

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. REMEDIOS DE LA CRUZ, DEFENDANT AND APPELLANT.

G.R. No. 41674. March 30, 1935

Ponente: VICKERS, J.

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VICKERS, J.:

This is an appeal from a decision of the Court of First Instance of Nueva Ecija, finding the defendant guilty of homicide and sentencing her to suffer not more than fourteen years, eight months and one day of reclusion temporal and not less than eight years and one day of prision mayor, to indemnify the heirs of the deceased Francisco Rivera in the sum of P1,000, and to pay the costs.

Appellant's attorney makes the following assignments of error:

"I. El Juzgado a quo, erro al dar absoluto credito a las pruebas de la acusaci6n, las que son insuficientes para apoyar una declaraci6n de conviction.

"II. El Juzgado a quo erro al declarar que los celos fueron el motivo que impuls6 a la acusada al agredir al occiso Francisco Rivera.

"III. El Juzgado a quo err6 al declarar increible el testimonio devla acusada en esta causa.

"IV. Y el Juzgado a quo erro al no absolver a la acusada."

It appears from the evidence that on the evening of February 18, 1934, Francisco Ramos and his wife, Brigida Vistada; his sister, Baltazara Ramos; and a woman named Consuelo or Natividad Santoyo called at the house of the defendant and asked her to go with them to a wake in honor of one Sion, who had died in the house of Maria Inguit. About nine o'clock the defendant and her friends started home. They were followed about five minutes later, according to Enrique Bautista, by the deceased Francisco Rivera, who had been playing cards in the house where the wake was held. He was accompanied by Enrique Bautista. Rivera and Bautista overtook defendant's party. When they reached a narrow part of the path, Rivera went ahead of Bautista. At that time the members of the defendant party were walking in single file. Baltazara Ramos was in the lead and the defendant was the hindmost. She was about two brazas from the person immediately ahead of her. Francisco Ramos, the only one of defendant's companions that was called to testify, heard someone cry out "Aray, Dios ,mio". He went back and found that Francisco Rivera had been stabbed under the right breast.

The wounded man was taken to the hospital, where he died the next afternoon.

Francisco Ramos testified that it took him about two minutes to go back to the place where Francisco Rivera was. He found that Enrique Bautista was with the wounded man, and that the defendant had started back towards the house of mourning. He overtook her. She had a knife in her hand. When they reached the house of Maria Inguit, Remedios de la Cruz stuck the knife into a table and said that she stabbed Francisco Rivera because he embraced

her.

The case for the prosecution rests upon the testimony of Enrique Bautista. According to him the defendant waited on the right side of the path near some guava trees and stabbed Francisco Rivera with a knife in her right hand when he arrived in front of her; that the injured man cried "Aray, Dios mio", while the defendant turned around and returned to the house of Maria Inguin, saying "Icao ay malaon na" (hacia tiempo ya). He further testified that the defendant stabbed the deceased before either of them had said anything; that the distance between him and the deceased was about one foot; that he did not see any of the companions of the defendant after they reached the path and had to walk one behind the other.

The defendant on the other hand testified that after they had passed a fork in the trail and reached a narrow part a man suddenly threw his arms around her from behind, caught hold of her breasts and kissed her, and seized her in her private parts; that she tried to free herself, but he held her and tried to throw her down; that when she felt weak and could do nothing more against the strength of the man, she got a knife from her pocket, opened it, and stabbed him in defense of her honor. She further testified that the man who attacked her did not say anything; that she asked him who he was but he did not answer; that when she was assaulted she cried for help, saying "Madre mia; Dios mio"; that when she was seized, she was about two brazas behind her nearest companion; that when she was face to face with her assailant during the struggle she could scarcely recognize his face in the darkness and could not be sure that it was Francisco Rivera.

Her testimony as to what occurred is as follows:

"P. ¿Y que paso siendo usted la ultima de entre sus companeros?—R. Despues de pasar nosotros en una bifurcation de dos caminos cuando llegabamos en una parte estrecha el occiso subitamente me abrazo por detras cogiendome los pechos y besandome.

"P. ¿Y entonces que hizo usted cuando usted sintio ese abrazo y beso?—R. Todavia me agarr6 en mi parte genital y en eso yo trataba de desasirme de el; el me siguio abrazando cogiendome de los pechos y besandome, y yo a mi vez seguia trat&ndo de desasirme de el insistentemente.

"P. ¿Y que sueedio?—R. Cuando yo trataba de desasirme. de el, el me siguio abrazando y yo a mi vez seguia tratandome de desasirme de el y el llego a agarrarme en la parte genital y trato de lanzarme.

"P. ¿Y que hizo usted cuando le trataba de lanzarle a usted el occiso ?—R. Yo procuraba desasirme de el y cuando me quede debilitada y ya no podia hacer nada contra la fuerza de el yo saque de mi bolsillo un cortaplumas.

"P. ¿Y que hizo usted del cortaplumas?—R. Lo abri porque cuando ya no podia hacer nada y estaba ya debil yo hice lo que debia hacer en defensa de mi pudor, le apuiiale."

She further testified that she was engaged in selling fruit, and that the fan knife in question was in a pocket of the overcoat she was wearing that day; that she went off with her friends without having an opportunity of changing her clothes.

We cannot believe the testimony of Enrique Bautista, because Francisco Ramos, one of the witnesses for the prosecution, testified that it was a dark night, and Bautista himself said that he could scarcely see anyone in the darkness ("Apenas se podia ver a alguien en esa obscuridad."); that he did not see any of the companions of the defendant.

It appears from the evidence that the deceased had been making love to the defendant, and also to another girl named Felicisima Sincaban; but the finding of the trial judge that Francisco Rivera and the defendant were engaged, that she was madly in love with him and was extremely jealous of Felicisima Sincaban is not sustained

by the evidence of record.

The appellant stabbed the deceased only once, although she retained possession of the knife, and undoubtedly could have inflicted other wounds on him if she had desired. In other words she desisted as soon as he released her.

The evidence shows that an officer of the Constabulary went to see the injured man about eleven o'clock that night in the hospital, but it does not appear that Rivera told him anything about the circumstances under which he had been stabbed.

The appellant is an illiterate barrio girl, unable to write her name, and scarcely eighteen years old. We do not believe her story is a fabrication. In this connection it is to be noted that almost immediately after the incident in question took place, the appellant said she stabbed Francisco Rivera because he embraced her. It is not improbable that she was reluctant to relate in the presence of all the people in the house of Maria Inguit the details of what had occurred.

We are convinced from a study of the record that the deceased did in fact grab hold of the defendant on the night in question, and whether he intended to rape her or not, taking into consideration that it was a dark night and that the deceased grabbed her from behind without warning and without making himself known and refused to say who he was, and in the struggle that followed touched her private parts, and the fact that she was unable to free herself by means of her strength alone, we are of the opinion that she was justified in making use of the pocket-knife in repelling what she believed to be an attack upon her honor, -since she had no other means of defending herself.

In the case of the United States vs. Ah Chong (15 Phil., 488), this court held that a person is not criminally responsible when, by reason of a mistake of facts, he does an act for which he would be exempt if the facts were as he supposed them to be, but would constitute murder if he had known the true state of facts at the time, provided that the ignorance or mistake of fact was not due to negligence or bad faith.

The appellant claims to have cried, for help, but so far as the record shows her cries were not heard by any of her companions. Whether she did in fact cry for help, as claimed by her, or failed to do so because of the suddenness with which the deceased grabbed her and the fright which it naturally caused, taking into consideration the circumstances of the case, we still think she is exempt from criminal liability.¹ In the case of the United States vs. Santa Ana and Ramos (22 Phil., 249), this court held that a woman in defense of her honor is justified in inflicting wounds on her assailant with a bolo which she happens to be carrying, even though her cry for assistance might have been heard by people near by.

For the foregoing reasons, the decision appealed from is reversed, and the appellant is acquitted, with the costs de oficio.

Avanceña, C.J., Malcolm, Abad Santos, Imperial, Butte, and Diaz, JJ., concur.

DISSENTING

HULL, J.,

My colleagues possibly through chivalry and compassion have given much greater credence to the tale of the defendant than it justifies. I am convinced that the trial judge, who heard her testify, more correctly appreciated the facts of this case.

GODDARD, J.:

I concur in the dissenting opinion of Justice Hull.

Judgment reversed and defendant acquitted.

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