

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. TOMAS LAYOS, DEFENDANT AND APPELLANT.

G. R. No. 41358. July 25, 1934

Ponente: DIAZ, J.

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DIAZ, J.:

Convicted of the crime of double homicide and sentenced to the indeterminate penalty of from ten years of prison mayor to seventeen years, four months and one day of reclusi6n temporal with the corresponding accessory penalties, to indemnify the heirs of the deceased Andrea Paril and Bruna Caguyong in the sum of P1,000, and to pay the costs, the defendant herein Tomas Layos appealed from said judgment. In his brief he enumerates the alleged errors as committed by the trial court in its judgment.

Said appellant contends that the lower court erred: (1) In declaring that he killed the two women above-mentioned; (2) in not holding that the confessions made by were the result of brutal treatment of him; and (3) in exaggerating, as he claims, the contradictions of his witnesses Pascual Villares and Bruno Gonzalez.

Without being contradicted by the appellant, the evidence of record shows that at about 5 o'clock on the afternoon of September 22, 1933, while Bruna and Bonifacia Caguyong, each of whom was riding a carabao and followed on foot by Andrea Paril, grandmother of the former and mother of the latter, and Paula Caguyong, were returning home from a certain mountain where they had gathered some corn, a man, whom they met on the way, attacked said Bruna Caguyong with a bolo, causing her to fall from her carabao, after which he continued to hack her until she died. When Andrea Paril, the grandmother of the deceased, went to the said Bruna Caguyong's assistance and asked the aggressor what he had done, said individual, without a word, turned upon and attacked her with his bolo, inflicting upon her five wounds which caused her death a few moments later.

Who was the aggressor and what was the motive of the aggression? This is the question to be decided in this case.

The eyewitnesses of the crime, Paula and Bonifacia Caguyong, identified the appellant as the aggressor, saying that they saw him commit the crime from beginning to end. In said appellant's sworn declarations which are attached to the record as Exhibits B and C, he stated that the cause of the aggression was due to the fact that the deceased Bruna Caguyong had called him a lunatic.

The defense questions the credibility of the aforesaid two witnesses for the prosecution and cites some portions of their testimony wherein, it is claimed, they have seriously contradicted themselves and which makes them unworthy of credit. In the case of Paula Caguyong, for instance, the defense considers it strange how said witness could remember that the appellant wore a white shirt but was unable to recall the color of his pants. There is nothing strange in this because the witness gave a satisfactory explanation when she said: "I do not remember it any more because I was very much frightened." Furthermore, as the lower court has very well stated, referring undoubtedly to the suddenness of the aggression, said witness could not have noticed everything due to the rapidity of the attack and the circumstances surrounding it. Furthermore, in crimes of similar nature, where the blows are struck faster and in less time than it takes to think, the question relative to the clothing worn by the

aggressor constitutes a very insignificant detail to the eyewitness for the reason that his attention is focused on the attack. This¹ is particularly true when his degree of mentality is similar to that of the witness in question who is a country woman and so illiterate that she had to use her thumb mark in certifying her affidavit Exhibit 1. Furthermore, she was completely overcome by fright. Human intelligence, unlike a photographic film, cannot take in everything at a single glance, much less reproduce it afterwards.

In the case of the witness Bonifacia Caguyong, who is a mere child 12 years of age and likewise illiterate, the attorney for the defense cannot understand why the lower court should give credit to her when, according to him, she had grossly contradicted herself in answering the various questions propounded to her during the cross-examination. In support of his contention, he cites the following portions of the testimony of said witness, to wit:

"Q.

Is it not true that the man who attacked Bruna wore a white shirt?

—

A.

Yes, sir.

"Q.

And he also wore khaki pants? Tell the truth.

—

A.

They seemed to be khaki.

"Q.

And was not that man wearing a hat on that occasion?

—

A.

He had no hat.

"Q.

And he seemed to be bald?

—

A.

Yes, sir.

"Q.

Tell the court whether he had hair on his head or not.

—

A.

He had hair.

* * * * *

"Q.

When you said 'opao', what did you mean?

—

A.

'Dangas', bald.

* * * * *

"Q.

When the constabulary soldiers arrived at Mabini, what did the corporal tell you?

—

A.

He made me identify.

"Q.

Is it not true that the corporal presented the accused Tomas Layos to you to see whether you knew him?

—

A.

Yes, sir.

"Q.

And you then answered the corporal that you did not know whether it was he or not but that the man who attacked Bruna Caguyong seemed to be bald?

—

A.

Yes, sir.

"Q.

And were you in the barrio of Mabini until the constabulary soldiers arrived with Tomas Layos or did you leave earlier?

—

A.

I left earlier."

With respect to the reply of the witness wherein she said "dangas, bald", the word "bald" must be the interpreter's translation of the word "dangas" used by her. However, whatever it may be, said word or reply should be construed in connection with the suggestive question asked by the defense counsel in the lower court, as follows: "And he seemed to be bald?" to which she answered: "Yes, sir". Therefore, there is no reason to attribute to said witness the categorical affirmation that the aggressor, who killed the two deceased, was bald. On the other hand, the defense has not proven and there is nothing of record from which to infer that although the appellant has hair, "he does not seem to be bald".

However, the fact is" that both before and after the defense counsel had asked the question from the answer to which the present counsel now infers that the witness could not identify the aggressor of the deceased, said witness stated several times that the appellant was the aggressor. Perhaps the defense counsel has not seen the other portions of the testimony of said witness on that occasion when she gave the testimony hereinbefore cited, which portions are as follows:

"Q.

And what happened when you returned home?

—

A.

We met a person.

"Q.

Who is that person?

—

A.

Tomas Layos.

"Q.

The herein accused?

—

A.

Yes, sir.

* * * * *

"Q.

What happened when you met the accused at that place?

—

A.

The accused attacked Bruna Caguyong.

* * * * *

"Q.

Was the man who attacked Bruna Caguyong seen by you for the first time on that occasion?

—

A.

.Yes, sir.

"Q.

You neither knew him before nor knew his name on that occasion?

—

A.

I did not know him prior to that date.

* * * * *

"Q.

Now, tell the truth. Is it not true that the accused Tomas Layos was maltreated by the constabulary soldiers in the barrio of Mabini in the house of the lieutenant?

—

A.

.No, he was not maltreated.

"Q.

When you told the corporal that you could not identify that accused as the same person who attacked Bruna Caguyong, did you leave for the barrio of Mabini?

A.

I have identified him."

If the appellant's sworn declarations (Exhibits B and C) are taken into consideration in addition to the aforesaid testimony of the witnesses Paula and Bonifacia Caguyong, there would be no reason to doubt but that the appellant killed the deceased Andrea Paril and Bruna Caguyong. In the aforesaid two documents, said appellant admits that he killed them because the latter called him a lunatic. He could not have made this admission in a more formal manner because he made it before the justice of the peace who conducted the preliminary investigation in this case.

It is true that the appellant tried to prove during the trial that the aforesaid confessions were not voluntarily made by him, alleging that they had been obtained from him by means of force and maltreatment. He then declared that the constabulary soldier Miralles had slapped him twice and struck him with his fist on the stomach, on the side and on the breast, and twisted his upper lip. His witness Pascual Villares likewise testified that he actually saw how the appellant had been maltreated by a certain constabulary soldiers in the barrio of Mabini when he was confronted with the witnesses for the prosecution Paula and Bonifacia Caguyong. However, it is no less certain that the testimony of said appellant relative to the injuries, which he claimed to have had on his face and to have been due to such maltreatment, was contradicted by the justice of the peace before whom said confessions (Exhibits B and C) were made, saying that although he had looked well and long at the appellant's face when he was brought to his house and to his office for the purpose of making said confessions, he could not find any trace nor sign of maltreatment. On the other hand, on the occasion that the appellant claimed he had been maltreated by the constabulary soldiers at their quarters on September 28, 1933, and several days prior thereto, he had already been removed from their custody either directly or indirectly, inasmuch as he had been turned over to the chief of police of the municipality of Ormoc of the Province of Leyte, on the 25th of said month and year, in order to be under the custody of said chief of police at the disposal of the courts of justice. (Exhibit F.)

If it were true that the appellant had been maltreated by the constabulary soldiers or by any of them, nothing could have prevented him from informing the justice of the peace thereof or that the confession he had made under Exhibit B, to the effect that he killed the two women, was the result of said maltreatment, inasmuch as he was not under their custody at the time he made the statement Exhibit C. The fact that he had not done so proves that he had not been maltreated at all except on September 20, 1933, that is, two days before the commission of the crime, when, according to the testimony of corporal Miralles of the Constabulary, he was struck several times by reason of his refusal to cooperate in the extermination of locusts, but certainly not for the purpose of compelling him to sign any document nor to make any confession. Furthermore, it is unbelievable that the constabulary soldiers or corporal Miralles or any other member of the constabulary would have dared to maltreat him or to do violence to him in order to compel him to confess a crime in the presence of many persons, as the appellant claimed they did, because inasmuch as such act constitutes an offense, it is absurd that said soldiers would commit it in the presence of many people who might denounce it later. Furthermore, had such a thing happened, there would at least be somebody to corroborate the appellant's testimony, but no one did.

Even disregarding Exhibits B and C, which might be done arbitrarily in view of the fact that this court does not believe that said confessions were obtained by means of force or threats, the testimony of Paula and Bonifacia Caguyong and the finding of the homicidal bolo, still with bloodstains, in the appellant's house, are in themselves sufficient evidence to justify the conclusion that the appellant is, in fact, the one who killed the said deceased Andrea Paril and Bruna Caguyong.

It is likewise true that the two witnesses for the defense, Bruno Gonzalez and Pascual Villares, testified that during the whole day of September 23, 1933, and part of the following morning, they were engaged with the appellant cleaning the latter's corn field and that they began working before breakfast on the first day, the three not having separated from each other until after sunset. However, it is also true that a certain detail therein destroys the probatory force of the testimony of said two witnesses, which is that, aside from the fact that they were not certain as to the exact day on which they worked together on the appellant's field inasmuch as they are not familiar with dates, Bruno Gonzalez said that he and Pascual Villares arrived together on said appellant's field on the day in question, while the latter stated that when Bruno Gonzalez arrived there, he and the appellant were already at work. This shows his lack of credibility. On the other hand, oral evidence of alibi is so easily manufactured and usually so unreliable that it can rarely be given credence, at least in this case, for the reasons stated. (People vs. Badilla, 48 Phil., 718.)

In view of the aforestated contradiction, which the trial court must have taken into consideration in connection with the other findings of the case, and inasmuch as the testimony of the two witnesses for the prosecution Paula and Tonifacia Caguyong is convincing, this court is of the opinion that the trial court did not commit any of the errors attributed to it by the appellant.

It is noted, however, that the trial court did not consider such findings strictly in conformity with the law inasmuch as it considered the act committed by the appellant as merely constituting the complex crime of double homicide when such is not the case, taking into consideration the spirit and the text of article 48 of the Revised Penal Code. According to said article, in order the crime may be considered double homicide, it is necessary that it be the result of a single act, as in the case of killing two persons at the same moment with a single stroke of the bolo or with a single shot. The homicide perpetrated by the herein defendant on Bruna Caguyong and that on Andrea Paril do not constitute a single act but two distinct acts committed at different times. The former's death was the result of sixteen wounds inflicted upon her by the appellant and that of the latter was likewise the result of the five wounds which he inflicted upon her immediately afterward. The only mitigating circumstance which may be taken into consideration in favor of the appellant is his lack of instruction because the record shows that he can neither read nor write.

Wherefore, inasmuch as the record contains no aggravating circumstance to compensate said mitigating circumstance, and taking into consideration the provisions of Act No. 4103, the appealed judgment should be, as it is hereby, modified by sentencing said appellant to the indeterminate penalty of seven years of prison mayor to twelve years and one day of recluswn temporal for the death of Andrea Paril and to another seven years of prison mayor to twelve years and one day of reclusion temporal for the death of Bruna Caguyong, and to indemnify the heirs of each of the deceased in the sum of P1,000. The appealed judgment is hereby affirmed in all other respects, with costs against the appellant. So ordered.

Street, Abad Santos, Hull, and Vickers, JJ., concur.

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