

THE UNITED STATES, PLAINTIFF, VS. THE MORO LABAI, DEFENDANT.

G.R. No. 5934. October 17, 1910

Ponente: TORRES, J.

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TORRES, J.:

On February 5, 1909, at siesta time, the Moro Labai received news that his sweetheart, the Moro Salong, was soon to be married to the Moro Dangkalug, wherefore Labai, overwhelmed with hatred, went to consult with a man named Pintu, known as Ricardo, and told him that he intended to complain to the presidente; but Pintu advised him that, instead of complaining he should break his rival's head, thereby to show that he, Labai, was not a coward. Thereupon Pintu went out of the house, and Labai, taking advantage of his absence, carried away the latter's shotgun and, thus armed, started for the place where he thought his sweetheart Salong would be with his rival, and found Salong in a vinta or small boat, sitting under cover beside her sister Saoda, who was lying" down. The defendant then rested one knee on the ground in order to take sure aim and in this posture discharged his gun at his said sweetheart, wounding her in the right side, and also her sister Saoda by the same shot. Neither of the injured women had previously observed the assault made upon them, notwithstanding the fact that Labai fired the shot at very close range, said to be 3 feet. As a result of the wound inflicted Salong died five hours afterwards. Two witnesses, Ungal and Saoda, were present during the commission of the crime and, immediately after the report of the gun, saw, from the vinta where they were, the defendant still with one knee on the ground and the shotgun pointed at his victim.

By reason of the foregoing facts, the assistant fiscal of the Moro Province filed a complaint in the Court of First Instance of the said province, charging Labai with the crime of murder, and the present cause having come to trial, the court, in view of the evidence introduced, rendered judgment on February 16, 1910, sentencing the defendant to the penalty of death by hanging, to pay to the heirs of the deceased an indemnity of P1,000, and the costs of the trial. The judgment also provided that the said penalty should be executed in the public square of the municipality of Malabang, in which district the crime was committed, on a date to be subsequently fixed. The records in this case were forwarded to this court for review of the said judgment.

From the facts related, which were fully proven at the trial of the present cause, it is concluded that the crime of murder was committed against the person of the Moro woman named Salong, a crime provided for and punished by article 403 of the Penal Code, inasmuch as a wound of a serious and mortal character was inflicted in the right side of her body by a shot discharged from a shotgun at very close range while she was sitting in a vinta, unwarned and without having noticed that she was to be assaulted in a treacherous manner; for the aggressor, in order to get a good aim and successfully carry out his criminal purpose, knelt with one knee on the ground, thus employing ways and means in the execution of the crime directly to insure the consummation thereof, without risk to his person from any defense which the victim might have offered. The defendant therefore committed the crime with treachery, which circumstance qualifies the act of the violent death of the offended party and determines the imposition of the severer penalty provided by the said article.

The testimony of two eyewitnesses to the criminal act and other evidence of record prove in a satisfactory and conclusive manner that the Moro Labai was the sole perpetrator by direct participation, fully convicted, of the said crime. His denial and exculpatory allegations, absolutely devoid of proof, can not overcome the evidence produced against him by the prosecution. It is, therefore, not true that, as a result of a struggle with Amay Lampukan, the shotgun which they were wrestling over was accidentally discharged, the shot striking the deceased.

In fact, the eyewitnesses named Ungal and Saoda affirmed that immediately after they heard the discharge of the shotgun they saw the defendant with the weapon still pointed at his victim and with one knee resting on the ground, in which position he had placed himself in order to insure the effect of the shot. These witnesses denied that there was any dispute or struggle between the defendant Labai and Amay Lampukan, as alleged by the former without the slightest proof in corroboration of his allegation; wherefore it is incontrovertible that the defendant Labai, instead of attacking Dungalug, whom, he testified, the deceased Salong, his sweetheart, was to have married, he sought out the latter and fired upon her with the shotgun which he took from the house of the Moro Pintu.

In the perpetration of the said crime, it is proper, to consider the presence of the aggravating circumstance of premeditation, which is proved by the conduct of the accused who, after having consulted Pintu as to what he Labai, ought to do in view of the news of the approaching marriage of his sweetheart Salong with the said Dungalug, took the shotgun which he found in the house of the aforementioned Pintu, after the latter had gone out, and provided with the said firearm, started to look for his victim, thus showing by his acts that he had decided to kill, as he did, the girl Salong. This aggravating circumstance is compensated in its effects by the special extenuating circumstance of article 11 of the Penal Code, by reason of the uncivilized customs of the race to which the defendant belongs, his personal conditions, and his lack of education, circumstances which perfectly harmonize with the spirit of the provision contained in the said article 11 of the Penal Code of the Islands, The aggravating circumstance No. 24 of article 10 of the code can not be considered as having been present, inasmuch as, in accordance with the laws in force, among them, Act No. 1780 of the Philippine Commission, the possession or use of firearms and other weapons therein specified as prohibited without license constitutes a crime specially punished by the same, and therefore the possession or use of a firearm without license can not be considered merely as an aggravating circumstance.

With regard to the errors imputed to the judgment under review, it is to be noted that, in the amended complaint, only the crime of murder is charged, and mention is made, as an additional fact resulting from the assault, of the wound inflicted upon the Moro Saoda by the same shot which occasioned the death of Salong, although, if the provincial fiscal had charged the defendant with murder and lesiones, not on such account would the complaint have been defective, under the provisions of section 11 of General Orders, No. 58, in connection with article 89 of the Penal Code. The rest of the errors assigned to the judgment of the lower court have been disposed of by the statements made in this decision.

Therefore the penalty, in its medium degree, provided by law for the crime of murder, must be imposed upon the defendant, since the aforementioned aggravating; and extenuating circumstances compensate each other in their effects, and, therefore, it is proper, in our opinion, with a reversal of the judgment reviewed, to sentence the Moro Labai, as we hereby do, to the penalty of life imprisonment, to the accessory penalties, Nos. 2 and 3 of article 54 of the code, to pay an indemnity of P1,000 to the heirs of the deceased, and the costs of both instances. So ordered.

Arellano, C. J., Johnson, Moreland, and Trent, JJ., concur.

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