

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. JOSE DE LA CRUZ ET AL., DEFENDANTS. JOSE DE LA CRUZ, APPELLANT.*G.R. No. 41964. January 31, 1935*

Ponente: AVANCEÑA, C.J.

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On the morning of November 25, 1933, in the municipality of San Luis, Province of Pampanga, while Generosa de la Cruz was walking along the road, she was attacked by Cesareo Reyes, who was courting her. He threw her on the ground and passed his hands over her body. When Cesareo's father, Guillermo Reyes, was informed of the act imputed to his son, he went on the following morning to the home of Paulino de la Cruz, the father of Generosa, to explain the incident to him. Guillermo Reyes and Paulino de la Cruz are relatives. During their conversation they agreed to send for Cesareo to be thrashed, in order that Guillermo might show that he would not permit his son to commit such an outrage. Cesareo was called, but in the meantime a bench was made ready in the house upon which Cesareo was to lie face downward and be thrashed. When Cesareo arrived and was already lying down on the bench and about to be thrashed, Generosa de la Cruz entered the house and approached Cesareo. After uttering a few words to him, Generosa stabbed Cesareo on the right side of his chest with a penknife. When Cesareo felt that he was wounded, he arose and jumped out of the window, expiring on the pavement. Generosa de la Cruz was accused of the death of Cesareo, pleaded guilty and was convicted.

This case was filed against Jose de la Cruz, the brother of Generosa and he is charged with the crime of murder for the death of Cesareo Reyes. He was found guilty by the court, as an accomplice, and sentenced to the penalty of from six years and one day of prison mayor to twelve years and one day of reclusion temporal, and to indemnify the heirs of the deceased in the amount of P500. From this judgment the defendant appealed.

There is no evidence that the appellant took a direct part in the commission of the crime. But the court finds that his liability as an accomplice is based upon the following two facts.

The prosecution has attempted to prove that on the afternoon of the 25th, the day previous to the occurrence, the appellant, armed with a revolver and accompanied by his sister Generosa, was looking for the deceased. It is said the appellant then intended to kill Cesareo to vindicate his sister's honor. The prosecution also tried to prove that a few moments before the aggression, of which the deceased was the victim at the hands of Generosa in the house of her father, Paulino, the appellant, also armed with a revolver, was in the lower part of said house, and when he heard that they went to procure a branch of madrecaao with which to thrash Cesareo, he said that if they did not kill him upstairs, he would kill him downstairs.

These facts alone are not sufficient to prove the liability of the appellant for the death of Cesareo, not even as an accomplice. The most that can be inferred from these facts is that he intended to kill Cesareo. But even then, he did nothing in connection with his sister's act of attacking the deceased. It appears from the evidence that the appellant was entirely ignorant of what was happening upstairs, inasmuch as when he saw the branch of the

madre-cacao, he inquired what it was for. There is no liability by reason of complicity if there is no relation between the criminal act and the accomplice.

Wherefore, following the recommendation of the Solicitor General, the judgment appealed from is reversed and the appellant acquitted, with the costs de oficio. So ordered.

Street, Hull, Vickers, and Diaz, JJ., concur.

Judgment reversed and defendant acquitted.

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