

EL PUEBLO DE FILIPINAS, QUERELLANTE-APELADO, CONTRA JOSE ENORME, ACUSADO-APELANTE.

G.R. No. 47742. August 26, 1941

Ponente: DIAZ, J.

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DIAZ, J.:

Del delito de robo con homicidio fue acusado Jose Enorme, en el Juzgado de Primera Instancia de Sorsogon, el 6 de diciembre de 1939; pero, solo fue hallado alli, culpable de homicidio, condenandosele en su consecuencia a la pena indeterminada de ocho afios y un dia de prision mayor a diecisiete anos y cuatro meses de reclusion temporal, y a pagar a los herederos del occiso Manuel Mercader una indemnizacion de P2,000 mas las costas del proceso. Contra esta sentencia Enorme interpuso apelacion fundandose en que el Juzgado erro al declararle culpable del delito de homicidio, no teniendo mas base para hacerlo, que unas pruebas indiciarias y haciendo conclusiones injustificadas por no haberse probado que hubiese tenido motivos para cometer dicho delito. El Tribunal de Apelaciones al que fue elevada la causa, considerandose sin competencia para conocer de la misma por haber opinado uno de sus miembros que el delito realmente cometido por el apelante es el de robo con homicidio, que esta castigado por el Codigo Penal Revisado con reclusion perpetua a muerte, la elevo a su vez a este Tribunal, de conformidad con el articulo 145-K del Codigo Administrativo, segun quedo enrnendado por la Ley No. 3 del Commonwealth.

Abad Santos, Laurel, y Horrilleno, MM., estan conformes.

Avanceña, Pres., y Ozaeta, M., no tomaron parte.

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