

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
PILUS SUBANO, DEFENDANT AND APPELLANT.***G.R. No. 48143. September 30, 1942*

Ponente: MORAN, J.

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This is an appeal from the judgment of the Court of First Instance of Zamboanga finding the accused Pilus Subano guilty of the crime of parricide and sentencing him to reclusion perpetua and to indemnify the heirs of the deceased in the sum of P2,000.

On July 9, 1940, defendant and his wife Banks lot had a quarrel because the latter, then suffering from a headache, refused to work in their kaingin. The defendant then remarked in a fit of anger that it would be better if she were dead. The quarrel was resumed the following morning when she again refused to accompany her husband to a creek of the Macasin River to catch fish; but this time, defendant dragged her along with him. When he returned home the afternoon of that day, he was alone and was noticeably pale and restless. Ebol Subano, father of Bankalot, and Biwang Subano, father of Cumay, another wife of the defendant, noticed blood stains on his bolo and on its scabbard. Defendant sought to explain these blood stains as of a big fish which he had cut. Ebol and Biwang noticed, however, that the defendant had not brought home any fish, and suspecting that something might be wrong, Ebol asked the defendant where his daughter was. Defendant disclaimed knowledge of her. With nightfall bringing no sign of Dankalot's coming, Ebol and Biwang began searching for her. Four days later, they found her dead body lying in an isolated place in the middle of a creek of the Macasin River with a mortal wound on the back and another at the neck which almost severed the head from the body, and with several contusions. Lieutenant Olivares, to whom the case was reported, repaired to the hut of the defendant who came down with an unsheathed bolo accompanied by his brother also carrying a bolo. The lieutenant ordered them to drop their bolos and when they refused he ordered his men to aim their rifles at thorn, whereupon the accused dropped his bolo and was arrested. Taken to the scene of the crime, he would not look at the dead body of his wife although he was asked to view and identify it, and showed no sign of grief. The accused at the trial denied having killed his wife.

But on the strength of the foregoing facts, we are satisfied that the identity of the accused as the author of the crime has been established beyond reasonable doubt. The rule is that before conviction can be had upon circumstantial evidence, the circumstances proved should constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the defendant, to the exclusion of all others, as the author of the crime. (U. S. vs. Villos, 6 Phil., 510; U. S. vs. Lim Sip, 10 Phil., 627.) This requirement has been fully met in the instant case. The fact that the accused had a quarrel with the deceased during which he remarked that it would be better if she were dead, and the day after he dragged her to the creek where they were supposed to fish; that he returned home in the afternoon of the same day alone and was noticeably pale and restless; that when asked about his wife, he disclaimed knowledge of her; that his bolo had bloodstains on it and when asked about such bloodstains he offered but an incredible explanation; that four days after, the deceased was found in the same creek where they

had gone to together, with a mortal wound on the back and on the neck; that he defied arrest and when brought to the scene of the crime he would not look at the dead body of his wife and showed no sign of grief—this chain of prior and subsequent circumstances, unless otherwise satisfactorily explained, leaves no room for doubt as to the identity of the accused as the author of the crime.

It is suggested that the deceased might have been the victim of the supposed "mangahat" practice among this tribe in the locality by which the members of a family who have just suffered a loss of a member thereof, run amuck to kill any one they meet to stop death toll in the family. But this is a mere conjecture in no way borne out by any direct or indirect evidence to that effect.

We are, however, of the opinion and so hold that the crime committed is homicide and not parricide. From the testimony of Ebol Subano, father of the deceased, it appears that the defendant has three wives and that the deceased was the last in point of time. Although the practice of polygamy is approved by custom among these non-Christians, polygamy, however, is not sanctioned by the Marriage Law which merely recognizes tribal marriage rituals. The deceased, under our law, is not thus the lawful wife of the defendant and this precludes conviction for the crime of parricide.

With the modification that the accused be sentenced to an indeterminate penalty of from eight years of prison mayor to fifteen years of reclusion temporal, the judgment is affirmed, with costs.

Yulo, C. J., Paras, Bocobo, and Imperial, JJ., concur.

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