

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. PIO REYES, DEFENDANT AND APPELLANT.

G. R. No. 42042. November 03, 1934

Ponente: VICKERS, J.

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VICKERS, J.:

The defendant was charged in the Court of First Instance of Manila with the crime of homicide, committed by willfully and unlawfully stabbing Jose Castro with a fan-knife on May 3, 1934, which caused his death a few hours later.

At the trial the defendant admitted having stabbed Jose Castro, but maintained that he had acted in self-defense. Upon the termination of the trial, the lower court found the defendant guilty as charged in the information and sentenced him to suffer an indeterminate sentence of not less than six years and one day nor more than twelve years and one day of imprisonment, with the corresponding accessory penalties, to pay the costs, and to indemnify the heirs of Jose Castro in the sum of P1,000.

Appellant's attorney alleges that the lower court erred in not sustaining the defense interposed by the accused, and in not acquitting him.

It appears from the evidence that between eight and nine o'clock on the night of May 3, 1934, the defendant met Jose Castro at the corner of Tapuri and Tioko streets in Tondo, Manila. Jose Castro demanded fifty centavos, and when the defendant refused to give him the money Castro struck the defendant in the face with his fist two or more times. The defendant stepped back, and taking out his knife warned Castro that if he attempted to strike him again something would happen to him. Castro did not heed the warning, but rushed upon the defendant and attempted to gain possession of the knife. In the struggle that followed, the accused while held by Castro stabbed the latter on the left side of the chest and the abdomen, and he fell to the ground. He was taken to the Philippine General Hospital, where he died a few hours later.

The evidence shows that the deceased was a large, strong man, and that he had the reputation of a bully, while the defendant because of some affliction was unable to use his left hand.

The defendant immediately surrendered himself to the police, and he was taken to the Philippine General Hospital. His face was badly bruised, and he was treated in the hospital by Dr. Altavas.

There, seems to us to be no reason to doubt the truth of the defendant's testimony, and the Solicitor-General is of the same opinion.

Apparently the lower court inferred from the testimony of the witnesses for the prosecution that the defendant followed Jose Castro and stabbed him without warning. Such an inference would not be justified by the testimony of these witnesses, even if the testimony of the defendant were disregarded. Castro had assaulted the defendant before he was stabbed; when he was stabbed, he exclaimed: "Pio has stabbed me," and fell to the ground. This was the first thing that the witnesses for the prosecution saw or heard.

The statement in the decision of the trial judge that the defendant attacked Castro because the latter a few days before had offended a woman related to the defendant is not sustained by the record.

The Solicitor-General is of the opinion that this is not a case of complete self-defense, because there was no reasonable necessity for the defendant to use his knife to repel the aggression, because his life was never in danger. According to the Solicitor-General the defendant is entitled to the benefit of five mitigating circumstances: (1) incomplete self-defense, (2) sufficient provocation on the part of the deceased, (3) the appellant had no intention to commit so grave a wrong as that committed, (4) the appellant surrendered himself to the authorities, and (5) the appellant was suffering from a physical defect which restricted his means of defense.

In our opinion this is a case of legitimate self-defense. The defendant, who has the use of only one hand, was stopped at night on the street by a bully (butangero), who demanded money, and when the defendant refused to hand over the money demanded, the deceased gave the defendant blows in the face with his fist. The defendant then stepped back, drew out his knife, and warned the deceased not to strike him again, but the deceased rushed upon the defendant, held him, and tried to get possession of the knife. To free himself the defendant stabbed the deceased. It may be true that the accused could have avoided the fatal consequences by running away, but he had a perfect right to stand his ground. His knife was his only means of defense, and under the circumstances of the case there was clearly a reasonable necessity for him to make use of it. It cannot be said with any certainty that his life was not in danger. When a highwayman brutally assaults one in the dark and tries to take away one's only means of defense, it is reasonable to believe that one's life is endangered. The law does not require a person under such circumstances to trust his life to the mercy of the highwayman.

For the foregoing reasons, the decision of the lower court is reversed, and the appellant is acquitted, with the costs de oficio.

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

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