado haciendo de mi y parece que no puedo estar en frente y ver a mi madre y a la gente por la vergüenza que tengo; por eso se me ocurrió la mala intencion y pense en hacer lo que nice de mi padre lo cual voy ahora a relatar.

"En la noche del jueves, no se a que hora, fecha 2 del mes de julio de 1931, mientras estaban durmiendo mi madre, mis hermanos y un primo de segundo grado llamado Alfredo Ballesteros, me baje de casa y me fui al lugar llamado Santisima donde se encontraba entonces mi difunto padre; pues alli pasaba el mayor tiempo de los dias de trasplante de palay. Y en aquella ocasion en que me fui a aquel lugar fue cuando yo mate a mi padre. Y lo primero que hice, una vez dentro de nuestra cobacha, encendi una cerilla del fosforo que llevaba y entonces vi que mi padre estaba durmiendo. Y al momento de alumbrarle, vi que el bolo de mi padre estaba en la banguera envainado. Recogi y desenvaine el bolo y con el mismo le di un tajo en el lado izquierdo de su cuello y tambien en el lado izquierdo de su abdomen dandole a mi padre entonces dos tajos. Aunque asi he hecho contra mi padre, desde un principio tengo el proposito de decir la verdad. Inmediatamente despues de haber dado los tajos a mi padre me retire a casa llevandome el bolo de mi padre, pero deje la vaina. Y al llegar yo a casa guarde en seguida para ocultar el bolo en los bajos de una mata de caña al norte de nuestra casa; despues me fui ya a dormir; y que desde entonces hasta ahora a nadie he reyelado todo esto mas que ahora ante el Sr. Teniente Chavez de la Constabularia y companeros bajo una buena investigaci6n que me hicieron sin que hayan hecho nada contra mi, hoy 13 de julio de 1931."

At the trial no objection was made by her counsel to the admission of said confession. We find, moreover,

sufficient corroboratory evidence, independent of said confession, to warrant its admission against the defendant. Her counsel, on the appeal in this court, makes only the technical objection against said confession that this court cannot take notice of said confession because it is written in dialect and the Spanish translation thereof appearing in the record is not identified or in any wise certified. A member of this court, who has personal knowledge of the Ilocano dialect, has assured us that the Spanish translation of said confession as above set out is substantially correct and we accept the same under these circumstances. (Cf. *Dionisio vs. Dionisio*, 45 Phil., 609, 611.) No question is raised on this appeal as to said confession being the free and voluntary act and declaration of the accused. In view of the fact that the penalty of *cadena perpetua* no longer exists under the Revised Penal Code, the sentence must be modified to *reclusion perpetua* with the accessory penalties provided by law.

In view of the horrible wrong which this young woman suffered at the hands of her father and of the obviously depressed state of mind and of body which she must have suffered when she premeditated the act of madness and revenge, for which she is now condemned under the letter of the law to suffer life imprisonment, the court, invoking the provisions of article 5, second paragraph, of the Revised Penal Code, submits to the Chief Executive through the Department of Justice, its sincere opinion that the penalty imposed in this case (and the law does not permit any lower penalty) is a clearly excessive penalty, having regard to the condition of the accused and the circumstances which impelled her to commit the crime for which she stands convicted.

With profound regret that the law allows us no alternative, we affirm the judgment of the court below as modified herein. So ordered.

Avanceña, C. J., Villamor, Ostrand, Villa-Real, Abad Santos, Hull, Vickers, and Imperial, JJ., concur.

STREET, J., concurring: I concur with the court in this case and wish to add that, in my opinion, the appellant should be pardoned in full.

MALCOLM, J.: I vote to affirm the judgment as modified. Judgment modified.

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