

THE UNITED STATES, PLAINTIFF, VS. VICTOR ABLAÑA, DEFENDANT.

G.R. No. 4979. March 05, 1909

Ponente: CARSON, J.

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CARSON, J.:

The accused was sentenced to death by the trial judge, and the record of the proceedings in the Court of First Instance, including the judgment and sentence, are submitted to us for review (en consulta), in accordance with the provisions of law in such cases.

The information charges the commission of the crime of parricide as follows:

"On or about the 27th day of March, 1908, in the jurisdiction of the town of Tayabas, in the Province of Tayabas, the said Victor Ablaña, legitimate son of Andres Ablaña, with willful and deliberate premeditation, and by means of a price, recompense, and promise to pay P50 to Pastor de Rama and Segundo Avila, directly induced these persons to kill Andres Ablaña, his legitimate father, so that in fact the said Pastor de Rama and Segundo Avila, aided by the accused himself, in a deserted place, in the town of Tayabas, beat Andres Ablaña on the head and other parts of his body, and thereafter placed him in the bed of a stream, putting a large rock on top of him, in which condition Andres Ablaña died,"

The proof upon which the accused was convicted consisted of conclusive evidence of the fact that the deceased had been foully murdered; the accused's detailed and voluntarily extrajudicial confessions of his complicity in the commission of the crime; the testimony of Segundo Avila, one of his accomplices, who was present when the crime was committed; and a mass of circumstantial evidence which strongly tends to connect the accused with the commission of the crime, and to corroborate the testimony of his accomplice, and the truth of the facts admitted by the accused in his extrajudicial confessions.

On the morning of the 27th of March, 1908, the deceased, Andres Ablana, went, as was his custom, from his home to the barrio of Opias for the purpose of inspecting the work which was being done in his rice fields by a number of laborers, under the direction of his son-in-law. On the road from his home to his rice fields, at a point distant about 1 mile from the town of Tayabas, there is a bridge crossing the stream known as the Ibia. On that morning, one of the witnesses, named Enrique Valencia, happened to be bathing in the stream, and noticed that Andres Ablaña crossed the bridge going in the direction of his rice fields, and about three minutes thereafter was followed by his son, the accused. At midday, Andres Ablana returned to his house in Tayabas where he dined, and a short time thereafter set out again for his rice lands in Opias, carrying with him the midday meal for his son-in-law and the laborers who were working under the latter's direction. When he left the house, he carried at his side a bolo with & silver-plated handle, which he had been accustomed to wear for a number of years prior to his death.

This was the last time he was seen alive except by the murderers who did him to death. Later on in the after-noon, his son-in-law, Fausto Bables, becoming impatient because of the failure of his father-in-law to arrive with his midday meal, went to the home of the deceased to discover the reason for the delay. On learning that his father-in-law had set out shortly after midday for the rice fields, with the food for the workmen, Bables returned

to Opias, but not finding any trace of the missing man, he went to Tayabas to report to the municipal president his mysterious disappearance. On the following morning at an early hour, Babies, accompanied by others, continued the search for his father-in-law, and noticing loose grains of rice scattered on the ground near the point where the bridge crosses the stream Ibia, the searching party carefully examined the country thereabout, and found the body of Andres Ablaña sunk in the stream a short distance from the bridge, and held in place by a large stone. Notice was promptly given to the municipal authorities; and the municipal president, health officer, and justice of the peace, with others, went to the place where the body was laying, and brought it to Tayabas. An examination of the body left no room for doubt that death had been caused by a blow inflicted upon the back of the head, which crushed the occipital bone. The sum of P2.40 was found in the pockets.

Suspicion of criminal complicity in the mysterious disappearance of the deceased was promptly directed toward the accused, because of a bitter quarrel which he was known to have had with his father, and an order for his arrest was issued without delay. He was found in Lucena on the night of the day when the crime was committed, in company with Segundo Avila, and was brought to Tayabas where he was held in detention, pending further investigation.

While in detention, both the accused and his companion, Segundo Avila, made various statements in regard to the commission of the crime. One of the statements made by the accused was substantially as follows: That he had conspired with others to kill his father, because his father had refused to give him any more money, had threatened to disinherit him, and had refused to permit him to cultivate or to harvest a certain cocoanut grove; that the refusal of his father to allow, him to harvest the cocoanut grove, which occurred two days before the murder, caused him "to lose his temper and reason," so that he immediately began making plans to kill his father; that on the 26th of March, the day before the crime, he met Segundo Avila on the streets of Tayabas, and offered him P50 to assist in killing his father, which offer was accepted; that they agreed to meet the following day at the bantayan, or lookout, near the crossing of the stream called the Ibia, in the barrio of Opias, at the time when his father would pass on his way to his work, and there put their plans into execution; that on arrival at the lookout the next morning he found Segundo Avila waiting for him together with Pastor de Rama, whom Avila had brought along to assist; that his father passed the lookout that morning about 9 or 10 o'clock, at which time they intended to kill him, but did not dare to do so, because of the accidental presence of a stranger; that, knowing his father's custom to return to his house for the laborers' midday meal, they waited there until shortly after midday, and that when his father passed by on his way back to the fields, De Rama struck him on the back of the head with a club; and that thereafter, De Rama and Avila disposed of the body at the place where it was found. This confession was made to F. W. Wilson, an employee of the Constabulary, in the presence of Major Smith, and of Pantaleon Reyes, a Constabulary sergeant in Major Smith's office. It was repeated in the presence of Major Smith, the sergeant, the municipal president, and various other persons who accompanied the accused to the scene of the commission of the crime where the accused pointed out the precise place where the various participants awaited their victim, and described in detail all that occurred.

The account of the confessions of the accused as related by the different witnesses vary in certain unimportant details, but the principal and essential facts, as set out in his different stories, are substantially the same, and leave no room for doubt that he, together with Pastor de Rama and Segundo Avila, lay in wait for the deceased, and killed him in the manner and form above set out, his accomplices having been induced to join him in killing his father, by the promises of reward and payment made them by the accused; and that, if the accused did not himself strike the deceased, he was present looking on and directly aiding in the commission of the crime, when one of his accomplices struck the fatal blow.

Segundo Avila also admitted to the Constabulary officers that he was present when the crime was committed, and

accompanied several witnesses to the scene of the crime and pointed out the manner and form in which it was committed; at the trial he took the stand, and, while denying that he himself had taken a direct part in the commission of the crime, testified that he was there present, together with the accused and Pastor de Rama; that Pastor de Rama struck the fatal blow; and that thereafter the body of the deceased had been sunk in the stream at the place where it was found. This witness was instructed by the court that he need not testify to anything which would tend to incriminate him, but he insisted that he desired to testify, and, while he denied all direct personal participation in the crime, his story, in so far as it connects the accused with the murder of his father, was not, in the language of the trial court, shaken, although he was cross-examined at great length.

The defendant, who took the stand in his own behalf, denied all knowledge of the commission of the crime, and at first denied that he had confessed his participation therein, but, on cross-examination, admitted that he had told the witness, Wilson, that Segundo Avila had murdered his father; he added, however, that he made this statement because of fear of what the Constabulary might do to him, if he refused to obey their orders to charge Avila with the crime and because he had been maltreated by Wilson and other members of the Constabulary when under examination. Major Smith, Wilson, the Constabulary sergeant, the municipal president, and all the witnesses who testified to the various confessions made by the accused, swore positively that these confessions were voluntarily made, without threat, coercion, or promise of reward or immunity; and indeed we are convinced that the full, detailed statements made by the accused, both in the offices of the chief of Constabulary, and in the presence of a number of witnesses at the scene of the commission of the crime, were made voluntarily, and furnish a substantially accurate story of all that occurred.

The accuracy of these statements was corroborated in many particulars by the evidence of other witnesses for the prosecution. His direct participation in the crime is fully established by the testimony of his accomplice, and by the other evidence of record tending to establish his presence at or near the place where the crime was committed on the day of the murder. The testimony of the witness who saw him following his father early on the morning when the crime was committed, and who was bathing in the stream near the place where the accused said that he and his accomplices had intended to commit the crime in the morning but for the accidental presence of a stranger, substantiates an important detail of the story told by him in his confession; and in other important particulars his story of the way in which the fatal blow was struck, and of the mode of disposal of the body, was corroborated by the evidence of the witnesses who found the body and examined its condition when found.

His guilty connection with the commission of the crime was further independently established by the testimony of a witness who saw him not long after the time when the crime must have been committed, and before he went to Lucena, wearing the bolo which his father carried when he was last seen on his way to the place where he met his death. The accused offered no explanation at the trial of the way in which he had come into possession of his father's bolo immediately after his death, and without some satisfactory explanation consistent with his innocence, this fact alone furnishes ground for a strong presumption as to his guilty participation in the commission of the crime.

We are satisfied, beyond a reasonable doubt, that the accused not only induced his accomplices by promise of reward to slay his own father, but that he himself was present, aiding and abetting, if he did not himself strike the fatal blow. We find no extenuating circumstances, and taking into consideration the fact that the crime was committed with treachery (*con alevosia*) by lying in ambush, and in an uninhabited place, the penalty prescribed by law for the crime of parricide, which is that of *cadena perpetua* to death, should be imposed in its maximum degree. We, therefore, should and do hereby affirm the judgment and sentence of the trial court, with the costs of, this instance against the accused.

Arellano, C. J., Torres, Johnson, and Willard, JJ., concur

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