

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARMOGENES SANCHEZ Y YAMSON, ACCUSED-APPELLANT.

G.R. No. 56769. September 21, 1984

Ponente: AQUINO, J.

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AQUINO, J.:

This is a conviction for murder based on an extrajudicial confession which was corroborated by evidence of the corpus delicti. Ferdinand Mauri, 62, was killed in the evening of June 30, 1979 in his hardware store located at 1814 Rizal Avenue, corner Malabon Street, Sta. Cruz, Manila, opposite the Dr. Jose R. Reyes Memorial Hospital. His body was discovered forty-eight hours later, or on July 2, in a state of decomposition.

The autopsy disclosed that the victim had two stab wounds in the neck, one of which penetrated the chest and which caused his death (Exh. I, J and K). A kitchen knife (Exh. A) was found in the toilet bowl of the store.

Mauri lived in the hardware store with his houseboy, Armogenes Sanchez who was 16 years and five months old at the time of the killing (born on December 10, 1962, Exh. C). Mauri was separated from his wife and children who lived just a block away.

Sanchez was arrested on September 3, 1979. He admitted the crime and reenacted it before two police officers and the members of the victim's family, as shown in the 16 photographs, Exhibits M to M-16 (23-28 tsn Feb. 9, 1981).

He executed an extrajudicial confession on that date. He recounted the details of the killing and his taking of Mauri's wallet and P150 cash which was on the table (Exh. B). In his confession, he said that he admitted the crime to his parents who advised him to surrender (Exh. E). His admission in his confession, that he stabbed the victim twice, jibed with the medical findings.

Charged with robbery with homicide, he was convicted of murder, sentenced to reclusion perpetua and ordered to indemnify the heirs of Mauri in the sum of P12,000. The trial court held that robbery was not proven.

The appellant contends in this appeal that his confession was not voluntary, that the trial court erred in not sustaining his alibi and basing its judgment on matters not supported by the evidence and that he is entitled to a suspended sentence being 18 years of age.

Sanchez finished the elementary grade. He repudiated his confession. He said that he was maltreated. The trial court found that his claim of maltreatment is "farthest from the truth". He did not complain of the maltreatment to his sister, Eliza. He did not file any complaint against his alleged tormentors. His confessions is filled with details, such as his having a common-law wife, which only an unintimidated person could have given.

He was duly informed of his rights to remain silent and to have counsel. If he could not afford a lawyer, the police offered to hire one for him free of charge. The case is not covered by section 20, Article IV of the Constitution. Sanchez voluntarily, knowingly and intelligently waived in writing his constitutional rights to remain silent and to have counsel. Such waiver is allowed (*Miranda vs. Arizona*, 16 L. Ed. 2nd 684, 384 US 436).

Immediately after his arrest, he orally admitted the crime (Exh. E). He reenacted its commission of his own volition and without pressure on the part of the police officers because he wanted to reveal the truth.

The trial court found loopholes and contradictions in his alibi. As in other decided cases, it was a brazen fabrication.

But the trial court erred in holding that there was no robbery. The accused admitted taking the victim's wallet and P150 cash. It constituted the motive for the killing together with the alleged affront made by the victim when he chided Sanchez for his clumsiness in handling the stock of paints.

In robbery with homicide, an intent to commit robbery must precede the taking of human life but the fact that the intent of the criminal is tempered with a desire also to revenge grievances against the murdered person does not prevent his punishment for the complex crime (Syllabus, U.S. vs. Villorente and Bislig, 30 Phil. 59).

Appellant claims that the trial court erred in not giving him a suspended sentence although he was over 16 but below 18 when he committed the crime. The provisions on suspended sentence do not apply to cases, like the instant case, punishable by death or life imprisonment (Art. 192, Child and Welfare Code as amended by Presidential Decrees No. 1179 and 1210).

Moreover, on March 31, 1981, when the sentence was promulgated, he was already over 18 years. He was not entitled to a suspended sentence (People vs. Casiguran, L-45387, November 7, 1979, 94 SCRA 244, 250).

The trial court erred in convicting Sanchez of murder only. He is guilty beyond reasonable doubt of robo con homicidio as charged in the information. As he was over 15 and under 18 when he committed the crime, he is entitled to a one-degree reduction of the penalty. He should be penalized by reclusion temporal, there being no modifying circumstances.

WHEREFORE, the lower court's judgment is modified. Sanchez is sentenced to an indeterminate penalty of seven years of prision mayor as minimum to fifteen years of reclusion temporal as maximum and to pay an indemnity of P30,150 to Mauri's heirs. Costs de oficio.

SO ORDERED.

Abad Santos, Escolin, and Cuevas, JJ., concur.

Makasiar, J., (Chairman), in the result.

Concepcion, Jr., and Guerrero, JJ., on leave.

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