

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. CELESTINO BONOAN Y CRUZ, DEFENDANT AND APPELLANT.

G. R. No. 45130. February 17, 1937

Ponente: LAUREL, J.

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LAUREL, J.:

On January 5, 1935, the prosecuting attorney of the City of Manila filed an information charging Celestino Bonoan, the defendant-appellant herein, with the crime of murder, committed as follows:

"That on or about the 12th day of December, 1934, in the City of Manila, Philippine Islands, the said accused, with evident premeditation and treachery, did then and there willfully, unlawfully and feloniously, without any justifiable motive and with the decided purpose to kill one Carlos Guison, attack, assault and stab the said Carlos Guison on the different parts of his body with a knife, thereby inflicting upon him the following injuries, to wit:

" 'One stab wound at the right epigastric region penetrating one cm. into the superior surface of the right lobe of the liver; and three non-penetrating stab wounds located respectively at the posterior and lateral lumbar region, and left elbow/ which directly caused the death of the said Carlos Guison three days afterwards."

On January 16, 1935, the case was called for the arraignment of the accused. The defense counsel forthwith objected to the arraignment on the ground that the defendant was mentally deranged and was at the time confined in the Psychopathic Hospital. The court thereupon issued an order requiring the Director of the Hospital to render a report on the mental condition of the accused. Accordingly, Dr. Toribio Joson, assistant alienist, rendered his report, Exhibit 4, hereinbelow incorporated. On March 23, 1935, the case was again called for the arraignment of the accused, but in view of the objection of the fiscal, the court issued another order requiring the doctor of the Psychopathic Hospital who examined the defendant to appear and produce the complete record pertaining to the mental condition of the said defendant. Pursuant to this order, Dr. Toribio Joson appeared before the court on March 26, 1935 for the necessary inquiry. Thereafter, the prosecution and the defense asked the court to summon the other doctors of the hospital for questioning as to the mental condition of the accused, or to place the latter under a competent doctor for a closer observation. The trial court then issued an order directing that the accused be placed under the chief alienist or an assistant alienist of the Psychopathic Hospital for his personal observation and the subsequent submission of a report as to the true mental condition of the patient. Dr. Jose A. Fernandez, assistant alienist of the Psychopathic Hospital, rendered his report, Exhibit 5, on June 11, 1935. On June 28, 1935, the case was called again. Dr. Fernandez appeared before the court and ratified his report, Exhibit 5, stating that the accused was not in a condition to defend himself. In view thereof, the case was suspended indefinitely.

On January 21, 1936, Dr. Fernandez reported to the court that the defendant could be discharged from the hospital and appear for trial, as he was "considered a recovered case." Summoned by the court, Dr. Fernandez, appeared and testified that the accused "had recovered from the disease." On February 27, 1936, the accused was arraigned, pleaded "not guilty" and trial was had.

After trial, the lower court found the defendant guilty of the offense charged in the information above-quoted and sentenced him to life imprisonment, to indemnify the heirs of the deceased in the sum of P1,000, and to pay the costs.

The defendant now appeals to this court and his counsel makes the following assignment of errors:

"A. The court a quo erred in finding that the evidence establishes that the accused has had dementia only occasionally and intermittently and has not had it immediately prior to the commission of the offense.

"B. The court a quo erred in finding that the evidence in this case further shows that during and immediately after the commission of the offense, the accused did not show any kind of abnormality either in behavior, language and appearance, or any kind of action showing that he was mentally deranged.

"C. The court a quo erred in declaring that under the circumstances the burden was on the defense to show that the accused was mentally deranged at the time of the commission of the offense, and that the defense did not establish any evidence to this effect.

"D. The court a quo erred in finding the accused guilty of the offense charged and in not acquitting him thereof."

It appears that in the morning of December 12, 1934, the defendant Celestino Bonoan met the now deceased Carlos Guison on Avenida Rizal near a barbershop close to Tom's Dixie Kitchen. Francisco Beech, who was at the time in the barbershop, heard the defendant say in Tagalog, "I will kill you." Beech turned around and saw the accused withdrawing his right hand, which held a knife, from the side of Guison who said, also in Tagalog, "I will pay you", but Bonoan replied saying that he would kill him and then stabbed Guison thrice on the left side. The assault was witnessed by policeman Damaso Arnoco who rushed to the scene and arrested Bonoan and took possession of the knife, Exhibit A. Guison was taken to the Philippine General Hospital where he died two days later. Exhibit C is the report of the autopsy performed on December 15, 1934, by Dr. Sixto de los Angeles.

As the killing of the deceased by the defendant-appellant is admitted, it does not seem necessary to indulge in any extended analysis of the testimony of the witnesses for the prosecution. The defense set up being that of insanity, the only question to be determined in this appeal is whether or not the defendant-appellant was insane at the time of the commission of the crime charged.

On the question of insanity as a defense in criminal cases, and the incidental corollaries as to the legal presumption and the kind and quantum of evidence required, theories abound and authorities are in sharp conflict. Stated generally, courts in the United States proceed upon three different theories. {See Herzog, Alfred W., *Medical Jurisprudence* [1931], sec. 655, p. 479; also Lawson, *Insanity in Criminal Cases*, p. 11) The first view is that insanity as a defense in a confession and avoidance and as such must be proved beyond a reasonable doubt. When the commission of a crime is established, and the defense of insanity is not made out beyond a reasonable doubt, conviction follows. In other words, proof of insanity at the time of committing the criminal act should be clear and satisfactory in order to acquit the accused on the ground of insanity (Hornblower, C. J., in *State vs. Spencer*, 21 N. J. L., 196). The second view is that an affirmative verdict of insanity is to be governed by a preponderance of evidence, and in this view, insanity is not to be established beyond a reasonable doubt. According to Wharton in his *"Criminal Evidence"* (10th ed., vol. I, sec. 338), this is the rule in England (*Reg. vs. Layton*, 4 Cox, C. C., 149; *Reg. vs. Higginson*, 1 Car. & K., 130), and in Alabama, Arkansas, California, Georgia, Idaho, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, Virginia and West Virginia. The third view is that the prosecution must prove sanity beyond a reasonable doubt (*Davis vs. United States*, 160 U. S. 496; 40 Law. ed., 499; 16 Sup. Ct. Rep., 353; *Hotema vs. United States*, 186 U. S., 413; 46 Law. ed., 1225; 22 Sup. Ct.

Rep., 895; United States vs. Lancaster, 7 Biss., 440; Fed. Cas. No. 15,555; United States vs. Faulkner, 35 Fed., 730), This liberal view is premised on the proposition that while it is true that the presumption of sanity exists at the outset, the prosecution affirms every essential ingredients of the crime charged, and hence affirms sanity as one of such essential ingredients, and that a fortiori where the accused introduces evidence to prove insanity it becomes the duty of the State to prove the sanity of the accused beyond a reasonable doubt.

In the Philippines, we have approximated the first and stricter view (People vs. Bascos [1922], 44 Phil., 204). The burden, to be sure, is on the prosecution to prove beyond a reasonable doubt that the defendant committed the crime, but sanity is presumed, and " * * * when a defendant in a criminal case interposes the defense of mental incapacity, the burden of establishing that fact rests upon him * * * ." (U. S. vs. Martinez [1916], 34 Phil., 305, 308, 309; U. S. vs. Hohtiveros Carmona [1910], 18 Phil., 62; People vs. Bascos, supra.) We affirm and reiterate this doctrine.

In the case at bar, the defense interposed being that the defendant was insane at the time he killed the deceased, the obligation of proving that affirmative allegation rests on the defense. Without indulging in fine distinctions as to the character and degree of evidence that must be presented, the primary inquiry here is: Has there been presented sufficiently convincing evidence, direct or circumstantial, to a degree that satisfies the judicial mind that the accused was insane at the time of the perpetration of the offense? In order to ascertain a person's mental condition at the time of the act, it is permissible to receive evidence of the condition of his mind a reasonable period both before and after that time, Direct testimony is not required (Wharton, Criminal Evidence, p. 684; State vs. Wright, 134 Mo., 404; 35 S. W., 1145; State vs. Simms, 68 Mo., 305; Rinkard vs. State, 157 Ind., 534; 62 N. E., 14; People vs. Tripler, I Wheeler, Crim. Cas., 48), nor are specific acts of derangement essential (People vs. Tripler, supra) to establish insanity as a defense. Mind can only be known by outward acts. Thereby, we read the thoughts, the motives and emotions of a person and come to determine whether his acts conform to the practice of people of sound mind. To prove insanity, therefore, circumstantial evidence, if clear and convincing, suffice (People vs. Bascos [1922], 44 Phil., 204).

The trial judge arrived at the conclusion that the defendant was not insane at the time of the commission of the act for which he was prosecuted on the theory that the insanity was only occasional or intermittent and not permanent or continuous (32 C. J., sec. 561, p. 757). We are apprised of the danger of indulging in the presumption of continuity in cases of temporary or spasmodic insanity. We appreciate the reason for the contrary rule. To be sure, courts should be careful to distinguish insanity in law from passion or eccentricity, mental weakness or mere depression resulting from physical ailment. The State should guard against sane murderers escaping punishment through a general plea of insanity. In the case at bar, however, we are not concerned with connecting two or more attacks of insanity to show the continuance thereof during the intervening period or periods but with the continuity of a particular and isolated attack, beginning with the demonstration of symptoms thereof prior to the commission of the crime charged, and ending with a positive diagnosis of insanity immediately following the commission of the act complained of. Upon the other hand, there are facts and circumstances of record which can not be overlooked. The following considerations have weighed heavily upon the minds of the majority of this court in arriving at a conclusion different from that reached by the court below:

(a) From the evidence presented by the defense, uncontradicted by the prosecution, it appears that the herein defendant-appellant, during the periods from April 11 to April 26, 1922, and from January 6 to January 10, 1926, was confined in the insane department of the San Lazaro Hospital suffering from a disease diagnosed as dementia paëcox. His confinement during these periods, it is true, was long before the commission of the offense on December 12, 1934, but this is a circumstance which tends to show that the recurrence of the ailment at the time of the occurrence of the crime is not entirely lacking of any rational or scientific foundation.

(b) All persons suffering: from dementia paëcox are clearly to be regarded as having mental disease to a degree that disqualifies them for legal responsibility for their actions (Mental Disorder in Medico-Legal Relations by Dr. Albert M. Barrett in Peterson, Haines and Webster, Legal Medicine and Toxicology, vol. I, p. 613). According to Dr. Elias Domingo, chief alienist of the Insular Psychopathic Hospital, the symptoms of dementia paëcox, in certain periods of excitement, are similar to those of manic depressive psychosis (p. 19, t. s. n.) and, in either case, the mind appears "deteriorated" because, "when a person becomes affected by this kind of disease, either dementia paëcox or manic depressive psychosis, during the period of excitement, he has no control whatever of his acts." (P. 21, t. s. n) Even if viewed under the general medico-legal classification of manic-depressive insanity, "it is largely in relation with the question of irresistible impulse that forensic relations of manic actions will have to be considered. There is in this disorder a pathologic lessening or normal inhibitions and the case with which impulses may lead to actions impairs deliberations and the use of normal checks to motor impulses" (Peterson, Haines and Webster, Legal Medicine and Toxicology [2d ed., 1926], vol. I, p. 617).

(c) According to the uncontradicted testimony of Dr. Celedonio S. Francisco, at one time an interne at San Lazaro Hospital, for four (4) days immediately preceding December 12, 1934—the date when the crime was committed—the defendant and appellant had "an attack of insomnia", which is one of the symptoms of, and may lead to, dementia paëcox (Exhibit 3, defense testimony of Dr. Celedonio S. Francisco, pp. 13, 14, t. s. n.).

(d) The defendant-appellant appears to have been arrested and taken to the police station on the very same day of the perpetration of the crime, and although attempts were made by detectives to secure a statement from him (see Exhibits B and D and testimony of Charles Strabel, t. s. n. pp. 9, 10) he was sent by the police department to the Psychopathic Hospital the day following the commission of the crime. This is an indication that the police authorities themselves doubted the mental normalcy of the accused, which doubt found confirmation in the official reports submitted by the specialists of the San Lazaro Hospital.

(e) According to the report (Exhibit 4) of the alienist in charge, Dr. Toribio Joson, which report was made within the first month of treatment, the defendant was suffering from a form of psychosis, called manic depressive psychosis. We quote the report in full:

"INSULAR PSYCHOPATHIC HOSPITAL

"Mandaluyong, Rizal

"January 15, 1985

"MEMORANDUM FOR: The Chief Alienist, Insular Psychopathic Hospital, Mandaluyong, Rizal.

"SUBJECT: Patient Celestino Bonoan, male, Filipino, 30 years old, sent by the Secret Service of the City of Manila for mental examination.

"I. MENTAL STATUS:

"(a) General behavior.—The patient is underactive, staying most of the time in his bed with his eyes closed and practically totally motionless. At other times, however, but on very rare occasions and at short intervals he apparently wakes up and then he walks around, and makes signs and ritualistic movements with the extremities and other parts of the body. Ordinarily he takes his meal but at times he refuses to take even the food offered by his mother or sister, so that there have been days in the hospital when he did not take any nourishment. On several occasions he refused to have the bath, or to have his hair cut and beard shaved, and thus appear untidy. He would also sometimes refuse his medicine, and during some of the intervals he displayed impulsive acts, such as striking his chest or other parts of the body with his fists and at one time after a short interview, he struck strongly with his fist the door of the nurse's office without apparent motivation. He also sometimes

laughs, or smiles, or claps his hands strongly without provocation.

"(b) Stream of talk.—Usually the patient is speechless can't be persuaded to speak, and would not answer in any form the questions propounded to him. Very often he is seen with his eyes closed apparently praying as he was mumbling words but would not answer at all when talked to. At one time he was seen in this condition with a cross made of small pieces of stick in his hand. He at times during the interviews recited passages in the literature as for example the following:

" 'La virtud y las buenas costumbres son la verdadera nobleza del hombre. (Truthfulness, honesty and loyalty are among the attributes of a dependable character.)'

"At one time he tried to recite the mass in a very loud voice in the hospital.

"(c) Mood.—Patient is usually apathetic and indifferent, but at times he looks anxious and rather irritable. He himself states that he often feels sad in the hospital.

"(d) Orientation.—During the periods that he was accessible he was found oriented as to place and person but he did not know the day or the date.

"(e) Illusion and hallucination.—The patient states that during the nights that he could not sleep he could hear voices telling him many things. Voices, for example, told him that he would be killed, people were against him and that he should escape. That he was going to be killed because he was benevolent. That he could sometimes see the shadow of his former sweetheart in the hospital. There are times however when he could not hear or see at all anything.

"(f) Delusion and misinterpretation.—On one occasion he told the examiner that he could not talk in his first day in the hospital because of a mass he felt he had in his throat. He sometimes thinks that he is already dead and already buried in the La Loma Cemetery.

"(g) Compulsive phenomena.—None.

"(h) Memory.—The patient has a fairly good memory for remote events, but his memory for recent events or for example, for events that took place during his stay in the hospital he has no recollection at all.

"(i) Grasp of general information.—He has a fairly good grasp of general information. He could not, however, do simple numerical tests as the 100-7 test.

"(j) Insight and judgment—At his fairly clear periods he stated that he might have been insane during his first days in the hospital, but just during the interview on January 14, 1935, he felt fairly well. Insight and judgment were, of course, nil during his stuporous condition. During the last two days he has shown marked improvement in his behavior as to be cooperative, and coherent in his speech.

"2. OPINION AND DIAGNOSIS:

"The patient during his confinement in the hospital has been found suffering from a form of psychosis, called Manic depressive psychosis.

(Sgd.) "TORIBIO JOSON, M. D.

"Assistant Alienist"

In the subsequent report, dated June 11, 1935 (Exhibit 5), filed by Dr. Jose A. Fernandez, another assistant alienist in the Insular Psychopathic Hospital, the following conclusion was reached:

"I am of the opinion that actually this patient is sick. He is suffering from the Manic Depressive form of

psychosis. It might be premature to state before the court has decided this case, but I believe it a duty to state, that this person is not safe to be at large. He has a peculiar personality make-up, a personality lacking in control, overtly serious in his dealings with the every day events of this earthly world, taking justice with his own hands and many times executing it in an impulsive manner as to make his action overproportionate—beyond normal acceptance. He is sensitive, overtly religious, too idealistic has taste and desires as to make him queer before the average conception of an earthly man.

"He will always have troubles and difficulties with this world of realities.

(Sgd.)"J. A. FERNANDEZ, M. D.

"Assistant Alienist"

To prove motive and premeditation and, indirectly, mental normalcy of the accused at the time of the commission of the crime, the prosecution called on policeman Damaso Arnoco. Arnoco testified that upon arresting the defendant-appellant he inquired from the latter for the reason for the assault and the defendant-appellant replied that the deceased Guison owed him P55 and would not pay; that appellant bought the knife, Exhibit A, for 55 centavos in Tabora Street and that for two days he had been watching for Guison in order to kill him (pp. 5, 6, t. s. n.). Benjamin Cruz, a detective, was also called and corroborated the testimony of policeman Arnoco. That such kind of evidence is not necessarily proof of the sanity of the accused during the commission of the offense, is clear from what Dr. Sydney Smith, Regius Professor of Forensic Medicine, University of Edinburgh, said in his work on Forensic Medicine (3d ed. [London], p. 382), that in the type of dementia paecox, "the crime is usually preceded by much complaining and planning. In these people, homicidal attacks are common, because of delusions that they are being interfered with sexually or that their property is being taken."

In view of the foregoing, we are of the opinion that the defendant-appellant was demented at the time he perpetrated the serious offense charged in the information and that consequently he is exempt from criminal liability. Accordingly, the judgment of the lower court is hereby reversed, and the defendant-appellant acquitted, with costs de officio in both instances. In conformity with paragraph 1 of article 12 of the Revised Penal Code, the defendant shall be kept in confinement in the San Lazaro Hospital or such other hospital for the insane as may be designated by the Director of the Philippine Health Service, there to remain confined until the Court of First Instance of Manila shall otherwise order or decree. So ordered.

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

DISSENTING

IMPERIAL, J.,

I agree with the dissenting opinions of Justices Diaz and Concepcion.

There is no question as to the facts constituting the crime imputed to the accused. The disagreement arises from the conclusions which both opinions attempt to infer therefrom. The majority opinion establishes the conclusion that the accused was not in his sound mind when he committed the crime because he was then suffering from dementia paecox. The dissenting opinions, in establishing the conclusion that the accused was then in the possession of his mental faculties or, at least, at a lucid interval, are based on the fact admitted by the parties and supported by expert testimony, that the accused, before the commission of the crime, had been cured of dementia paecox and later of manic depressive psychosis. The majority opinion admits that there is no positive evidence

regarding the mental state of the accused when he committed the crime, but it infers from the facts that he must have then been deprived of his reason. This inference is not sufficiently supported by the circumstantial evidence. If it is admitted that the legal presumption is that a person who commits a crime is in his right mind (U. S. vs. Hontiveros Carmona, 18 Phil., 62; U. S. vs. Guevara, 27 Phil., 547; U. S. vs. Zamora, 32 Phil., 218; U. S. vs. Martinez, 34 Phil., 305; People vs. Bascos, 44 Phil., 204), because the law presumes all acts and omissions punishable by law to be voluntary (art. 1, Penal Code; article 4, subsection 1, Revised Penal Code), and if, as it appears, there is no sufficient or satisfactory evidence that the accused was mentally incapacitated when he committed the crime, the conclusion of fact must be the same presumption established by law, that is, that he was in his right mind, and the conclusion of law must be that he is criminally liable.

There is another detail worth mentioning which is that no credit was given to the conclusions of fact arrived at by the judge who tried the case. He observed and heard the witnesses who testified and he had the advantage of testing their credibility nearby. After weighing all the evidence he arrived at the conclusion that the accused committed the crime while he was in his right mind. This court generally gives much weight to the conclusions of fact of the judge who tried the case in the first instance and does not reject them unless they are clearly in conflict with the evidence.

DISSENTING

DIAZ, J.,

I do not agree to the majority opinion. The appellant committed the crime while he was saner, or at least, during a lucid interval. He did not kill his victim without rhyme or reason and only for the sake of killing him. He did so to avenge himself or to punish his victim for having refused, according to him, to pay a debt of P55 after having made him many promises. He so stated clearly to the policeman who arrested him immediately after the incident; and he made it so understood to the witness Mariano Yamson, a friend of both the appellant and his victim, before the commission of the crime.

The law presumes that everybody is in his sound mind because ordinarily such is his normal condition. Insanity is an exception which may be said to exist only when there is satisfactory evidence establishing it and it certainly is not always permanent because there are cases in which it comes and takes place only occasionally and lasts more or less time according to the circumstances of the individual, that is, the condition of his health, his environment, and the, other contributory causes thereof. The law itself recognizes this, so much so that in, establishing the rule that insane persons are exempt from criminal liability, because they commit no crime, it also makes the exception that this is true only when they have not acted during a lucid interval (art. 12, subsec. 1, of the Revised Penal Code).

The appellant was afflicted with insanity only for a few days during the months stated in the majority opinion: April 1922 and January 1926, but he was later pronounced cured in the hospital where he had been confined because he had already returned to normalcy by recovering his reason. For this one fact alone, instead of stating that he acted during a lucid interval on said occasion, it should be said on the contrary, taking into consideration the explanations given by him to the policemen who arrested him and to the other witnesses for the prosecution with whom he had been talking before and after the incident, that he acted while in the full possession of his mental faculties.

The fact that the appellant was afflicted with manic depressive psychosis after the crime, as certified by Drs. Toribio Joson, J. A. Fernandez and Elias Domingo who examined him, does not prove that he was so afflicted on

the date and at the time of the commission of the crime, nor that said ailment, taking for granted that he was suffering therefrom, had deprived him of his reason to such an extent that he could not account for his acts.

There is no evidence of record to show that the appellant was actually insane when he committed the crime or that he continued to be afflicted with said ailment for which he had to be confined in the insane asylum for some days during the months above-stated, in 1922 and 1926. The most reasonable rule which should be adopted in these cases is the one followed by various courts of the United States stated in 32 C. J., 757, section 561, and 16 C. J., 538, 539, section 1012 as follows:

"If the insanity, admitted or proved, is only occasional or intermittent in its nature, the presumption of its continuance does not arise, and he who relies on such insanity proved at another time must prove its existence also at the time alleged." (32 C. J., 757, sec. 561.)

"Where it is shown that defendant had lucid intervals, it will be presumed that the offense was committed in one of them. A person who has been adjudged insane, or who has been committed to a hospital or to an asylum for the insane, is presumed to continue insane; but as in the case of prior insanity generally, a prior adjudication of insanity does not raise a presumption of continued insanity,, where the insanity is not of a permanent or continuing character, or where,, for a considerable period of time, the person has been on parole from the hospital or asylum to which he was committed, or where he escaped from the asylum at a time when he was about to be discharged." (16 C. J., 538, 539, sec. 1012.)

On the other hand, in Clevenger's Medical Jurisprudence of Insanity (vol. 1, pp. 482 and 484), the following appears:

"Fitful and exceptional attacks of insanity are not presumed to be continuous. And the existence of prior or subsequent lunacy, except where it is habitual, does not suffice to change the burden of proof. And where an insane person has lucid intervals offenses committed by him will be presumed to have been committed in a lucid interval unless the contrary appears. The maxim 'Once insane presumed always to be insane' does not apply where the malady or delusion under which the alleged insane person labored was in its nature accidental or temporary, or the effect of some sickness or disease.

"And in order to raise a presumption of continuance it must be of a permanent type or of a continuing nature or possessed of the characteristics of an habitual and confirmed disorder of the mind. And it must appear to have been of such duration and character as to indicate the probability of its continuance, and not simply the possibility or probability of its recurrence. And there should be some evidence tending to show settled insanity as contradistinguished from temporary aberration or hallucination, to justify an instruction which does not recognize such a distinction."

It is alleged that the appellant was suffering from insomnia before he committed the crime in question. Such condition does not necessarily prove that on the day in question he was actually insane. Insomnia, according to Dr. Elias Domingo, is not an exclusive symptom of insanity; other diseases and ailments also have it (t. s. n., p. 19).

In view of the foregoing considerations and of those stated in the dissenting opinion of Justice Concepcion, I vote for the affirmance of the appealed sentence, because in my opinion it is supported by the evidence and in accordance with law.

DISSENTING

CONCEPCION, J.,

I dissent: Above all, I wish to state: (1) That the crime committed by the accused is an admitted fact; and (2) that I adhere to the statement of the majority that it is settled in this jurisdiction that a defense based upon the insanity of the accused should be established by means of clear, indubitable and satisfactory evidence.

On December 12, 1934, the accused stabbed the deceased Carlos Guison who, as a result of the wounds received by him, died in the hospital two days after the aggression.

It is alleged that the accused was insane at the time he committed this crime. What evidence is there of record in support of this defense? Mention has been made of the fact that the accused had been confined in the San Lazaro Hospital and later in the Psychopathic Hospital. He was confined in the San Lazaro Hospital from April 11 to April 26, 1922. He returned to the hospital on January 6, 1926, and left on the 10th of said month and year. Dr. Elias Domingo, chief alienist of the Psychopathic Hospital was questioned as follows:

"Q.

When he left the hospital, can you state whether he was already completely cured of his insanity?

—

A.

He was socially adjustable.

"Q.

What do you mean by socially adjustable?

—

A.

That he could adapt himself to environment."

There is no evidence that from the month of January, 1926, when he was declared cured at the Psychopathic Hospital, to December 12, 1934, the date of the crime, he had shown signs of having had a relapse. Therefore it is a proven fact that during the long period of nine years the accused had been sane.

It is alleged, however, that four days before the crime the accused was under treatment by Dr. Celedonio S. Francisco because he was suffering from insomnia. Dr. Francisco admitted that he was not a specialist in mental diseases. He is, therefore, disqualified from testifying satisfactorily on the mental condition of the accused four days before the crime; and in fact neither has Dr. Francisco given any convincing testimony to prove that when the accused was under treatment by him he was suffering from dementia paecox, as the only thing he said was that the accused-appellant had an attack of insomnia which is one of the symptoms of and may lead to dementia paecox (Exhibit 3; t. s. n., pp. 13, 14). This is not an affirmation of a fact but of a mere possibility. The innocence of the accused cannot be based on mere theories or possibilities. To prove insanity as a defense, material, incontrovertible facts, although circumstantial, are necessary.

On the contrary the evidence shows that on the day the accused committed the crime he talked and behaved as an

entirely normal man. Policemen Damaso T. Arnoco and Benjamin Cruz testified that the accused, after having been asked why he had attacked Carlos Guison, replied that it was because Guison owed him P55 for a long time and did not pay him. The accused stated that he bought the knife with which he had stabbed Guison on Tabora Street for fifty centavos and he had been waiting for two days to kill Guison. The accused took his dinner at noon on December 12th. The statement of the accused which was taken in writing by detectives Charles Strubel and Manalo on December 12th was left unfinished because Cruz of the Bureau of Labor arrived and told the accused not to be a fool and not to make any statement. Thereafter the accused refused to continue his statement. All of these show that on that day the accused behaved as a sane man and he even appeared to be prudent, knowing how to take advantage of advice favorable to him, as that given him by Cruz of the Bureau of Labor. Furthermore it cannot be said that the accused had stabbed Guison through hallucination because it is an established fact that his victim really owed him money as confirmed by the fact that when Guison was stabbed he cried to the accused "I am going to pay you", according to the testimony of an eyewitness. Therefore the motive of the aggression was a real and positive fact: vengeance.

Some days after the commission of the crime, the accused was placed under observation in the Psychopathic Hospital because he showed symptoms of a form of psychosis called manic depressive psychosis from which he had already been cured when the case was tried. This psychosis is of course evidence that the accused was afflicted with this ailment after the commission of the crime. It would not be casual to affirm that the tremendous nervous shock suffered by him after the commission of the crime had affected his reason. Nervous shock is one of the causes of insanity (Angeles, Legal Medicine, p. 728) ; but it cannot be logically inferred therefrom that the accused was also mentally deranged on the day of the crime, aside from the circumstance that the evidence shows just the contrary. I am, therefore, of the opinion that the appealed sentence should be affirmed.

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