

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. DANIEL CARLOS, DEFENDANT AND APPELLANT.

G.R. No. 5476. January 15, 1910

Ponente: CARSON, J.

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CARSON, J.:

On the night of the 30th day of December, 1903, a band of from ten to twenty men, disguised as Constabulary soldiers, some armed with bolos and some with revolvers, entered the barrio of Carmen, in the municipality of Lubao, Province of Pampanga, and, pretending that they were officers of the law, forced their way into the house of Felix Maris, made him and his son prisoners, and carried them off with their arms tied behind their backs. From the house of Maris they went to the house of one of the headmen of the barrio, Joaquin Beltran, which they set on fire, and after capturing all the inmates, brought their prisoners to an estero called the "Pasag," where they set them all at liberty, except Felix Maris and Isabel Beltran, a woman whom they had made prisoner in the house of Joaquin Beltran. These two they took away in a boat, and carried to a clump of manglares, at the edge of the estero, where Maris, still bound, was decapitated by one of the band with a single stroke of a bolo, and the woman set at liberty, after some debate among the members of the band as to whether they should or should not kill her also.

The defendant, Daniel Carlos, was positively and unmistakably identified by Isabel Beltran, Calixto Maris, Joaquin Beltran, Alipio Baluyot, and Alejandro Carreon, as a member of the band which made them prisoners upon the night in question. These witnesses testified that on that occasion he was clothed in a Constabulary uniform and carried a bolo and a revolver, and Isabel Beltran positively identified him as one of those who were present when the murder was actually committed. It is not clear from her testimony, however, whether he or some other member of the band inflicted the fatal blow.

Some attempt was made by the defense to prove an alibi, and three witnesses testified that at the time the crime was committed, the defendant was living in the city of Manila. This testimony is not convincing, and we agree with the trial judge that it is wholly insufficient to raise a doubt as to the truth and accuracy of the identification of the defendant by the witnesses for the prosecution as one of the members of the band who entered the barrio of Carmen on the night in question.

The trial court properly found that the defendant was guilty, as a principal, of the crime of assassination, marked by the qualifying circumstance of alevosia (treachery), in that the deceased was done to death with his elbows tied behind his back, and marked further with the generic aggravating circumstances of nocturnity, its commission in a deserted place by disguised persons, and by the fact that the victim was carried off to his death from his own house. Upon this finding of facts, and in view of the further fact that the record discloses none of the extenuating circumstances set out in article 9 of the Penal Code, there can be no doubt that the capital penalty was properly imposed by the trial court, unless, in the exercise of the discretion vested in the courts, the extenuating circumstance of race should be taken into consideration in favor of the defendant, under the provisions of article 11 of the code.

With some hesitation, we have concluded to give the appellant the benefit of the provisions of this article. In doing so, we are largely influenced by the fact that the record fails to disclose the motive for the commission of the crime, and by the further fact that it was committed six years ago, at a period when many thousands of misguided persons were induced to become members of roving bands, organized ostensibly for political purposes, but in many cases, in truth and in fact, for robbery and pillage, and were thus drawn into a guilty participation in the commission of grave and heinous offenses.

To suppress these bands, the Brigandage Act was passed by the Commission fixing the penalty to be imposed upon members of such bands when convicted of the crime of brigandage at from twenty years' imprisonment to death, in the discretion of the courts. In the exercise of this discretion this court has uniformly declined to affirm the imposition of capital penalties on members of such bands, unless the record affirmatively discloses that the convict was either a chief or one of the active leaders of a band which had been guilty of grave and heinous offenses other than robbery, or that he had directly and actively participated in the commission of such grave and heinous offenses. This rule, in effect, applies the principle involved in the provisions of article 11 of the Penal Code, whereby the ignorance and lack of instruction of native offenders may in proper cases be taken into consideration as an extenuating circumstance, recognizing as it does that, as a result of the unsettled conditions existing in many localities in these Islands for several years after the establishment of civil authority under American sovereignty, many ignorant and simple-minded natives were drawn into guilty participation, as members of brigand bands, in the commission of offenses by their more desperate leaders and associates, of which they would never have been guilty under normal conditions.

The facts disclosed by the record in the case at bar tend strongly to disclose that, when the crime in question was committed, the accused was a member of one of the roving bands of brigands which were so numerous at that time, although the absence of proof of a motive for the crime leaves the precise character of the band in doubt. But it is clear that in the absence of proof that the accused was a leader of the band, or that he directly and actively participated in the assassination of the prisoner taken by the band, he would not have been sentenced to the death penalty had the evidence disclosed that the band of which he was a member was a band of brigands, and had he been convicted under the provisions of the Brigandage Act.

Under all the circumstances, we think that, taking into consideration the provisions of article 11 of the Penal Code as an extenuating circumstance, the penalty imposed upon the appellant should be reduced to life imprisonment, thus securing to him the exercise of a similar degree of leniency in the consideration of the facts proven at the trial as would have been accorded to him had he been tried and convicted of the crime of brigandage.

The records of criminal cases submitted to this court so frequently disclose a lack of all effort to develop the motive for the commission of the crime charged, that we take advantage of this opportunity to direct the attention of all prosecuting officers, and especially of provincial fiscals, to the importance of definitely ascertaining and proving when possible the motives which actuated the commission of a crime under judicial investigation. It is true that it is not indispensable to conviction for murder that the particular motive for taking the life of a human being shall be established at the trial, and that in general when the commission of a crime is clearly proven conviction may and should follow even where the reason for its commission is unknown (151 U. S., 396) ; but in many criminal cases one of the most important aids in completing the proof of the commission of the crime by the accused is the introduction of evidence disclosing the motive which tempted the mind to indulge the criminal act; and in nearly every case wherein the law places the penalty to be imposed in the discretion of the courts within certain limits, it will be found that a knowledge of the motive which actuated the guilty person is of the greatest service in the exercise of this discretion.

Modified by substituting the penalty of life imprisonment for that of death, the judgment of conviction and the

sentence imposed by the trial court should be and are hereby affirmed, with the costs of this instance against the appellant. So ordered.

Arellano, C. J., Torres, Mapa, Johnson, Moreland, and Elliott, JJ., concur.

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