

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VALENTIN TURTAL, DEFENDANT-APPELLANT.***G.R. No. 49070. July 05, 1944*

Ponente: OZAETA, J.

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Appeal from the Court of First Instance of Cotabato, which convicted the appellant of murder and sentenced him to suffer life imprisonment and to indemnify the heirs of the deceased Luis Edlawan in the sum of P2,000.

At midnight on June 2, 1943, Luis Edlawan was killed in his house situate in the barrio of Mateo, municipal district of Kidapawan, Cotabato. His only companion at that time was his nineteen-year-old wife, Celerina Sabas. The latter, accompanied by one Agustin Estrada, reported the crime on the afternoon of the following day to the constabulary detachment stationed in the sitio of Lanao of the same municipal district, about eight kilometers from the house of the deceased. A squad of eleven constabulary men headed by Corporal Asisclo Gimenez was dispatched by the company commander, Inspector Leopoldo Puno, to investigate the crime.

Gimenez declared during- the trial that he examined the body of the deceased and found "a wound at the back of the head, occipital region, letting the brain out," which he believed to have been caused by a gunshot. According to the finding of the trial court, the gunshot (?) "cracked his skull and blew out part of his brain." After the body was examined and buried, Gimenez and his companions returned to the barracks, taking with them the widow Celerina Sabas and her companion Agustin Estrada for further investigation.

The appellant Valentin Turtal, an ex-soldier who had surrendered to the Japanese forces on April 22, 1943, was at that time living in the constabulary barracks as a released war prisoner and a guest of the constabulary. He had known the deceased, who was formerly a member of the guerrilla band of which he (the appellant) 'was the leader. When the squad of constabulary men went to the scene of the crime, the appellant of his own volition went with them in order to see the remains of his former companion, according to him.

The first suspect of the constabulary was the widow's companion, Agustin Estrada. That suspicion was aroused by the discrepancy between the declaration of the widow and that of Estrada as to their relationship; for she claimed that she was Estrada's sister, but he said that she was his cousin, and finally it turned out that they had no relation of consanguinity whatsoever. The constabulary seemed to suspect that the widow was in connivance with the murderer, for she would not tell who the murderer was. On the way back to the barracks Gimenez continued to question the widow and Estrada as to the identity of the murderer, and it was then that the suspicion shifted to the appellant, first, because during the investigation at the scene of the crime the appellant, according to Corporal Gimenez, interfered by saying in a loud voice that there were many bandits around that place, and, second, because while Gimenez and his companions were questioning the widow and Agustin Estrada on the way, the appellant touched Estrada and talked to him in a low voice. Upon arrival at the barracks Gimenez reported to Inspector Puno his suspicion of the appellant" and the latter was then and there placed under arrest and subjected to an investigation during the whole night by Inspector Puno. During that night the appellant maintained his

innocence. He was then bound tightly at the feet, hands, and neck and tied to a post. During the trial Inspector Puno, in answer to an interrogatory by the fiscal, admitted having tied the appellant "the No. 2 system of tying" and that he was tied to a post for the rest of the night.

On the following day, June 4, 1943, the investigation was continued, and it was then that the appellant signed the affidavit exhibit A, from which it appears that he at last admitted having killed the deceased with a 30-caliber rifle which he said he took from the constabulary barracks on the night of the murder. The conviction of the accused rests on that affidavit and on the testimony given by the widow Celerina Sabas during the trial.

The trial court said that the guilt of the accused had been established "not only by the testimony of Celerina Sabas, an eyewitness to the commission of the crime, whose testimony is clear, natural, and convincing, but also by the written sworn statement of the accused, exhibit A * * *."

A perusal, however, of the testimony given by Celerina Sabas during the trial does not confirm the trial court's finding. We find that said testimony is so self-contradictory and incredible that it cannot be relied upon. The following quotations from her testimony will bear this out:

"Q.—Who killed your husband?—A.—Valentin Turtal.

"Q.—Why do you know that it was he who shot your husband?—A.—I know because Valentin Turtal went up my house * * * after the shooting." (Page 3, t.s.n.)

* * * * *

"Q.—What did he tell you, if he told you anything?—A.— He told me not to tell anybody and do not approach the juzgado.

"Q.—Now, did he do anything with you on that night in question when he came up and after telling you that which you stated?—A.—Yes, sir; he forced Me and I was forced to give my body." (Page 3, t.s.n.)

"Q.—You said that after the shooting Valentin Turtal came up the house and told you not to tell anybody that he shot your husband; did you protest?—A.—I did not protest.

"Q.—Why?—A.—Because I was reserving to give notice to the authorities.

"Q.—Do you know the reason why Valentin Turtal shot your husband?—A.—Because I am his querida.

"Q.—Do you know if your deceased husband Luis Edlawan and Valentin Turtal had had any ill feeling before the night in question?—A.—I noticed that they did not have ill feeling.

"Q.—Did your husband have any suspicion that you were the querida of Valentin Turtal?—A.—My husband knows that he is my paramour.

"Q.—And do you know if Valentin knows that your husband knows your amorous relation with Valentin Turtal ?— A.—Yes, because I told my husband." (Pages 4-5, t.s.n.)

* * * * *

"Q.—You have stated that your husband had no ill feeling with Valentin Turtal; how many times you had sexual inter- course with Valentin Turtal ?—A.—Only one time.

"Q. —And you yourself is [are] a querida of Valentin Turtal?—A.—It is not me; it is he who loves me very much.

"Q.—When did you have that only one sexual intercourse with Valentin ? Is it after the death of your husband ?— A.—Yes. Sir.

"Q.—Therefore, what you mean to say is that your husband had ill feeling with Valentin Turtal after his death?—
A.—When he was living.

"Q.—Did you not state the only sexual intercourse that you had with Valentin Turtal is after the death of your husband?—A.—When my husband died, he used me because he was threatening." (Page 6, t.s.n.)

* * * * *

"Q.—And you are pretending to know the killer of your husband because you heard the voice of the killer?—A.—
Yes, sir.

"Q.—And that is the only reason why you were able to identify the killer?—A.—Yes, I know.

"Q.—Do you mean to state that you know the killer because you heard the voice?—A.—Yes, because I heard his voice." (Page 7, t.s.n.)

* * * * *

"Q.—You do not consider yourself a paramour of Valentin Turtal because you had only (one) sexual intercourse and that was committed by force?—A.—I do not consider him my paramour," (Page 8, t.s.n.)

* * * * *

"Q.—At the time your husband was shot, where were you and your husband? On the floor or in the ceiling?—A.—
In the ceiling, not on the floor.

"JUDGE: When your husband was hit by the gunshot, where was he? In the ceiling or on the floor of the house?— A.—My husband1 was right on the ground.

"Q.—That ground was covered by the house or outside the house ?—A.—The ground is inside the house.

"Q.—What was the position when he was hit by the bullet? Was he standing or lying down?—A.—He was sitting.

"Q.—How do you know that he was sitting? Was the place where he was hit by the bullet visible from where you were?—A.—I saw.

"Q.—But you were in the ceiling?—A.—Yes, sir." (Page 13, t.s.n.)

* * * * *

"Q.—I also remember that you stated that you had only one sexual intercourse with the accused and that took place after the demise of your husband; what exactly (did) you have in mind when you said that the accused was your paramour?—A.—It is only he who loves me.

"Q.—But you have never had any carnal relation with him ?—A.—Never.

"Q.—How long have you been acquainted with Valentin Turtal, the herein accused, before the killing of your husband?—A.—We were old acquaintances.

"Q.—Do you remember how many years you were acquainted?—A.—About December, 1940.

"Q.—And this courting of the accused which you have called relation of mistress and paramour, when did it begin?—A.—I noticed he was keeping something but he did not express to me.

"Q.—When did he express for the first time his love to you?—A.—Just a few days before the occurrence." (Pages 13-14, t.s.n.)

How the trial court came to regard that testimony as "clear, natural, and convincing," is beyond our understanding.

Was she a paramour of the appellant, or was she not? According to her testimony, she was and she was not. Was the deceased in the ceiling of the house at the time he was shot, or was he on the ground floor? According to her testimony he was in the ceiling sleeping with her and was on the ground floor, sitting. Did she identify the killer by his voice, or because the killer confessed to her later? This cannot be ascertained from her contradictory statements.

The lack of frankness on the part of this witness is patent. If she really knew her husband's killer and that he was the accused, whom she said she did not love but who raped her after committing the murder, 'as she repeatedly stated under oath, why did she not denounce him to Inspector Puno when she reported the crime to the latter on the afternoon of June 3? The accused was right there in the constabulary barracks, where he was staying. Why did she not then and there point to him as the murderer?

According to this witness she had become acquainted with the appellant since December, 1940. But according to the prosecution's own evidence, exhibit C, which contains appellant's life history, appellant was in Sulu serving as a member of the Constabulary from 1939 to August 16, 1941.

We are constrained to discard the testimony of this supposed lone eyewitness, it being self-contradictory and patently insincere, and therefore incredible and unreliable. Moreover, the theory of the prosecution that the deceased was killed with a 30-caliber rifle is, in our opinion, utterly inconsistent with the nature of the wound, which is described as consisting of a crack in the skull, with part of the brain blown out. A 30-caliber rifle was not likely to crack the skull and blow out the brain. "Thus a high velocity bullet impinging on the skull punches out a clean hole without fractures, whereas a blow from a heavy body of low velocity will cause fractures and deformation over a wide area." (Smith and Glaister on Recent Advances in Forensic Medicine, pp. 3-5, quoted in De los Angeles' Legal Medicine, p. 250.) "The general appearance and characteristics of wounds produced by firearms may be described as follows: The wound of entrance varies with the range, the angle at which the bullet strikes, and the kind of gunpowder used. It usually appears smaller or equal to, but very seldom larger than the caliber of the bullet." (De los Angeles' Legal Medicine, p. 251.) Furthermore, according to Gimenez's testimony, they searched the scene of the crime for an empty shell and the bullet but found neither of these. This and the nature of the wound as described by the prosecution tend to show that it must have been caused by a blunt instrument.

With the testimony of the lone supposed eyewitness discarded, there remains only the extrajudicial supposed confession of the appellant to consider. The appellant vehemently maintained his innocence during the trial and swore that the said confession (exhibit A) was not true but that he was forced to make it thru threat and intimidation and for fear that he might be beheaded or killed as others had been, like Judge Dayao and the very father of Celerina Sabas. The fact that during almost one whole night of grilling the accused maintained his innocence and refused to confess, the fact that Inspector Puno admitted having subjected him to a third-degree method by employing "the No. 2 system of tying" and then tying him to a post for the rest of the night, and the fact that it was only after such treatment that the appellant was prevailed upon to sign the extrajudicial confession, made said confession worthless as evidence against the accused, because it was admittedly not voluntary.

The result is that there is no sufficient evidence upon which appellant's conviction may be sustained.

The sentence appealed from is reversed and the appellant is acquitted and ordered released forthwith from the custody of the law, with costs de oficio.

Yulo, C. J., Moran, Horrilleno, and Pardo, JJ., concur.

Bocobo, J., concurs in the dispositive part.

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