

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MARCOS AMBROSIO AND ALVARO FALSARIO, DEFENDANTS AND APPELLANTS.

G.R. No. 6069. November 12, 1910

Ponente: MORELAND, J.

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MORELAND, J.:

The defendants in this case were convicted of the crime of murder by the Court of First Instance of Romblon and were sentenced to death and to indemnify the heirs of the persons killed in the sum of P1,000.

It appears that on the night of the 26th of February, 1909, while Anastacio Gadacho and Juliana Gadon, husband and wife, were asleep in their house, they were set upon and brutally murdered. The persons charged with the commission of the crime were the two appellants and one Isaac Fernandez. Fernandez has heretofore been tried and condemned to death for his part in the crime mentioned. On the trial of the two appellants, Fernandez was the principal witness. He alleged in his testimony that some time prior to the day of the murder the accused, Alvaro Falsario, told him that he wanted him to injure Juliana Gadon and Anastacio Gadacho, as he was in a lawsuit with them, and that if he would kill them he would give him some land and a carabao; that this conversation took place prior to the departure of Alvaro for Romblon to be present at the session of the Court of First Instance; that on his return from Romblon, the appellants again spoke to him, saying that they wanted him to kill Juliana and Anastacio, because if they continued to live they would cost the appellants much money by reason of the lawsuit; that they promised to give him a carabao, some land, and 5 cavanos of palay if he procured the death of the persons mentioned; that on a day of the month of February, 1909, Fernandez, at the order of Alvaro Falsario, went to the house of Anastacio and Juliana for the purpose of ascertaining whether they were at home; that, having ascertained that they would be at home that night, at midnight of the same day the witness, Marcos and Alvaro, armed with bolos, went to the house of the deceased; that the witness and Marcos entered the house by way of the kitchen door, while Alvaro remained in the lower part; that on entering the house Marcos Ambrosio attacked the sleeping spouses with his bolo, killing both of them.

The witness also testified that while in the jail Marcos and Alvaro told him that if he would not testify against them on the trial they would give him P150 in addition to what they had already promised him.

A very lengthy and searching cross-examination failed to affect materially the strength and probative force of the testimony given on the direct examination. In reference to this witness and the value of his testimony, the trial court said:

"The testimony of Isaac Fernandez is the most serious and important evidence against the accused in this case. The court does not forget that the testimony of an accomplice must be scrupulously and carefully examined and received with much caution (U. S. vs. Quiamson, 5 Phil. Rep., 444) ; and that as a general rule an accused ought not to be condemned on the testimony of his coaccused unless it is corroborated to a sufficient extent by other witnesses. (U. S. vs. Balisacan, 4 Phil. Rep., 545.) Examining carefully the testimony of Isaac Fernandez we find no motive whatever inducing him to swear falsely simply to implicate the accused in this case. On

being asked on cross-examination if it was his purpose to incriminate others after having heard sentence of death pronounced against himself, he answered in the negative and stated that, inasmuch as he himself was going to die, he had decided to tell the truth. It is true that in the trial of the cause in which he was defendant he denied not only his own participation in the crime but also that of the accused in this case; but in that case it was satisfactorily proved that he had theretofore and immediately after the commission of the crime, at a time when he had no occasion or opportunity to prepare a defense, made statements amounting to an admission of his own guilt and at the same time showed the connection of the accused in this case with the crime. Those statements formed the basis of a judgment of conviction against him in this court. An attempt was made to show that the only person who had cause or reason to kill Juliana and Anastacio was Isaac Fernandez, the reason being bad feeling which had arisen between them a few days prior to the commission of the crime on account of their refusing to give Isaac a fee or gratuity for having sold a carabao for them. But there is also in the case ample and sufficient proof that the two accused had ill feeling and rancor against the decedents. Alvaro Falsario is father-in-law to Marcos Ambrosio. Bonifacio Falsario, son of the accused Alvaro, was the first husband of one Juliana Gadon. From the time of the marriage of Juliana Gadon to Anastacio Gadacho, her second husband, her father-in-law refused to visit her. Since that time the relations between Alvaro and Juliana have not been cordial. Juliana not only brought action in this court against Alvaro for the recovery of certain lands, which was decided in favor of Juliana Gadon (civil cause No. 117, Court of First Instance of Romblon), but also objected to the accounts presented by Alvaro as administrator of the estate of Bonifacio Falsario and asked for his removal from the office of administrator, and objected to his appointment as guardian of the minor children of the deceased Bonifacio. (Causes Nos. 101 and 103 of the Court of First Instance of Romblon.) When the murder occurred on the 26th of February, they had just returned from Romblon from attendance on a session of the Court of First Instance in relation to matters connected with said administration and guardianship. So that if Isaac had reasons to injure the decedents, so did Alvaro Falsario, almost as serious and as great as those of Isaac. There is nothing improbable nor contradictory in reality in the idea that Alvaro knowing that Isaac had a grudge against Juliana and Anastacio improved the opportunity to secure relief from the spouses, Juliana and Anastacio, he proposing to Isaac that they act together, the latter being younger, bolder, and more ignorant."

In our opinion the reasons and arguments expressed in the above quotation entirely dispose of the objections made by counsel for the defense against the probative value of the testimony of Isaac Fernandez.

The testimony of Fernandez is corroborated by that of Estanislao Gadacho, a boy 10 years of age, son of the deceased spouses, who was sleeping near his parents at the time they were murdered. He testified that on the night in question he awoke on hearing a noise and saw within the house Marcos Ambrosio and Isaac Fernandez, who, after stabbing his parents with their bolos, stealthily descended from the house; that at first he thought that his parents were fighting and that the person who had gone out of the house was his father, but on going out of the house himself he saw that those who had descended from the house were Isaac Fernandez and Marcos Ambrosio; that he also saw the accused Alvaro Falsario, who was in the lower part of the house seated on his heels, tracing something upon the floor.

The defense attacks vigorously the testimony of this boy on the ground that in giving his evidence he involved himself in conflicting statements. That the witness did make dissimilar, if not conflicting, statements in his declaration is undoubtedly true. The trial court took due notice thereof and in connection therewith had this to say:

"The testimony of this boy on the trial, it is true, evinced certain indecision and lack of assurance, perhaps by reason of the difficulty which he experienced in coordinating his ideas, he being 10 years of age, so much so that he has made some contradictory statements. But if the statement of this boy of itself should not be sufficient to justify conviction, it may serve, however, for the purpose of corroborating the statement of Isaac Fernandez upon the main point, to wit, that Isaac Fernandez did not go to the house by himself, but was accompanied by another person. Each one of the decedents received several wounds on different parts of the

body. Given the rapidity with which these wounds were inflicted and the unusual noises which were heard by the children of the house, who were thereby awakened, it is almost impossible that one man acting alone could have committed this crime. He must have been assisted by somebody else in carrying out such a barbarous and cruel deed at such a late hour of the night."

The defense interposed in this case was an alibi. To establish this defense the defendants themselves testified and were supported in such declarations by the testimony of Mamerto Gara, Apolonia Falsario, Filomena Falsario, Espiridion Salido, Francisco Motin, and Bernarda Falsario. They united in alleging that during the night of the murder the accused had remained in their house on account of illness from which they were both suffering at the time, the one being afflicted with dysentery and the other with malaria. In relation to the testimony of these witnesses it may be said that the witness Francisco Motin apparently does not refer in his declaration to the time of the commission of the murder. All of the other witnesses are near relatives of the accused and lived with them in the same house. Mamerto Gara is a son-in-law of Alvaro Falsario and a brother-in-law of Marcos Ambrosio. Apolonia Falsario is a sister of Alvaro Falsario, while Filomena Falsario and Espiridion Salido are grandchildren of Alvaro Falsario. Bernarda Falsario is the wife of Marcos Ambrosio and daughter of Alvaro Falsario.

In relation to the testimony given in favor of the defense, the trial court said:

"The sole defense of the accused is an alibi. In our mind, in the majority of cases the proof is weak and insufficient to destroy the force of the evidence of the prosecution. The accused attempted to show that on the day in question and for some time thereafter they were ill in bed and for that reason were not able to leave the house. The proofs in this particular have the same defect as those presented to prove the alibi. All of the witnesses called for the purpose of establishing these facts, with some exceptions, are persons bound by intimate ties of relationship to the accused and living with them under the same roof."

The defense places considerable stress upon the testimony of Pilar Falsario, a daughter of the decedents, who was sleeping in an adjoining house on the night of the murder. This witness testified that she was awakened by a noise or commotion in her parents' house; that she ran out of the house and climbed into a tree; that while watching and listening she saw a man leap out of her father's house and heard her mother cry, "Help, Pilar," that immediately on hearing these words she ran away to the house of her grandmother, to, whom she stated that she had heard her mother crying for help and that she had heard loud noises issuing from her mother's house; that her grandmother, as well as she, was afraid to go to her mother's house. The defense alleges that the fact that this witness saw only one man issue from her mother's house indicates clearly that the murder was the work of one man and that man must have been Isaac Fernandez. This testimony would have considerable force if it appeared definitely and clearly from the proofs of the case that Fernandez and Marcos issued from the house at all times together. While it is not entirely clear from the proofs of the prosecution, taken altogether, nevertheless, it seems to be the legitimate inference from the testimony given that Marcos went out of the house ahead of Fernandez. It appears, however, from a portion of the testimony that after Marcos left the house, Isaac remained long enough to conduct Estanislao to the "casa de Monay;" that he then returned to the house where the corpses were lying, and, having looked at them again, went out. Thus Isaac must have issued from the house more than once and possibly alone.

It is undoubted that if the testimony of the witnesses for the prosecution is true, the defendants were properly convicted. The only question presented for our consideration is one of fact. The appellants allege that the testimony is insufficient to show their guilt beyond a reasonable doubt. Whether this is so or not depends entirely upon who told the truth. There is nothing inherently improbable in the story told by Fernandez and corroborated by Estanislao. The defendants were in trouble and had been in trouble for some time with the deceased. Bad blood admittedly existed between them. It does not appear that anyone else in that community had the slightest reason for injuring the deceased persons. No robbery was committed. No property was taken. No injury to the premises was committed. The motive which the person or persons had who committed the crime was directed against the

Gadachos personally. The crime was vindictive, not lucrative. It was to satisfy rancor, not to obtain money. It was to destroy life, not property.

It is unquestionably true that the testimony of an accomplice must be taken with great care and caution. It must be assayed and weighed with scrupulous care. The corroborating testimony must be strong and convincing. It is also true, however, that when the testimony of an accomplice is corroborated by unimpeachable testimony and by strong circumstances, it may be given its due weight and force against the person in regard to whom it is presented.

The trial court in the opinion upon which its judgment of conviction is founded went into the fact in detail. He analyzed the testimony carefully and gave his reasons for believing the story told by the witnesses for the prosecution rather than that told by the witnesses for the defendants. He saw the witnesses in the act of testifying. He observed carefully their manner upon the witness stand. He studied every detail for the express purpose of determining where credibility lay. We do not feel like interfering with the intelligent conclusion of a court concerning the credibility of witnesses unless the record discloses that some fact or circumstance of weight and influence was overlooked by the court or has been misapprehended or misinterpreted. A careful examination of the record discloses to us no fact, no circumstance, upon which we may base ourselves in saying that the trial court had no right to arrive at the conclusion which he reached. His mind, upon all the evidence was free from a reasonable doubt. So is ours.

The court properly took into consideration the aggravating circumstances of nocturnity and morada. The court properly qualified the crime by alevosia.

The judgment of the court below is affirmed, with costs.

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

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