

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
GETULIO MASIN, JOSE TOFTTIOL, ALEJANDRO LAINA, SIMEON
ARANAS, AMBROSIO MABASCUG, BASILIO MANGAO AND CIRILO
ABOABO, DEF...**

G. R. No. 45450. September 22, 1937

Ponente: DIAZ, J.

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DIAZ, J.:

Acting under the influence of the superstition that witcheries still exist these days, and under the absolutely unfounded and erroneous belief that the spouses Santiago Vite and Isabel Taal, together with the members of their family, were witches, and that they were responsible for the death of Fermin Pabatan, husband of the accused-Petra Tocmo, sometime prior thereto in the Province of Bohol, the accused Getulio Masin, Jose Tongol, Alejandro Laina, Simeon Aranas, Ambrosio Mabascug, Basilio Mangao and Cirilo Aboabo, after conspiring to burn said family, actually killed the two spouses and their nine-year old daughter named Bonifacia Vite, by first setting fire to the house where said family lived and by beating them later with iron bars and sticks as the three jumped out of the window one after another to save themselves from the fire, throwing the girl Bonifacia Vite alive into the fire together with the body of her mother, in San Roque, within the barrio of Map-an, of the municipality of Jimenez, Province of Occidental Misamis, on December 22, 1935.

The seven accused, after having been charged with triple murder in only one information on January 10, 1936, in the Court of First Instance of Occidental Misamis, together with Petra Tocmo, widow of said Fermin Pabatan, with respect to whom the case was dismissed during the trial upon petition of the fiscal and her defense counsel for lack of evidence, were convicted of said three crimes. However, the lower court, which took into consideration the mitigating circumstance of lack of instruction in favor of the accused, confined itself to imposing upon them only one penalty, to wit: reclusion perpetua with the accessory penalties thereof upon the accused Getulio Masin; and seventeen years, four months and one day of reclusion temporal with, the accessory penalties thereof upon the other six accused, who are Jose Tongol, Alejandro Laina, Simeon Aranas, Ambrosio Mabascug, Basilio Mangao and Cirilo Aboabo, and all the seven to indemnify the heirs of the three deceased jointly and severally in the sum of P1,000. All appealed from their sentence and, although their attorney de oficio makes no concrete assignment of error imputable to the lower court in his brief before this court, he makes it understood that the lower court should not have given credit to the witnesses for the prosecution Vicencio Jabla and Marciano Mangao who testified against the appellants, and that they should not be given credit now in the appeal, being unworthy of credit, taking into consideration the fact that they themselves were not free from the commission of the three crimes in question.

The conclusions of fact summarized at the beginning are the same as those of the lower court. They are certainly based on the testimony of the said witnesses Vicencio Jabla and Marciano Mangao. After reading the record, this court cannot but hold that the veracity of said witnesses cannot be doubted because there are facts and circumstances corroborating them. They testified that on occasions prior to the date of the crime, Getulio Masin

had told them, in the presence of the other accused, that Fermin Pabatan's death, which took place in the Province of Bohol some time before, had been due to the witchcraft of the Vite spouses; that at about 5 o'clock in the afternoon of December 22, 1935, the accused gathered in Marciano Mangao's house to drink "tuba" and on said occasion Getulio Masin again mentioned that Fermin Pabatan's death had been caused by said two deceased spouses; that they agreed to meet again as they in fact met again at the same place at 8 o'clock on the night of said day, some armed with bolos, as Getulio Masin, and with iron bars as Alejandro Laina, and others with sticks, in order to decide definitely the elimination, by fire, of said spouses together with their entire family, thereby ridding their barrio of witches and witcheries; that they provided themselves with a can of gasoline for said purpose; that from said place they went to the dwelling of their intended victims and when they thought them to be asleep, Getulio Masin ordered the opening of the can of gasoline brought by them and carried by Simeon Aranas; that he ordered Vicencio Jabla to ignite the gasoline after placing it under the eaves of the house, which the latter did; that to better assure the prompt burning of the house, Masin also ordered Vicencio Jabla to spill the gasoline, which he did by knocking down the can with a kick; that when the house was already in flames, the inhabitants thereof woke up, and the girl Bonifacia was the first to jump through the window; that she was received below with blows by Alejandro Laina; that although she succeeded in getting up and in fleeing from her aggressors, she did not escape death because Jose Tongol, Alejandro Laina and Simeon Aranas overtook her, the latter carrying her and throwing her into the fire; that when she momentarily succeeded in leaving the fire, Simeon Aranas again carried her and threw her back there; that when Isabel Taal, in turn, jumped through the window, imitating her daughter, she was likewise received with blows by Basilio Mangao, Cirilo Aboabo and Ambrosio Mabascug, who hit her on the head and on other parts of her body until she was dead, carrying her later and throwing her into the fire; that while this was taking place, Santiago Vite, from the window of the burning house, implored the accused to spare his life, but instead of taking pity on him, Jose Tongol told him to jump out of the window once and for all in order that they might kill him; that Santiago Vite, harassed by the fire upstairs and desiring to escape therefrom, jumped to the ground, but Jose Tongol hit him on the head with the stick which he carried, felling him to the ground; that while in such condition, he was thrashed by Cirilo Aboabo, Basilio Mangao and Ambrosio Mabascug.

The triple murder was discovered on the following day and the authorities, who went to the scene of the crime, found the burnt and mutilated bodies of Isabel Taal and her daughter Bonifacia in the middle of what was once their house then reduced to ashes. They also found the body of Santiago Vite[^] with his bamboo internode for mashing "buyo" beside him, directly below a part of the former eaves of the burnt house. In the autopsy performed by Dr. Jose Contreras, there were discovered the facts stated by him in his report as follows:

"(a) A male cadaver, almost in the process of putrefaction because of the third degree burn and found in a kneeling position. The skin is completely burned that no signs of external lesions could be determined. Fracture of the left side upper mandibular bone. The left malar bone and the left maxillary bone completely smashed, so that two pieces of the malar bone were detached. This was presumably struck by some hard blunt instrument with force. This will cause instant death. Fracture of the part of the left side of the frontal bone and left parietal bone; right side of same, intact. Left and right clavicle, intact. The thumb of the right hand is missing. The 5th and 6th ribs of the left side, fractured, also struck by force with some hard instrument. The 5th and 6th ribs of the right side, intact. The tendon of Achillis of the left foot is cut, presumably with sharp instrument, while that of the right side, intact.

"(b) This is a female cadaver because some of the hairs are not completely burned. Almost in the process of putrefaction. The forearms of both the upper extremities are extinguished, together with the left leg and also the right thigh completely extinguished. The skin is burned that no signs of external lesions could be determined. The upper and lower mandibular bones are intact. There is complete fracture of the left and right parietal bones. The blow must have been received at the left side, by some hard instrument with force. Opening

the fractured part, there is found still hemorrhage of the brain of the left side and the fracture of the right parietal bone must have been only a continuation of that of the left side.

" (c) Another cadaver, that of a child which is completely burned and the parts are separated and it is almost impossible to find any lesions. The skull is completely burned, including the face and both the extremities." (Exhibit H.)

It will be seen from the description of the fractures found in the bodies of the Vite spouses, and from the burning of their house, that they were actually hit on the head with hard and blunt instrument and burned later, thereby corroborating the testimony of the witnesses Jabla and Mangao. On the other hand, the very testimonies of the accused Jose Tongol, Alejandro Laina, Getulio Masin, Ambrosio Mabascug, Basilio Mangao, Simeon Aranas and Cirilo Aboabo corroborate the fact that the seven, together with the two witnesses whose veracity is questioned by them, were present at the scene of the crime while the fire and the aggression committed against the Vite spouses and their daughter Bonifacia were taking place,

Jose Tongol testified that it is true that they drank "tuba" in Mariano Mangao's house on the afternoon in question; that when the girl jumped out of the window, she was hit with a stick but by no other than the witness Vicencio Jabla himself; that the Vite spouses were likewise hit, as their daughter, by said witness and by Mariano Mangao; and that Bonifacia Vite was picked up by him when she was crawling after having been hit by Jabla, but that Jabla took her from his arms in order to throw her into the fire.

Alejandro Laina, in turn, testified that he had seen at the scene of the crime not only his co-accused but also Vicencio Jabla and Mariano Mangao, although he claims not to have witnessed how the crime was committed. Simeon Aranas testified likewise.

Getulio Masin admitted having seen somebody drag the girl by the hand and Vicencio Jabla throw her into the fire. He admitted further that he had seen Alejandro Laina and Jose Tongol at the scene of the crime.

Ambrosio Mabascug admitted having gone to the scene of the crime but said that he did not reach the place where the burned house was situated because at the chapel nearby he met Jose Tongol and Marciano Mangao who told him not to tell anybody that the Vites had already been burned and that he could then go home.

Basilio Mangao likewise admitted having gone to the scene of the crime when the burned house was falling down; that he saw Vicencio Jabla and Marciano Mangao there, and that after seeing them, he went home without doing anything else.

Cirilo Aboabo confined himself to stating in his testimony that he had not hit anybody, but did not deny having gone with his co-accused from the house of Marciano Mangao to the place of the Vites for the purpose of carrying out the plan premeditated by them, according to the evidence for the prosecution.

It is evident that all the efforts of the accused were aimed at laying the blame on the witnesses for the prosecution Vicencio Jabla and Marciano Mangao, who, in fact, are mere youths of 25 and 24 years of age, respectively, and of no consequence in their barrio. Contrasting this circumstance and the fact that Getulio Masin was lieutenant of the barrio where the triple murder was committed and that he is 36 years of age; that Cirilo Aboabo and Basilio Mangao are 40 and 35 years of age, respectively; and that Alejandro Laina, is 26, Jose Tongol 25 and Ambrosio Mabascug 26, it will appear clear that Vicencio Jabla and Marciano Mangao could not have been the ones who led the movement to eliminate the Vites or who eliminated them. The accused being older in years, and Getulio Masin having held the office of lieutenant of said barrio, could not have patiently stood idly without taking any action against the two or without doing or saying anything, as they allegedly did. They would have placed, them under arrest, or at least, they would have prevented them from committing said act, if they had not wanted to

catch them and place them at the disposal of the authorities.

The lower court, referring to said two witnesses for the prosecution, stated as follows:

"This court,, however, is not inclined to believe and give any credit to the excuses of the witnesses Vicencio Jabla and Marciano Mangao, in their desire to evade the criminal responsibility they might incur, as their claim that their participation in the commission of the crime was due to the threat against their lives on the part of "the accused Getulio Masin, is highly improbable, if it is considered, as the evidence shows, that the crime was committed by the accused by mutual agreement with said witnesses for the prosecution."

It is possible that the two witnesses may not be as innocent as they claimed, but their complicity in the triple crime, if any, did not render them incompetent to testify as witnesses in the case and does not necessarily discredit their testimony, because, as already stated, it has been corroborated in every detail not only by the other evidence for the prosecution but also by the very testimony of the accused-appellants. Complicity is no cause for discrediting the testimony of a supposed accomplice or coauthor of the crime when, as in the present case, it is corroborated in all respects, particularly when there is no evidence to show that it was prompted by some improper or, questionable motive (People vs. Bautista, 49 Phil., 389; People vs. Resabal, 50 Phil, 780).

On the other hand, the lower court substantially gave credit to said witnesses and no sufficient reason exists to reverse or modify its conclusions with respect to "the facts on which they testified, all the witnesses in the case having appeared, as they did appear, before it, and consequently its opportunity to examine them, observe their manner and scrutinize their demeanor during the trial, for the purpose of ascertaining the truth, was better and more ample (People vs. De Asis, 61 Phil., 384; People vs. Garcia, 63 Phil., 296).

By reason of the foregoing considerations, this court is convinced of the guilt of the accused, but what is the nature of their responsibility?

In the case of United States vs. Balaba (37 Phil., 260), this court said that when an information charges more than one offense and no objection is entered against the continuation of the trial upon said information, the accused should be declared guilty of each and every one of the offenses proven and imputed to him therein. The same doctrine should be followed in this case because, it being alleged in the information that three crimes were committed not simultaneously indeed but successively, inasmuch as there was, at least, solution of continuity between each other, the accused should be held responsible for said three crimes. This court holds that the crimes are murder: one committed on the person of Santiago Vite; another on that of Isabel Taal, and another on that of the girl Bonifacia Vite. The first two crimes are characterized by the qualifying circumstance of evident premeditation and by the generic aggravating circumstances of nighttime, dwelling and in band, with no mitigating circumstance except that of lack of instruction, which may naturally be inferred from the fact that the accused believed in witchery. The last crime is, in turn, characterized by the qualifying circumstance of fire, and by the generic aggravating circumstances of treachery, in band, nighttime and cruelty, with no mitigating circumstance to offset them except lack of instruction. In view of all these circumstances and of the so frequently reiterated doctrine that once conspiracy is proven each and every one of the conspirators must answer for the acts of the others, provided said acts are the result of the common plan or purpose (People vs. Dayug and Bannaisan, 49 Phil., 423; People vs. Chan Lin Wat, 50 Phil, 182; People vs. Daos, 60 Phil., 143; People vs. Cu Unjieng, 61 Phil., 236, 906, and the authorities therein cited), it would seem evident that the penalty that should be imposed upon each of the appellants for each of their three crimes should be the same, and this is the death penalty, because, much as one may wish, the mitigating circumstance of lack of instruction would compensate only one of the aggravating circumstances proven (arts. 248 and 64, rule 4, Revised Penal Code). However, as there has been no unanimity among the members of the court in the imposition of the death penalty, it is inevitable to follow the provisions of section 138 of the Revised Administrative Code, as amended by section 2 of Commonwealth Act

No. 3, that is: to impose upon the appellants the penalty next lower in degree, or reclusion perpetua.

Wherefore, the appealed judgment is modified by sentencing the appellants: (a) for the murder of Bonifacia Vite, to the penalty of reclusion perpetua and to indemnify jointly and severally the heirs thereof in the sum of P1,000, and (b) for the murder of Santiago Vite, to suffer the penalty of ten years, which is one-third of the duration of reclusion perpetua computed on the basis of thirty years, according to the provisions of article 70 of the Revised Penal Code, as amended by Commonwealth Act No. 217, refraining from imposing two-thirds of said penalty because in so doing, the limit of the duration of the penalties that may be imposed upon them for their said three crimes would be exceeded, which duration should in no case exceed forty years (second to the last paragraph of the above-cited article); and this court refrains from imposing the penalty deserved by them for the murder of Isabel Taal, for the same reasons just stated.

Each and every one of the appellants is further sentenced to indemnify the heirs of the deceased Santiago Vite in the sum of P1,000, and those of the deceased Isabel Taal in the same amount, jointly and severally in each case, and to pay proportionately the costs of the proceedings. So ordered.

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

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