

THE PEOPLE OP THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. CIRIACO PIRING ET AL., DEFENDANTS. CIRIACO PIRING, APPELLANT.*G. R. No. 45053. October 19, 1936*

Ponente: DIAZ, J.

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At midnight on October 9, 1935, the spouses Leon or Leonardo Nacpil and Marcelina Mercado were attacked and killed, and their son Jose Nacpil, 13 years of age, seriously wounded, while they were sleeping in their own house where they lived alone, in Maunani, within the barrio of Ungut in the municipality of Porac, Province of Pampanga, the house having later been burned by the person or persons who committed the attack. It having resulted from the first investigations conducted by the authorities and their agents that Ciriaco Piring, Leoncio Piring, Felix Capili and Flaviano Capili committed said acts, they were arrested and charged with double murder and serious physical injuries in two separate cases, it having been alleged in the information for double murder filed against them that they committed the crime with the aggravating circumstances of uninhabited place, disguise, dwelling, nighttime, cruelty and aid of armed persons. Upon their petition they were granted two separate trials in the case for double murder, one for Felix Capili and Flaviano Capili, and another for Ciriaco Piring and Leoncio Piring. For lack of evidence, everybody was acquitted except Ciriaco Piring who was found guilty of said crime by the Court of First Instance of Pampanga which sentenced him to reclusion perpetua, having taken into consideration the mitigating circumstance of lack of instruction in his favor, in spite of having stated that the aggravating circumstances of disguise, dwelling and cruelty, in addition to the qualifying circumstance of treachery, were also present in the commission of the crime. Ciriaco Piring appealed from the sentence imposing upon him the penalty in question and that of indemnity in the sum of P2,000 to the heirs of the deceased spouses, alleging that the lower court erred: (1) In giving credit to the testimony of the minor Jose Nacpil; (2) in admitting Exhibit D-1-A, which is his confession made before the justice of the peace, as evidence against him; and (3) in sentencing him to the above-stated penalty.

It has been proven by the prosecution and not disputed by the defense, that at midnight on October 9, 1935, a man whose face was covered by a handkerchief climbed into the house of Leon or Leonardo Nacpil and Marcelina Mercado, attacked them and their son Jose Nacpil with a bolo, while they were asleep, and later set fire to their house in order to burn it, as it in fact, burned. Leon or Leonardo Nacpil and Marcelina Mercado died instantly of the wounds received by them and their bodies were found burned and charred on the following day. It is also proven by the prosecution and not disputed by the defense that in the barrio where the deceased lived, there were some people who considered them witches; that one month or some weeks prior to the night in question, the accused Leoncio Piring, Ciriaco Piring and others went to the house of the deceased spouses to ask the deceased Leon or Leonardo Nacpil to explain why he had been circulating the story that they had robbed him of a plow; and as he told them, after a slight altercation, that he really suspected Leoncio Piring, Leoncio, together with his brother Ciriaco Piring and one De la Pena, challenged him to a fight, surrounding him later, holding him by the

hands in order to take away his bolo, and wounding him in the little finger.

The boy Jose Nacpil testified that on the night in question he was awakened by the cries of his father; that he saw a man, whose face was covered by a handkerchief, attacked his father and mother with a bolo; that said man forthwith approached him saying "there is the boy", as if he were addressing somebody; that he was later struck in the face with a bolo, which rendered him unconscious; that when he regained consciousness, their house was already on fire; and had it not been for a voice that told him to "come down right away", he would not have gotten up because he had no strength to move. He further testified that the man whose face was covered by a handkerchief, who attacked him and his parents, was no other than the appellant; that he recognized the man not only by his voice with which he was already familiar, according to him, but also by the clothes he wore, which were the same as those worn by him in the morning of the following day, when the constabulary took him from his house for investigation.

The defense contends that the testimony of the boy Jose Nacpil should be disregarded because it is unworthy of credit; because his version of the incident, which he claims to have witnessed, is improbable, being based upon a miracle, and because miracles are unbelievable. In addition to the foregoing, said boy really testified that it was the child Jesus who, after he had jumped from their house to escape from the lire, led him to that of his sister Josefa Nacpil about a kilometer away. Be it a miracle or a hallucination that gave Jose Nacpil strength to arrive at his sister's house on the night in question, after he had already been wounded, the truth is that the appellant himself, in a confession made by him before the justice of the peace Ramon Miranda, on November 7, 1935 (Exhibit D-1-A)— which confession he did not even attempt to contradict because, on the contrary, his counsel stated in his brief that had the appellant testified at the trial, the only thing he could have stated would be the same as that contained in his confession—admitted that upon the invitation of his uncle Felix Capili, he accompanied the latter, together with Flaviano Capili and Leoncio Piring, to the house of the deceased for the purpose of killing them for being witches, although to lessen his liability he stated that at first he had refused to accompany him, telling that he did not want to take a life; that he finally decided to follow his uncle because the latter threatened to kill him if he did not do so; and that, at any rate, he did not directly participate in the commission of the crimes imputed to him and his co-accused, because the only one who went up the house to commit them and later set the house on fire was Felix Capili. Therefore, the testimony of the boy Jose Nacpil is neither, unworthy of credit, nor improbable, particularly, if it is taken into consideration that the clothes worn by the appellant in the morning after the night of the crime were similar if not the same as those which the boy saw were worn by the man who attacked him and his parents. If to this is added the fact that the voice which uttered the words "there is the boy", referring to Jose Nacpil, before he was wounded, belonged to the appellant himself, according to said witness there would be no doubt that said appellant directly participated in the commission of the murder of Leon or Leonardo Nacpil and that of Marcelina Mercado.

It is not strange that the appellant has not admitted having personally committed the two crimes in question before justice of the peace Ramon Miranda, because, ordinarily, it is the natural tendency of every transgressor, with very rare exceptions, to acquit himself of all liability while he can do so, or at least mitigate it in the eyes of the law and of his fellowmen. Let it not be said that as the appellant's admission contained in Exhibit D-1-A is based upon the fact therein stated that he was threatened with death by his uncle Felix Capili, instead of prejudicing him, greatly favors him, for it supplies him with evidence exempting him from all responsibility inasmuch as evidence of such nature, if admitted, must be admitted and accepted in its entirety, because it does not appear that the threat has been continuous and he had had no opportunity to evade it. It appears, however, that he had said opportunity because Felix Capili had left him and his companions Flaviano Capili and Leoncio Piring alone, when Felix Capili went up to the house of the deceased. The part of said document proving this reads: "* * * my uncle Felix Capili, his son Flaviano Capili, my younger brother Leoncio Piring and I were on our way to the house of the

spouses Leon Nacpil and Marcelina Mercado, when we reached a place overgrown with cogon near Leon Nacpils house, my uncle Felix Capili instructed us to stay there because it was too early* that at about 12 o'clock at night, according to his calculation, he brought us to the house of Leon Nacpil and Marcelina Mercado. Upon arriving there my uncle Felix Capili went up to the house. He wanted us to follow him but we three did not go up; we remained downstairs."

The foregoing confession of the appellant disproves everything he may say about his having been threatened to death by Felix Capili and his not having conspired with the latter and the other two persons above-stated.

On the other hand, the rule that a confession should be admitted and considered in its entirety, whether a part thereof be favorable or unfavorable to the accused, stated in general terms in the case of *United States vs. Alano* (32 Phil., 381), is not absolute as this court has already held in *People vs. Layos* (60 Phil., 760). The reason for this is that there may be instances, and in fact there are some instances, where only a part of confessions or admissions of the nature of Exhibit D-1-A is admissible, rejecting the rest by reason of the improbability of the facts or statements contained therein, or because there are other reasons or facts showing that they are false thus making them unworthy of credit. In the present case, the testimony of Jose Nacpil, the clothes worn by the appellant on the morning of his arrest, his antecedents with the deceased Leon or Leonardo Nacpil, and the belief of some people of his barrio that Leon or Leonardo Nacpil and his wife were witches, disprove and destroy everything favorable to the appellant contained in his said confession, Exhibit D-1-A.

In view of the foregoing, it seems clear that the first two errors attributed to the lower court by the appellant are unfounded, and we are of the opinion that said appellant should be found guilty not of only one crime of double murder but of two crimes of murder: the one committed on the person of Leon or Leonardo Nacpil and that committed on the person of Marcelina Mercado. Treachery should be considered as a qualifying circumstance of said two crimes, and as aggravating circumstances those of disguise, as the fact that one covers his face with a handkerchief constitutes disguise because he thereby avoids recognition ; and dwelling, because said crimes were committed in the very house where the deceased lived. The only mitigating circumstance to be taken into consideration in favor of the appellant is his lack of instruction.

The circumstances of nighttime, uninhabited place, cruelty and aid of armed persons cannot be taken into consideration as aggravating circumstances because the first, or nighttime, was necessarily included in that of treachery; that of uninhabited place, because it has not been proven that there were no houses near the house of the deceased; that of cruelty, because the fire, which is the fact in which said circumstance is made to consist, took place after the victims were already dead, the appellant not having taken advantage of said means to deliberately augment the seriousness of the crime; and that of aid of armed persons, because the appellant as well as those who cooperated with him in the commission of the crimes in question acted under the same plan and for the same purpose.

Were it not for the fact that there has been no unanimity in imposing the death penalty upon the appellant, this penalty should be the one imposed upon him, because by compensating the aggravating circumstance of disguise with the circumstance of lack of instruction there still remains the aggravating circumstance of dwelling which, by itself alone, is sufficient to warrant the imposition of said penalty. However, as there has been no unanimity in the decision, the penalty next lower to death, which is reclusion perpetua in each case, that is, for the murder of Leon or Leonardo Nacpil and for the murder of Marcelina Mercado, should be imposed upon him, by virtue of the provisions of section 133 of the Revised Administrative Code, as amended by section 2 of Commonwealth Act No. 3.

Wherefore, the appealed judgment is modified, sentencing the appellant to reclusion perpetua for the murder of

Leon or Leonardo Nacpil, and to another penalty of the same nature for the murder of Marcelina Mercado; and in each case to indemnify the heirs of each of the deceased in the sum of P1,000. The judgment in question is affirmed in all other respects, except in regard to the pronouncement thereof relative to the crime of serious physical injuries committed on the person of Jose Nacpil, which is left open for the decision of the Court of Appeals, with the costs of this instance to the appellant. So ordered.

Avanceña, C J., Villa-Real, Imperial, Recto, and Laurel, JJ., concur.

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