

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ALFREDO DEL ROSARIO (ALIAS FRED HAWAII), ACCUSED AND APPELLANT.

G.R. No. 46459, October 13, 1939

Ponente: AVANCEÑA, C.J.

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AVANCEÑA, C.J.:

The appellant was sentenced for the crime of murder committed in the City of Cebu to the penalty of reclusion perpetua, to indemnify the heirs of the deceased in the amount of P2,000, and to pay the costs.

According to the testimony at the trial of the appellant himself, one Candido Amad proposed to him and to his two companions, Sisoy and Natalio, that they attack Filemon Amad, offering them the amount of P10 as the price for the act. The appellant and his two companions accepted this proposition, and for this purpose, on the night of April 6, 1938, the three took a vehicle driven by Sisoy. After riding through different streets of the town and on reaching the intersection of Dimas Alang and Panganiban, they left the vehicle and walked to the corner of Dimas Alang and Climaco where they waited for Filemon. Shortly thereafter, a vehicle arrived with Filemon and two women. The latter alighted and left the place. The driver also left the place to answer the call of Nature. In these circumstances, the appellant and his companions advanced, Sisoy taking the lead, and the three, according to the appellant, forming a triangle. Sisoy immediately approached and grabbed Filemon by the shirt-bosom who, in this impasse, gave Sisoy a blow which the latter was able to duck. Thereupon the appellant and Natalio also approached Filemon to whom Natalio dealt another blow. Filemon fell on his knees in front of Sisoy and as he tried to rise with his left hand in the pocket of his pants, Sisoy, thinking that he was getting a weapon to defend himself, stabbed him with a file which he had on hand, thereby inflicting on him the wound from which he died.

The foregoing facts constitute the crime of murder qualified by the circumstance that it was committed in consideration of a price. (Article 248 of the Revised Penal Code.)

The defense argues, and this is the principal question raised on appeal, that the appellant is not responsible for the result of the concerted action between him and his two companions, Sisoy and Natalio. It is alleged that the appellant was not the one who caused the death of the deceased, and that the agreement between him and his companions was not to kill Filemon but only to punch him. However, according to the admission made by the appellant before the Chief of the Secret Service prior to the trial, the agreement between him and his companions was not particularly to punch Filemon Amad but to thrash and manhandle him. At any rate, the attack upon the deceased ultimately launched by Sisoy, who inflicted the death wound with a file, was an incident and a consequence of the agreement between the appellant and his companions, because it was provoked by the deceased putting his left hand in the pocket of his pants, which aroused Sisoy's suspicion that he would get a weapon to defend himself.

The established facts constitute the crime of murder charged in the information and qualified by the circumstance that it was committed in consideration of a price, and the penalty of reclusion perpetua imposed is in accordance

with law. However, the indemnity of P2,000 to which the appellant is also sentenced by the decision of the trial court, under Commonwealth Act No. 284, which was approved subsequent to the commission of the crime, should be reduced to P1,000 in accordance with the practice of this court prior to said Act.

With the understanding that P1,000 is the indemnity to which the appellant is sentenced, the appealed decision is affirmed, with the costs to the appellant. So ordered.

Villa-Real, Imperial, Diaz, Laurel, Concepcion, and Moran, JJ., concur.

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