

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. SIXTO FELIPE, DEFENDANT AND APPELLANT.

G.R. No. 45600. May 31, 1938

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

There were two accused in this case: Sixto Felipe and Maximo Tungpalan. The information against the latter was dismissed. Sixto Felipe, however, was tried and sentenced. From the judgment of conviction, he appealed.

In the early morning of January 22, 1937, Bonifacio Bumanlag heard his father, Mateo Bumanlag, talking to someone, not known to him, in the alley near their hut, in the sitio of Baltao, barrio of Santiago, municipality of Solsona, Ilocos Norte. He afterwards heard a noise like the fall of a body, but paid no attention to it. He went down the house in answer to nature's call and on coming back, he found his father seated in a crouching position with both hands holding his abdomen. He asked his father what had happened to him, but obtained no answer. Having seen blood, however, on his father's body and on the floor, he immediately went down to ask Elias Paguirigan to run to the house of the barrio lieutenant and report the matter. The chief of police and the justice of the peace of Solsona arrived at the scene of the crime, and, replying to their questions, Mateo Bumanlag declared under oath taken before the justice of the peace, that in the said early morning of January 22, 1937, the accused Sixto Felipe, after asking some buyo from him, attacked him with the bolo of the declarant's son. He also said that this act of the accused had been preconceived because the latter told the declarant about it the previous night. When this declaration was made by Mateo Bumanlag, he "lay prostrate in bed, without any further hope of surviving." And he did die that same morning on the way to San Nicolas to which he was brought for treatment.

After the accused was arrested, he confessed being the author of the crime on investigation made the following day, January 23, by the chief of police in the presence of the justice of the peace, Valeriano Antonio, and the municipal president, Modesto Vilorio. Later, or on the 26th of the same month of January, at the preliminary investigation conducted by the justice of the peace, the accused Sixto Felipe also made a confession like that he had previously made when he answered questions of the chief of police. In both confessions, Exhibit B, whose translation is Exhibit B-1, and Exhibit E, which was translated into Exhibit E-1, the accused stated that, induced by Maximo Tungpalan, who had promised to give him money and support his family, if he would attack Mateo Bumanlag, he suddenly attacked the latter with the bolo which his victim had given him to cut the betel nut, while they were talking and chewing buyo, wounding him in the abdomen and immediately leaving thereafter.

Appellant testified that the concession Exhibit B had been extorted from him through the ill-treatment and blows inflicted on him by two municipal policemen, the chief of police, and the secretary, the chief of police having made the threat that should he not plead guilty, the constabulary men would manhandle him. This is a very handy practice of assailing the validity of a confession, and in this case its futility is evident as it has been proved that when appellant confessed his crime before the chief of police, the municipal president and the justice of the peace were present. Moreover, at the preliminary investigation said appellant freely declared that he was the one who killed Mateo Bumanlag.

Appellant contends that the ante mortem declaration of the deceased, Exhibit C, stamped with the latter's thumbmark, is inadmissible as evidence for there is nothing of record, so appellant says, to show that the deceased made it in the belief of impending death or that he entertained no further hope of surviving. What we have underlined further above appears in said declaration. Mateo Bumanlag expressed himself as follows: "Now that I lie prostrate in bed, without any further hope of surviving." There is no doubt that when Bumanlag said what appears in Exhibit C, he believed himself already at the portals of death.

The defense of the accused attempted to establish that the deceased had committed suicide because his mind was tortured by despair and fear of losing his properties on account of some executions pending against him. The evidence, however, has shown that the deceased was in good health and in perfect frame of mind until his last moments.

It has been proved that the accused committed the crime of murder qualified by the circumstance of treachery because he attacked the deceased so suddenly that the latter had no time to defend himself, and with the aggravating circumstance that the crime was committed in the dwelling of the victim, which circumstance is offset by the mitigating circumstance of lack of instruction of the accused.

Wherefore, the judgment appealed from sentencing the defendant to suffer the penalty of reclusion perpetua, with the accessories of the law, and to indemnify the heirs of the deceased in the amount of P1,000, is affirmed with costs against the appellant. So ordered.

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

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