

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. DALMANI (ALIAS JALMANI) AND MARUDI, DEFENDANTS. DALMANI (ALIAS JALMANI), APPELLANT.

G.R. No. 43940. July 20, 1936

Ponente: LAUREL, J.

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LAUREL, J.:

On October 30, 1934, the provincial fiscal of Zamboanga filed an information charging Dalmani (alias Jalmani) and Marudi, both Moros, with the crime of murder, alleged to have been perpetrated as follows:

"That on or about the 10th day of September, 1934, in the sitio of Latung, municipal district of Siasi, Province of Sulu, Philippine Islands, the herein defendants conspiring, confederating together and helping each other, did then and there enter the inhabited house of one Luis Dugaduga at nighttime, and with evident premeditation and treachery, willfully, unlawfully and feloniously assault, beat and attack with blade weapons said Luis Dugaduga whom they found sleeping, thereby inflicting upon him six mortal wounds in the different parts of the body which caused his instant death."

When arraigned, both accused pleaded not guilty to the charge. Due to their inability to hire the services of counsel the lower court appointed an attorney de oficio. After trial, Francisco Zulueta, judge of the Court of First Instance of Zamboanga, found both accused guilty of the crime charged with the aggravating circumstance of nocturnity, and sentenced each of them to reclusion perpetua, to indemnify the heirs of the deceased, jointly and severally, in the sum of one thousand pesos, with the accessory penalties provided by law, and to pay the costs. Only Moro Dalmani (alms Jalmani) appeals from this decision of the trial court and, through his counsel de oficio in this instance, submits the following assignment of errors:

- The trial court erred in finding the appellant Dalmani (alias Jalmani) guilty beyond reasonable doubt of the crime of murder with the aggravating circumstance of nocturnity.
- The trial court erred in sentencing the appellant to reclusion perpetua, to indemnify the heirs of the deceased in the sum of one thousand pesos, and to pay the costs.
- The trial court erred in not acquitting the appellant of the crime wit to which he is charged."

At the time of the occurrence, the deceased, Luis Duga-duga, was living with his Moro wife, Langka, his fourteen-year old daughter, Asuncion, his seven-year old boy, Florencio and the family Moro servant, Aradais, in the sitio of Sipangan (Latung), municipal district of Siasi, Sulu. According to the evidence for the defense, there were be- sides in his house at the time Moros Pajiji and Salip Sakati, but this is denied by the prosecution. The crime took place at about midnight of September 10, 1934. It was perpetrated while the deceased was sleeping near the door of the house. The door leading to the place where the deceased was sleeping was at the time wide open. There was a petroleum lamp inside the house. According to the nurse (dispensary-attendant) who examined the body the day following the occurrence, the deceased sustained the following wounds the most serious of which was that indicated as No. 2:

- A cut wound below the right mammary gland about 2 1/2 inches long and 1/2 inch deep.
- A penetrating punctured wound at the upper right side of the abdominal cavity about 2 inches long with a portion of the intestines coming out thru.
- A cut wound on the left side of the epigastrium about 3 inches long and 1/2 inch deep.
- A cut wound about 2 inches long and 1 inch deep on the left side of the abdominal cavity at the level of the umbilical cord.
- A cut wound about 2 inches long and 1 inch deep on the right forearm 1 inch below the elbow. The bone is cut.
- A cut wound on the right wrist about 1 inch long and 1 inch deep.

The eyewitnesses to the commission of the crime were Mora Langka, widow of the deceased, and Asuncion, a fourteen-year old daughter of the deceased. Aradais, the family servant, did not testify.

Langka swore that on September 10, 1934, she was living with her husband Luis Dugaduga, their children Asuncion and Florencio, and the family servant Aradais, in their house in sitio Sipangan, municipal district of Siasi, Sulu; that at about midnight of that date she was awakened by her daughter Asuncion who felt the necessity of answering a minor call of nature; that thereafter, she sat down to chew buyo and it was then when Dalmani (alias Jalmani) and Marudi entered the house armed with Jxirongs and immediately attacked her husband; that the door of the house was open at the time; that it was Dalmani who gave the first blow hitting her husband in the abdomen; that she did not see what Marudi did because she and her children ran away to hide in a nearby banana plantation; that Aradais also ran away and went to the house of his father, Ladja; that thereafter she returned to the house with her children Asuncion and Florencio, and they found her husband already dead; and that there was an ill-feeling between her husband and Dalmani because the latter had stolen a horse belonging to her husband on account of which a complaint for theft was filed against Dalmani.

Asuncion Dugaduga, the daughter of the deceased substantially corroborated the testimony of her mother.

The appellant denied having killed or in any way participated in the killing of the deceased. He testified that in the morning of September 10, 1934, he left Latung (Sipangan) bound for Laminuza and here found the municipal treasurer of Laminuza from whom he bought a cedula. This part of his testimony is corroborated by the municipal treasurer referred to, Saradjani Lumandun. It is also corroborated by Fanglima Idlana, councilor for Laminuza, who declared having seen the appellant when the latter left Laminuza in his vinta bound for Lu'uk at noon of that same day. The appellant further testified that he arrived at Lu'uk at about sunset of Monday, September 10, 1934; that he stayed in the fish corral of Maharadja Absara, and that he did not leave the place until the following Thursday when he was arrested by Moro Almara, an agent of the provincial governor of Sulu. This part of his testimony is corroborated by Maharadja Absara, councilor of Kuta Sihi, Jolo, who testified that Dalmani arrived at his (Absara's) fish corral in Lu'uk at about 7 p. m. on Monday, September 10, 1934, and that Dalmani remained there the whole night of that day and until his arrest the following Thursday. Maharadja Absara also testified that he and Dalmani passed the night of September 10, 1934, in their respective vintas which were berthed side by side; that he slept only one-third of the time during the night of September 10, 1934, and that when he awoke the following morning he found Dalmani in the vinta by his side.

The trial court accepted the testimony of Langka and Asuncion as worthy of credence. Ordinarily, this finding should not be disturbed in view of the fact that the trial judge saw the witnesses testify and otherwise had a better opportunity to gauge their credibility. There are, however, facts and circumstances of record which considered in isolation may seem unimportant, but if taken together and considered in the light of certain events now to be

referred to, are sufficient to raise in the mind of this court a grave doubt as to the guilt of the defendant-appellant Dalmani, "that doubt engendered by an investigation of the whole proof and an inability, after such investigation, to let the mind rest easy upon the certainty of guilt." (U. S. vs. Lasada [1910], 18 Phil., 90, 96.)

It should be observed that Marudi, co-accused of the appellant Dalmani, and who did not appeal from the judgment of the trial court, admitted having taken part in the conspiracy to kill the deceased, Luis Dugaduga. He also admitted having accompanied Ladja, Balaji, Paraji and Jajalis to the house of the deceased at Latung, municipal district of Siasi, Sulu, at about midnight of September 10, 1934, to kill Luis Dugaduga, although he alleged that he and Ladja remained down below the house to keep watch. He pointed to Jajalis, son of Ladja, as the one who with his barong delivered the first blow hitting the deceased, who was then sleeping, in the abdomen, and that thereafter Balaji and Paraji followed suit and also assaulted the deceased with their weapons.

Marudi, it should be observed, declared against his own interest and seems satisfied with having done so for he has not appealed from the verdict of the trial court. Why Marudi implicated Ladja, Balaji, Paraji and Jajalis if these individuals had not participated in the commission of the crime is not explained. Ladja is the uncle of Marudi who used to call him father-in-law; Jajalis is the son of Ladja; Balaji and Paraji are brothers, and first cousins of the mother of Marudi. Marudi had no reason—at least the record does not disclose any—for implicating his close relatives. The fact that he admitted his participation in the commission of the crime and testified against his own relatives gives the impression, in the absence of satisfactory explanation, that he told the truth. If Marudi testified falsely in this respect, why was not anyone of those implicated by him called to contradict him? Not even Ladja or Jajalis was summoned, and there is no explanation given for this failure of the government.

Marudi also testified that Langka was the paramour of Jajalis and that the deceased at one time before the killing had surprised them in the act. This imputation is denied by Langka. Pressed, however, by counsel for the defense on cross examination, she admitted "que conocia mucho a Jajalis", and that at times "'Jajalis vivia, dormia y comia en la casa", and that she had with him "gran intimidación y confianza" (s. n., page 103), and this intimacy and confidence seemed to have continued for some time. This part of the testimony of Langka tends to corroborate the statement of Marudi that Jajalis lived in the house of the deceased, and that at the time of the occurrence said Jajalis was in the house. It is also corroborative of the testimony of Panglima Jakarnain, municipal president of Siasi, that the deceased some time in the month of August before his death complained of the conduct of his wife. It should further be observed that according to Langka and her daughter Asuncion, Aradais, brother of Jajalis, was at the time of the occurrence sleeping in the house hardly three brazas from the deceased and that upon being awakened, he simply scurried away to his father's house. The next morning Ladja accompanied Langka to Lieutenant Vidamo, deputy governor of Siasi, and Langka pointed to Dalmani and Marudi as the authors of the death of her husband.

It is a strange coincidence that Langka, the wife of the deceased, happened to be awake at midnight on September 10, 1934, precisely at the time when her husband was allegedly assaulted by Dalmani. The explanation that she had been awakened by her daughter Asuncion who had to answer a minor call of nature cannot be unhesitatingly accepted. Asuncion at the time was 14 years old and a sixth grade pupil in the public schools. Why it was necessary for her to awaken her mother for this purpose is not easy to understand. It seems out of the ordinary that every time a girl of this age and education had to urinate at night inside the house she had to awaken her mother, and if this was the only occasion she did it, it was another coincidence. Then, according to the testimony of Langka, after her daughter had satisfied the call of nature, she (Langka) sat down in the kitchen about three meters from the place where her husband was sleeping to chew buyo. It was then that the assassins went up the house and killed her husband. This is another rare coincidence. Again, according to her testimony, the principal door of the house leading to the place where her husband was sleeping was wide open such as to have enabled the assassins

of her husband to enter freely the house and perpetrate the crime. Was the wide opening of the door at that dead hour of the night also a mere coincidence? Aradais, brother of Jajalis, was at the time of the killing inside the house. He was the family servant at the time and was sleeping close to his master, the deceased. If we may accept the testimony of Asuncion, nothing was done by him except to run to the house of his father Ladja and to return at day-break to the house of his master. Langka in her direct testimony testified that after some hours of hiding in a banana plantation she returned to the house accompanied by her two children. To the same effect is the testimony of her daughter Asuncion. On cross examination, however, in her rebuttal testimony, Langka admitted having been accompanied also by Aradais and Ladja. A good wife would probably have done more than to run upon seeing her husband hacked to death, but giving her the benefit of having been impelled by the superior instinct of self-preservation and that she had to flee at sight, it is hard to understand how she could have gathered enough strength to return to the same house some two hours afterward accompanied by her two children without knowing whether the assailants were still there or not; and if, as she also later testified, she and her children were accompanied by Aradais and Ladja, it should be observed that Aradais was in the house at the time of the assault, and it must have been the presence of Ladja, father of Jajalis and Aradais, that gave her the courage to return without knowing whether the assailants were still roaming at large in the house.

The foregoing circumstances are very significant and considered in the light of the testimony of Marudi and president Jakarnain of Siasi, show that the theory of the defense that Langka was not foreign to and much less ignorant of the plot to kill her husband is not entirely devoid of foundation.

Now as to the motive of the crime. While it is not always necessary to prove the motive in criminal prosecutions, it is frequently important to know the reason for the commission of the criminal act to gain the desired judicial perspective in any given case- The motive imputed to the herein defendant-appellant for killing Luis Dugaduga is the alleged filing of a complaint by the latter against the former for the theft of a horse said to pertain to the deceased. We find, however, that the alleged theft took place more than two years before the killing of Dugaduga, or to be exact, on May 20, 1932. (Exhibit 1, Defense.) According to1 Marudi, the case had been amicably settled between the parties. At any rate, the complaint appears to have been dismissed by the justice of the peace court of Siasi upon motion of Dugaduga himself (Exhibit 2, Defense). Under these circumstances, we are reluctant to believe that this incident of the stealing of a horse was the motive for the killing of the deceased. But assuming that the appellant had harbored in his breast an ill-feeling towards the deceased for two consecutive years because of this incident of the disappearance of a horse, there is nothing to show that Marudi, his co-accused in the lower court, had any reason for killing the deceased. There is no evidence of friendship or intimacy between Dalmani and Marudi; on the contrary, according to Marudi, they only became fully acquainted in jail after their arrest. We are not, of course, concerned with Marudi in this appeal, but reference to him and to his motive in this connection is made to show that, as contended by counsel de oficio for Dalmani in this instance, Marudi had more reason for joining the Ladja people because of his kinship with them than with Dalmani for whom he did not profess even the slightest friendship. Upon the other hand, there is reason to believe in the long standingr enmity between fralmani and the Ladja family. It appears that Dalmani had married Tata, the wife of Jajalis, on account of which the latter filed a complaint against the two for bigamy (Exhibit 3, Defense). The complaint was dismissed by the justice of the peace court of Siasi because it appeared that the Sultan had previously granted .a divorce to Tata before the latter's marriage to Dalmani (Exhibit 4, Defense). Jajalis according to the theory of the defense, is the paramour of Langka. Jajalis is the son of Ladja and brother to Aradais. According to the appellant, Balaji was his rival for the post of councilor for Latung in lieu of Datu Bara and that when he was proposed by various presidents and councilors for the position, Ladja and Jajalis resented it. (S. n., p. 72.) According to the appellant also, the original complainant against him for the theft of a horse was Jajalis but that the complaint was later presented by Luis Dugaduga, the deceased. An examination of the copy of the complaint attached to the record as

Exhibit 1 of the defense shows that Ladja and Jajalis were among the witnesses for the government. With this background, it is easier to understand how the appellant Dalmani could have been thrown into the scene as an active participant in the commission of the crime than for Marudi, without any reason at all, to have implicated his near relatives, Ladja, Jajalis, Balaji and Paraji, in the killing of Luis Dugaduga.

As indicated, the defense of the defendant-appellant is an alibi. This defense is, indeed, too commonly resorted to and too easily concocted as to warrant the exercise of great caution on the part of the courts. We note, however, that the provincial fiscal of Sulu in his memorandum in the court below, dated March 2, 1935, contends that even if the appellant had really been in Laminuza in the morning of Monday, September 10, 1934, to buy a cedula from the deputy treasurer, Saradjani Lumandun, it was yet possible for him to have returned to Latung or Sipangan in the afternoon and commit the crime at night of that same day, but he does not nor could he reasonably argue that if, as contended by the defense, the appellant was in Lu'uk at 7 p. m. on September 10, 1934, the latter could still be in Latung or Sipangan to commit the murder imputed to him at about midnight of that same day. Laminuza is an island under the jurisdiction of Siasi and can be reached from Sipangan by vinta in an hour, but Lu'uk is very far from Latung or Sipangan—"es muy Ujos, porque estd en la Isla de Jolo." (Testimony of Saradjani Lumandun, deputy treasurer of Siasi, s. n., p. 89.) The court takes judicial cognizance of the fact that while the channel separating Sipangan and Laminuza Island is only one nautical mile wide, thirty odd nautical miles of open sea separate Sipangan from the municipal district of Lu'uk in the Island of Jolo, which distance it is physically impossible to traverse in five hours by vinta.

In view of what has been said, it does not seem necessary to indulge in any extended analysis of the evidence presented by the defense. To be sure, there were two ocular witnesses to the killing of the deceased, namely: Mora Langka, the widow of the deceased, and her daughter Asuncion. Nevertheless, in the light of facts and circumstances of record we feel that it is far better to acquit a man upon the ground of reasonable doubt, even though he may in reality be guilty, than to confine in the penitentiary for the rest of his life a person who may be innocent. (People vs. Asinas [1929], 53 Phil., 59, 71.)

After careful perusal of the evidence, we are of the opinion that there is at least reasonable doubt as to the guilt of the defendant-appellant. The judgment of the trial court is, therefore, hereby reversed with costs de oficio. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Imperial, Diaz, and Recto, JJ., concur.

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