

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CONBADO DE MESA Y RACI, DEFENDANT-APPELLANT.

G.R. No. 49121. September 29, 1944

Ponente: OZAETA, J.

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OZAETA, J.:

Appellant pleaded guilty to the following information:

"The undersigned accuses Conrado de Mesa y Raci of the crime of Murder, committed as follows:

"That on or about the 7th day of October, 1943, in Diliman District, City of Manila, Philippines, and within the jurisdiction of this Court, the above-named accused, Conrado de Mesa y Raci, with evident premeditation and treachery and taking advantage of the night-time which was purposely sought by him, voluntarily, maliciously, illegally and criminally treacherously attacked and assaulted Mateo Alvarez, a duly qualified member of the Metropolitan Constabulary while in the performance of his duties, to wit: while on patrol in the barrio of Balara, Diliman District, Manila, by shooting said Mateo Alvarez from behind with a .45 caliber pistol, inflicting upon said Mateo Alvarez serious gunshot wound perforating the left lung and other vital parts of his body which caused His death as a consequence. All contrary to law."

and was then and there sentenced to suffer reclusion perpetua and to indemnify the heirs of the deceased in the sum of P2,000.

From that sentence he appealed to this Court. His attorney de oficio finds no error in the sentence of the trial court and in effect recommends its confirmation.

But as the Solicitor General correctly observes, the crime charged in the body of the information was not simple murder but the complex crime of murder with assault upon an agent of authority, for which the penalty provided by law is death—an indivisible penalty which cannot be affected by the mitigating circumstance of plea of guilty. The Solicitor General further observes:

"It is evident, however, that the crime charged and described in the information has not been correctly apprehended. Both the prosecution and the defense, as well as the court, understod that the crime of which the accused pleaded guilty is murder, all having been obviously misled by the descriptive designation 'murder' appearing at the caption of the information, and failed to take into consideration the allegations contained in its body, which allegations constitute the real and true crime charged, to wit, murder with assault upon an agent of authority. Had the accused been fully apprised of the gravity of the offense and the consequent penalty, he would have perhaps not entered the plea of guilty. Upon this ground we believe that the record should be remanded for a new arraignment and trial."

We fully agree with the Solicitor General. Following the case of *U. S. vs. Agcaoili*, 31 Phil., 91, inasmuch as the information charges a capital offense and there is possibility that the accused misunderstood its gravity on account of the misleading introductory paragraph of the information wherein the offense charged was qualified as simple murder, the trial court should have explained to the accused the true nature of the offense charged and the penalty

involved in order to avoid all reasonable possibility of the accused's entering a plea of guilty improvidently or without a clear and precise understanding of its meaning and effect, and should have taken the prosecution's evidence in support of the allegations of the information in order to be able to judge correctly the extent of defendant's guilt.

The sentence appealed from is set aside and the case is ordered remanded to the trial court for new arraignment and trial, with the costs of this instance de oficio.

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

MORAN, J., concurs in the result.

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