

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. AMIN MADLI, DEFENDANT AND APPELLANT.

G. R. No. 44620. February 15, 1937

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Charged with the crime of parricide, Moro Amin Madli was tried and convicted by the Court of First Instance of Zamboanga. He appealed to this court from the judgment sentencing him to reclusion perpetua, and to pay an indemnity in the sum of P1,000 with the costs.

The accused, for sometime, had been living separately from his wife Mora Jamura. Attempting to find a means to make his wife rejoin him, he went to complain to the provincial fiscal of Zamboanga on February 13, 1935, requesting the latter's mediation for a reconciliation with her. Jamura, however, resolutely refused to return to live with him. At about midnight of said day, while everybody in the house was asleep, the accused went up said house where his wife was living with her father and, approaching the bed where his wife was sleeping, dealt her blows with the hatchet carried by him, thereby inflicting upon her several wounds which caused her instant death.

The accused attempted to prove that he and his wife had agreed to elope that night, so that at about 12 o'clock he went up the kitchen the door of which, according to him, had been left open by the deceased, and having met Jamura therein, she told him to wait for a moment because she had to get her suitcase which was at her father's bedhead. Instead of getting the suitcase, however, Jamura invited him to lie down on her bed or mattress. While both lay therein, wrapped in a patadiong and talking in a low voice, Jamura's father woke up and, upon knowing that the accused was with her, he hurled a spear at the accused, which grazed the latter's breast, inflicting a transversal wound upon him. The accused claims that his father-in-law, armed with a hatchet, later went to where he and his wife lay and dealt him several blows with said hatchet, but because he was shielded by the body of Jamura whom he held fast, the hatchet blows landed on her, killing her instantly. This court, as the court below, finds this defense to be improbable, and considers it proven beyond a reasonable doubt that the accused had committed the crime of parricide with which he was charged.

The defendant, in his brief, assigns two errors as committed by the lower court, to wit: (1) In holding that the crime of parricide had been proven beyond a reasonable doubt, and (2) in finding him guilty of said crime.

There being none of the errors assigned, the only question to be determined is the penalty which must be imposed upon the accused, taking into consideration the aggravating circumstances of treachery, premeditation, dwelling and nighttime in the commission of the crime, and the mitigating circumstance of lack of instruction of the accused.

The penalty prescribed by article 246 of the Revised Penal Code for the crime of parricide is reclusion perpetua to death, but, there being no unanimity among the members of this court relative to the consideration of the circumstances and the imposition of the death penalty, as required by article 47, subsection 2, of the Revised Penal Code, and by the last paragraph of section 133 of the Revised Administrative Code, as amended by section

2 of Commonwealth Act No. 3; the judgment appealed from, sentencing the accused to the penalty of reclusion perpetua and to indemnify the heirs of the deceased in the sum of P1,000, is hereby affirmed, with costs. So ordered.

Avancena, C. J., Villa-Real, Abad Santos, Imperial, Diaz, and Laurel, JJ., concur.

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