

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. LORENZO IDON, DEFENDANT AND APPELLANT.

G.R. No. 4519. August 07, 1908

Ponente: TORRES, J.

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TORRES, J.:

About 8 o'clock in the evening of the 3d of September, 1907, Lorenzo Idon and his wife, Marcela Ichilico, residents of the barrio of Tangaro, town of Mambajao, Misamis, were drinking tuba during or after supper; after their son Maximo had left the house, the woman began to complain of their children because they did nothing but eat and would not work; the husband then started to go out also, probably in order to avoid an altercation with the woman, whereupon she assaulted him with a bolo and wounded him slightly in the neck. He managed to take the bolo away from her, but she then seized a piece of wood and struck him with it. A fight ensued between them, in consequence of which the woman was wounded by her husband in the right breast and lower abdomen, the wounds, according to the husband's statement, being inflicted with a spur such as is used in cockfighting, but which could not afterwards be found because he did not know where he had left it. After the fight the wife left the house and called on Dionisio Agol, who it appears is the lieutenant or councilor of the barrio and reported what had taken place; the latter investigated the affair and saw the wounds from which Marcela Ichilico died on the 5th of the said month, three days later.

Shortly after the occurrence, Constancio Idon, another son of the said married couple, who lived with his father in law, made his appearance at the house, and his father, on seeing him asked him to dress the wound that he had in the neck, and then directed him to look for his mother, saying that she was probably dead. Constancio at once went in search of his mother whom he found, wounded as above stated, in the house of the aforesaid lieutenant of the barrio.

The above related facts, which have been fully proven in the case, constitute the crime of parricide under article 402 of the Penal Code, inasmuch as the record shows that the accused, Lorenzo Idon, in the fight with Marcela Ichilico, to whom he was united in wedlock, inflicted on her two serious wounds which caused her death three days afterwards.

The guilt of the accused, as the sole and proven author of the crime for which he is convicted, is evident and unquestionable, inasmuch as from the moment that he managed to disarm his wife in the fight and take the bolo away from her, there was no further reason for him to attack her and inflict on her two serious, if not mortal wounds, which, three days afterwards, resulted in her death. The fact that he was slightly wounded in the neck is no justification, nor does it prove that it was preceded by an unlawful aggression attributed to a person of the weaker sex, nor can the plea of self-defense be invoked in favor of the accused because of the absence of proof of the details and circumstances attending the alleged aggression. Once the woman was disarmed, and even were it true that she provided herself with a stick, it was neither reasonable nor justifiable to attack her with a deadly cutting weapon. And so convinced was the accused, notwithstanding his drunkenness, that, during the fight in which he was undoubtedly slightly wounded in the neck, he had seriously or mortally wounded his wife, that

when his son Constancio appeared at his house he ordered him to go and look for his mother, in the belief that she probably was dead.

In the commission of the crime the presence of mitigating circumstance No.6 of article 9 of the code should be considered, inasmuch as the record does not show that the accused is an habitual drunkard, and for the reason that this circumstance is not counteracted in its effects by any aggravating one, the proper penalty under article 80, rule 3 of the said code, is the lower of the two indivisible penalties prescribed by article 402, as imposed by the court below in the sentence appealed from of the 16th of December, 1907, and by which Lorenzo Idon was sentenced to life imprisonment, to suffer the accessory penalties, to pay an indemnity of 1,000 to the heirs of the deceased, and to pay the costs. For the above reasons, and accepting those stated in the judgment appealed from, it is our opinion that the same, should be, and is hereby, affirmed; provided, however, that the accessory penalties to which the accused has been sentenced shall be those prescribed by Nos. 2 and 3 of article 54 of the code, with the costs of this instance. So ordered.

Arellano, C. J., Mapa, Carson, Willard, and Tracey, JJ., concur.

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