

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ROSALINO MACANDILI (ALIAS DOUGLAS) AND MOISES ROQUE, DEFENDANTS AND APPELLANTS.

G.R. No. 46924. June 26, 1940

Ponente: LAUREL, J.

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LAUREL, J.:

Rosalino Macandili (alias Douglas) and Moises Roque were charged in the Court of First Instance of Bulacan with the crime of murder, alleged to have been committed as follows: "That on or about the 11th day of July, 1939, in the municipality of Malolos, Province of Bulacan, Commonwealth of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused conspiring together and helping one another, with intent to kill, by means of treachery, taking advantage of superior strength, and armed, did then and there willfully, unlawfully and feloniously attack, assault and stab one Lucio V. Crisostomo, to wit: while the accused, Rosalino Macandili (alias Douglas) was holding him closely and tightly, and biting him on the right breast, thereby preventing his escape and depriving him of any means of defense and while he was thus helpless and occupied in struggling for his release, unaware of any other impending danger, the other accused Moises Roque, acting in pursuance to said conspiracy, repeatedly stabbed said Lucio V. Crisostomo with a long knife called 'matabia which is a deadly weapon and as a result thereof, the latter received wounds on different parts of his body which wounds caused his death the third day thereafter.

"That as an aggravating circumstance, both accused were recidivists on the date of the commission of the crime."

On July 11, 1939, between six and seven o'clock in the evening, Lucio V. Crisostomo, while passing in front of the store of one Miguel Tantoco in the municipality of Malolos, Province of Bulacan, was accosted by the defendants who demanded money for cigarettes. The deceased blatantly refused, whereupon the two accused, incensed by the sharp rebuke, fell upon him, Macandili leading the attack with a knife. The deceased and Macandili struggled for the possession of the weapon, but the latter was able to hand it over to his co-accused, Moises Roque, who, taking advantage of the helplessness of Crisostomo in the tightened embrace of Macandili, threatened to stab the deceased unless he surrendered the balisong in his pocket. Apparently moved by his instinct of self-preservation, Crisostomo consented and, thus disarmed and unable to defend himself, was stabbed in several parts of the body by Moises Roque, dying three days later.

After trial, the lower court found the defendants guilty of murder, qualified by treachery, with the aggravating circumstance of recidivism offset by the mitigating circumstance of nonhabitual intoxication, and sentenced each to reclusion perpetua, to indemnify the heirs in the amount of P2,000, and to pay the costs. Defendants have appealed to this Court, and, in seeking a reversal of the judgment of conviction, assign two errors, both of which relate to the validity of the ante-mortem declarations of the deceased, Exhibits I and 1-1, and the sufficiency of the evidence offered by the prosecution.

The trial court relied principally on the ante-mortem statements of the deceased, and the statements of Alfredo Sioco, Emilio Rivera, before whom the dying declarations were made, and policeman Emilio Reyes who had arrested Moises Roque shortly after the commission of the crime. Exception of the appellants to Exhibits Land 1-1 is predicated on the ground that it was not shown that at the time they were made, the deceased was under the solemn belief of approaching dissolution. We have meticulously examined Exhibits I and 1-1 and are satisfied, considering the testimony of Emilio Reyes that at the time the declarations were made, Lucio Crisostomo was so circumstanced as to realize that he was in articulo mortis, and considering further the nature and extent of the wounds and the precarious condition of the wounded person, that the trial court committed no error in accepting them.

The defense that the accused Moises Roque acted in selfdefense and that there was no conspiracy in the killing is unfounded.

The judgment of the lower court should be, as it is hereby affirmed, with the modification that the indemnity of P2,000 is made a joint and several obligation of the appellants. So ordered.

Avanceña, C.J., Imperial, Diaz, Concepcion, and Moran, JJ., concur.

Judgment affirmed.

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