

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. SALVADOR ESCUDERO, SR., SALVADOR ESCUDERO, JR., AND MARGARITO HONRA, DEFENDANTS. SALVADOR ESCUDERO, SR., AND SA...

G. R. No. 41235. December 20, 1934

Ponente: VICKERS, J.

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VICKERS, J.:

Meliton Hagos, municipal president of Casiguran, Sorsogon Province, was killed without warning about eight o'clock in the evening of July 25, 1932, while sitting in the sala of his house. The weapon used in the commission of the crime was a gun loaded with No. 4 shot and slugs made from galvanized iron rivets. The gun was fired from the direction of the front entrance to the house.

The municipal police and the constabulary promptly began to examine the premises and to question the people in the house of the deceased and the neighboring houses as to what they knew about the crime. The investigation was continued, but without any immediate results, and on July 29th the provincial governor issued a proclamation addressed to the residents of Casiguran, in which he denounced the crime, urged the people to aid the authorities in discovering the murderer, and to give to the constabulary immediately any information that might lead to the detection of the author of the crime. To show his appreciation of the attitude of the people, the governor offered a reward of ^50 for information leading to the arrest and conviction of the person that had committed the crime.

As soon as it became known that the municipal president had been murdered, a rumor was started that the Escuderos were responsible for the crime. Apparently it was at first assumed that the Escuderos were implicated in the crime solely because of the political rivalry and ill feeling that had existed between them and the deceased municipal president. As a motive for the commission of the crime, the prosecution adduced evidence tending to show that at the instance of Meliton Hagos, Salvador Escudero, jr., was charged with frustrated murder on May 17, 1932; that after he had been arrested, his father, Salvador Escudero, sr., went to the office of the chief of police and told him that he had been persecuting his son, and that if anything happened to him, the chief of police and his associates had better take care; that on the night of May 28, 1932 Salvador Escudero accused Meliton Hagos of hiring thugs to molest him and his son; that Salvador Escudero, jr., intervened and advised his father to drop the matter, saying that they would meet Meliton Hagos some other time; and that the next day Salvador Escudero sent a telegram to the GovernorGeneral stating that he and his family were in danger of being assaulted by the followers of the municipal president, that there was an understanding between the authorities and the thugs, headed by the president and the police. He asked for protection and an investigation. This telegram was referred to the provincial governor and by him to the municipal president for comment and explanation, but apparently nothing further had been done when Meliton Hagos was killed. Salvador Escudero denied having made the threat attributed to him by the chief of police, Pablo Grefaldeo, and stated that he had filed administrative charges against Grefaldeo. He further testified that after mutual explanations his differences with Meliton Hagos had been adjusted; but at any rate proof of motive is not proof of guilt.

On September 7, 1932 a complaint for murder was filed in the justice of the peace court of Casiguran by the deputy fiscal against Salvador Escudero, jr., Margarito Honra, and Basilio Bilay. Upon the termination of the preliminary investigation, the complaint was dismissed as to Basilio Bilay. The other defendants were remanded to the Court of First Instance for trial, where on October 7, 1932 the deputy fiscal filed an information for murder against the defendants including Salvador Escudero, sr., who waived his right to a preliminary investigation. The defendants entered a plea of not guilty.

The trial was begun before Judge Tomas Flordeliza on October 31, 1932, and continued until December 23d. The trial was resumed on July 28, 1933, before Judge Diego Locsin, who decided the case. Judge Locsin found Salvador Escudero, jr., and Margarito Honra guilty as principals of the crime of murder, and sentenced each of them to suffer reclusion perpetua, to indemnify the heirs of the deceased in the sum of P1,000; he found Salvador Escudero, sr., guilty as an accomplice, and sentenced him to suffer an indeterminate sentence of not less than eight years and one day of prision mayor and not more than twelve years and one day of reclusion temporal, and to indemnify the heirs of the deceased in the sum of P500. Each of the accused was made subsidiarily responsible for the civil liability of the others, and sentenced to pay one-third of the costs.

Salvador Escudero, sr., who is also referred to herein as Salvador Escudero, and Salvador Escudero, jr., have appealed to this court. Margarito Honra did not appeal. The appellants made the following assignments of error:

"El Juzgado incurrio en error:

"1. Al declarar que el occiso Melitdn Hagos y el acusado Salvador Escudero, padre, eran entre si enemigos personales ademas de serlo politicamente.

"2. Al estimar que el movil del asesinato de Meliton Hagos, cometido el 25 de julio de 1932, fuera dicha supuesta enemistad entre el occiso y Salvador Escudero, padre, y actos tales como, haber este enviado al Gobernador General una queja, redactada por el abogado Silo, pidiendole 'proteccion e investigacidn' (Exhibits F y LL) y haber dado cuenta a la Constabularia de un incidente ocurrido en mayo de 1932, entre dicho acusado y el occiso.

"3. Al no rellamar a los testigos de la acusacion que ha bian declarado ante al Hon. Juez Flordeliza, para apreciar por si mismo el grado de credibilidad de tales testigos y especialmente al desestimar la peticitfn de la defensa de que fuera rellamado para declarar el testigo Juan Coderis, testigo principal de la acusacion, para someterlo a repreguntas adicionales y para que el Hon. Juez pudiera apreciar, por la manera y forma de declarar dicho testigo, acerca de la credibilidad del mismo.

"4. Al dar crSdito a los testimonies de los testigos de la acusacion Beala Hitosis, Juan Coderis y Alberto Hababag y del coacusado Margarito Honra, en vez de estimar falsos e indignos de credito los testimonios de tales testigos de la acusacion.

"5. Al declarar sin valor lo declarado por todos los testigos de la defensa.

"6. Al no declarar que los acusados han sido victimas de una trama urdida contra ellos, iniciada por Andres Hagad y aceptada y sostenida por el Capitan Donesa y el Teniente Santiano, oficiales de la Constabularia en Sorsogdn, quienes con el dicho Hagad, desarrollando dicha trama, han utilizado medios ilegales y han ejercido presion e influencia sobre los testigos para obstruir y anular la defensa de los acusados y obtener as! la condena de e"stos.

"7. Al estimar que la escopeta, cuyos restos son los exhfbitos V y VI, fue el arma usada para cometer el delito y que con la misma se dispararon simultaneamente dos capsulas contra el occiso Meliton Hagos.

"8. Al declarar y estimar, respecto al uso y disparo con el arma dicha, la comision del delito objeto de la querella tal como en esta se alega haber sido cometido, en contra de lo declarado por los peritos presentados

por la defensa.

"9. Al no declarar, por las circunstancias que rodearon el hallazgo de los exhibitos V y V-I, restos de la escopeta supuestamente utilizada contra el occiso, que dicha prueba fue planeada y fabricada por los oficiales de la Constabularia que han mantenido la acusacion.

"10. Al no estimar probado, en relacion con el testimonio pericial del senor Colmenar y en relacion con el resultado de la autopsia del occiso y el testimonio del facultativo que la practicó, que el tiro que mató a Melitón Hagos fue disparado a treinta y seis (36) metros de distancia y que era físicamente imposible que tal disparo se hubiese hecho a cinco y medio (5 1/2) metros de distancia como se pretende por la acusacion.

"11. Al condenar a los acusados en vez de absolverlos, por no haber pruebas que, fuera de duda racional, establezcan la culpabilidad de los mismos."

The case for the prosecution rests on the testimony of Beata Hitois, Alberto Hababag, Ricardo Huerto, Juan Coderis, and Margarito Honra, and the finding of the barrel of a gun by Margarito Honra on December 24, 1932.

After carefully considering the evidence of record and the arguments of counsel, we are of the opinion that the guilt of the appellants is not proved beyond a reasonable doubt.

Neither the character nor the conduct of the witnesses for the prosecution inspires confidence in the truth of their testimony. They are impeached by witnesses for the defense entitled to equal or greater credit. In this matter of the credibility of the witnesses it is to be borne in mind that all the aforementioned witnesses for the prosecution and most of the material witnesses for the defense testified before Judge Flordeliza during the period from October 31 to December 23, 1932, and that the judge who decided the case did not have the advantage of hearing them testify.

Beata Hitois, who was staying in the house of Tomas Hebres, near the house of Meliton Hagos, testified that about eight o'clock on the night in question she went to her grandmother's house to get food for her sick brother and met Salvador Escudero on the way; that she spoke to him, but he did not answer; that when she was washing the dishes Salvador Escudero, jr., turned his flashlight on her and she called him a devil; that he turned his flashlight on the house of Huet, which was nearer to the house of Meliton Hagos.

The falsity of the testimony of this witness is proved not only by the testimony of her cousins living in the house with her, who testified that she did not leave the house until after the municipal president was killed, but also by its absurdity. Who would believe that the leader of a band of conspirators, who had gone to the house of the deceased for the purpose of killing him with a shotgun, would begin by turning his flashlight on the neighboring houses? Although Beata Hitois was a relative of the wife of the deceased, and the constabulary several times investigated the occupants of the house of Tomas Hebres, when she was present, she never revealed to them that she had seen the Escuderos that night. Her only excuse was that no questions were addressed to her. We have no hesitation in branding her testimony as a fabrication.

Juan Coderis testified that he went to the house of Meliton Hagos on the night in question for the purpose of consulting him about the attachment of his father's land by the Singer Sewing Machine Company; that when he reached the gate in front of the house, he saw two men on the steps, and almost simultaneously heard a shot; that he recognized Salvador Escudero, jr., as the man that fired the shot, and his companion as Margarito Honra; that Escudero, jr., and Honra then passed under the railing of the steps and ran towards the side of the lot, and Salvador Escudero came from behind some camia bushes near the house and ran out of the front gate, colliding with Coderis; that Margarito Honra was carrying a bolo; that the witness then ran away.

That is a fine story, apparently complete in every detail; but in fact overdone as to details. Coderis testified that

Margarito Honra was carrying a bolo, but Honra, upon whose testimony the conviction of the appellants principally rests, testified that he carried only a palma brava stick. Coderis testified that Salvador Escudero came from behind some camia bushes, ran out of the front gate, and struck against him. Honra testified that Salvador Escudero was on guard outside of the premises of the deceased. As to the realistic detail mentioned by Coderis that Salvador Escudero, jr., and Margarito Honra ducked under the railing of the steps, the photographs show that there was no railing. The Solicitor-General tries to minimize these discrepancies, and argues that they only tend to show the sincerity of the witnesses. He overlooks the fact, however, that oftentimes when witnesses are deliberately perverting the truth, the only way to demonstrate the falsity of their testimony is to cross-examine them closely as to details that would otherwise be unimportant.

The evidence shows that Juan Coderis was convicted of estafa committed as an agent of the Singer Sewing Machine Co., and that Salvador Escudero as municipal president was active in collecting the evidence, and made him work on the streets when he was a prisoner. The evidence further shows that Juan Coderis was eating his supper in the house of Gregorio Habal when the crime was committed, and did not know anything about it until his sister, Justina, passed by crying that the president had been shot.

Although Coderis went to the house of Meliton Hagos next morning and saw constabulary soldiers there and heard the people say that they suspected Salvador Escudero and Salvador Escudero, jr., of being the authors of the crime, he never revealed to the authorities or to anyone else present that he had seen the president shot to death in cold blood the night before and had recognized the murderers. It was not until August 14th that he told a constabulary soldier, disguised as a laborer, that he knew something about the murder of Meliton Hagos.

The Solicitor-General naively remarks that it is not true that Coderis did not tell anybody what he had seen, because he says he told his brother-in-law, Juan Lacsa, but Lacsa, who was a witness, was not asked to corroborate the statement of Coderis. The admitted fact is that he never told the police or the constabulary or the family of the deceased that he was present when the municipal president was murdered and knew who committed the crime. Besides the other reasons for not crediting the testimony of Juan Coderis, we cannot believe that if he had been present when the crime was committed, as he claims he was, he would have failed to make that fact known when he went to the house of the deceased the next morning to see the dead body and heard the people expressing their suspicions that the Escuderos were responsible for the crime. The only reason he could give for not telling the constabulary or the family of the deceased what he had seen was that he was afraid of the Escuderos. If he had seen the municipal president murdered, as he claims, his subsequent conduct was contrary to human nature, and when witnesses cease to behave as human beings, judges will have no landmarks to guide them in their efforts to ascertain the truth. It will be necessary to evolve a new philosophy of evidence.

Alberto Hababag, who lived near the house of Meliton Hagos, testified that about eight o'clock on the night in question, when he was returning from the house of Mamerto Hael where he had gone to borrow some buyo he heard a detonation when he was in front of his house; that he stopped and heard a noise in a corner of the fence around the house of the municipal president, and saw two persons come out of the lot; that they approached the place where he was standing and he recognized them as Salvador Escudero, jr., and Margarito Honra; that Salvador Escudero, jr., was carrying a shotgun and Margarito Honra a bolo.

The testimony of Eugenio Hitosis who was spending the night in the house of Alberto Hababag and is a cousin of Hababag's wife, shows that Alberto Hababag returned home that evening about seven o'clock from a distant barrio where he had gone to get three sacks of potatoes, and that he never left his house that night after he reached home; that when Eugenio Hitosis and Alberto Hababag heard the report of a gun and a woman crying for help and saying that the president had been shot, Alberto Hababag closed the window and fastened it, and put out the light and went to bed.

Alejo Hadap, who appeared to be a trustworthy witness, testified that the next day Alberto Hababag and Eugenio Hitosis came to his house, and in their conversation he asked Hababag who shot the presidente, and Hababag answered that he did not know; and said that after hearing the report of a gun he closed the window and put out the light, and did not leave his house.

The lower court refused to credit the testimony of Eugenio Hitosis and Alejo Hadap, because Hadap had been a candidate for vice-president on the Escudero ticket, and because Eugenio Hitosis said that he did not know the responsibility of one who testified falsely in court, although he ratified as true all that he had said when it was explained to him that a person who testified falsely might be prosecuted for perjury. The court refused to credit the testimony of Venancio Hagosajos without giving any reason therefor. In this connection, it is to be remembered that the judge who decided the case did not hear any of these witnesses testify.

While Hababag testified that he saw Salvador Escudero, jr., and Margarito Honra coming out of the corner of the lot of Meliton Hagos, which was inclosed with barbed wire, and that Margarito Honra was carrying a bolo, Margarito Honra himself testified that he and the Escuderos went out through the gate, and that he was not carrying a bolo.

The house of Tomas Hebres faces that of Alberto Hababag. When Vicente and Dionisia Hebres and Vidal and Beata Hitosis, who were in the house of Tomas Hebres, heard the wife of Meliton Hagos crying for help they immediately ran down and started for the house of Hagos, but none of them saw Alberto Hababag standing in front of his house.

Ricardo Huerto, fourteen years old, a nephew of the wife of Meliton Hagos, testified that about nine o'clock on the night of July 25, 1932 he saw his uncle, Basilio Bilay, Salvador Escudero, jr., and Margarito Honra in the si do of Tiris; that Bilay was carrying a flashlight and Salvador Escudero, jr., a doublebarreled shotgun; that he followed them until they reached the house of Bilay.

In our opinion the testimony of this boy is obviously a fabrication. The night was dark and it was drizzling. Even if it were true that Ricardo Huerto was awake and in the street at nine o'clock on a dark and rainy night, he could not have seen what he claims to have seen. Furthermore, his testimony is directly opposed to that of Margarita Honra, who testified that after the commission of the crime he and the Escuderos went directly to Cagpacol. The evidence shows that from the house of the municipal president Tiris and Cagpacol are in opposite directions.

The conviction of the appellants was based by the lower court principally upon the testimony of Margarito Honra, one of the accused. In weighing the testimony of this witness, it should be borne in mind that he was a nephew of the deceased; that he had been convicted of robbery; that he was formerly a constabulary soldier, and that the provincial commander of constabulary in Sorsogon recommended that Honra be excluded from the complaint in this case. At the time of the commission of the crime in question he was attending to a coconut grove on a plantation that was under the management of Salvador Escudero who lived in Cagpacol with his son and two daughters. Honra lived in Tughan, Juban, about a kilometer from the Escuderos. Briefly, the story of Margarito Honra that was accepted by the lower court is that on the night in question he and Salvador Escudero, jr., waited near the house of Manuel Escudero in the poblacion of Casiguran for Salvador Escudero, Basilio Bilay, Eugenio Bercacio, and Pedro Niebres, who arrived at 7.30; that Basilio Bilay brought a gun in a sack, which Salvador Escudero, jr., took out and loaded; that after the gun was loaded Salvador Escudero said: "Let us go and kill the presidente"; that they then went to the house of Meliton Hagos, and when they reached the front gate Honra and Salvador Escudero, jr., went inside, while their companions waited outside of the lot; that Honra and Salvador Escudero, jr., stood on the steps leading to the sala of the house, and Salvador Escudero, jr., shot the municipal president; that they then ran out of the front gate; that Honra and the Escuderos separated from their companions

and returned to Cagpacol; that he, Honra, was afraid of Salvador Escudero, who told him not to reveal to anybody what they had done, and warned him that if it came to the knowledge of other persons he would kill him and his family; that about eleven o'clock the next day Salvador Escudero, jr., threw the gun into a small river which crosses the Casiguran-Juban road in Cagpacol; that the place where Salvador Escudero, jr., threw the gun was under a hill near a balete tree; that before throwing the gun into the river Salvador Escudero, jr., separated the barrel from the stock; that he, the witness, did not state these facts when he first testified because his family was in the custody of Salvador Escudero; that he told a different story when he testified before Major Martinez because he was induced by Salvador Escudero and his attorneys to testify falsely.

Margarito Honra has told so many conflicting stories that he is utterly unworthy of credit. Constabulary soldiers went to his house on July 26, 1932. He told them he was at home the night before and did not know anything about what had happened to Meliton Hagos. He reaffirmed this in an affidavit on August 14th and again on September 2d, and he testified to the same effect in the trial of this case on December 20, 1932, but the next day he repudiated his previous testimony and told the story accepted by the lower court.

On February 10, 1933, that is, after he had changed his first story in court and had found the barrel of a gun on December 24th, he asked to be allowed to testify before Major Martinez, who was investigating certain administrative charges against the constabulary in Sorsogon. His request was granted, and he testified under oath before Major Martinez. He repudiated the testimony given by him in court on December 21st; declared that the gun taken by him from the river had been planted by him at the instance of the constabulary on the night of December 20, 1932; that the deputy fiscal and the private prosecutor went to the jail at midnight on December 20th and instructed him to tell the story about the murder of Meliton Hagos.

Whatever be the truth as to the finding of the gun barrel on December 24, 1932, the circumstances surrounding it were not such as to inspire confidence in the testimony of those participating. It ought not to be necessary to remind the officials concerned that a prisoner in the provincial jail who is being tried is subject to the orders of the trial court and cannot lawfully be removed and taken to another place without the permission of the court.

In the case at bar Honra was removed from the provincial jail and taken to Tughan to look for the gun, without the permission of the court or notice to the attorneys for the Escuderos. Tughan, in the municipality of Juban, where the barrel of a gun was found, is a different place from Cagpacol, where the gun had been thrown into the river, according to Honra.

The record does not show where or by whom the gun stock introduced into evidence was found. Honra testified that he did not know it, because he found only the barrel.

We shall not undertake to determine whether Margarito Honra told the truth on December 20 or on December 21, or whether he ever told the truth. It is enough to say that we cannot assent to a conviction for murder that rests upon the testimony of a self-confessed perjurer.

The foregoing conclusions make it unnecessary for us to consider at length the contention of the appellants that they were not present when the crime was committed. In proof of their alibi they presented intelligent and apparently credible witnesses, whose testimony could only be rejected by finding that they deliberately perverted the truth. There could be no mistake as to the date or the hour, and if Salvador Escudero, jr., was eating his supper with his sisters in Cagpacol at eight o'clock, he could not have participated in the murder of Meliton Hagos, as alleged, and the testimony of Honra and the other eyewitnesses of the prosecution is false.

The decision of the lower court is reversed as to the appellants Salvador Escudero, sr., and Salvador Escudero, jr., and they are acquitted with the costs de oficio, and it is ordered that Salvador Escudero, jr., who is detained in jail,

be immediately released from custody.

Villa-Real, Abad Santos, Butte, and Diaz, JJ., concur.

MALCOLM, J.;

I concur in the result.

HULL, J.;

I concur in the result.

AVANCENA, C. J.;

I dissent.

STREET, J.;

I dissent.

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