

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JOSE LOCSON AND ISIDORO PENETRANTE, DEFENDANTS AND APPELLANTS.

G.R. No. 6119. December 01, 1911

Ponente: CARSON, J.

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CARSON, J.:

The information in this case charging the appellants with the crime of assassination is in substance as follows:

That on or about the night of December 3, 1909, in the municipality of Talisay, Occidental Negros, Philippine Islands, the said Jose Locson, Isidoro Penetrante, and Daniel Labasa, did maliciously, illegally, and criminally, and with the premeditated intention of causing the death of Dominga Treyes, take her from the home where she lived, place her in a quiles, and when on the road going from Bacolod to Talisay, taking advantage of their superiority and the darkness of the night, with alevosia did, by means of a pointed instrument, inflict a wound in the left armpit of the said Dominga Treyes, causing her death.

The appellant, Jose Locson, was convicted in the court below of the crime of homicide, and sentenced to seventeen years and four months of reclusion temporal, together with the accessory penalties prescribed by law. The appellant, Isidoro Penetrante, was found guilty as an accomplice in the commission of this crime, and sentenced to ten years of prision mayor, together with the accessory penalties prescribed by law. The defendant, Daniel Labasa, who was charged in the information jointly with the appellants, was acquitted after the prosecution closed the presentation of its testimony in chief, on motion of the defense, and the complaint as to him was dismissed on the ground that the prosecution had failed to offer any evidence which tended to connect him with the commission of the crime charged in the information.

As early as the year 1904, when Dominga Treyes, deceased, was yet a minor and living with relatives in Talisay, the appellant, Locson, had illicit relations with her, and about that time lived openly and publicly with her for a period of some six months. Thereafter, though not living together, they continued to have carnal relations with each other, and in the year 1907 the woman gave birth to a child of which the appellant, Locson, admits he is the father. In August, 1909, the woman swore out a complaint before the justice of the peace of Talisay, charging Locson with seduction under promise of marriage, and with having abandoned her after the birth of her child. Later, some time in the month of November, 1909, an information charging the accused with the same offense was filed in the Court of First Instance, and this charge was pending in that court at the time of her death.

On the night of December 3, 1909, the woman and her child were at Bacolod visiting at the house of a relative, having gone there apparently in connection with the proceedings in the Court of First Instance upon her complaint against the appellant Jose" Locson. About 10 o'clock on that night, gathering up her personal effects and taking with her the child, she left the house in company with the appellant Penetrante, who had called there for her, saying when she left that she was going to return to her home in Talisay. Not far from the house they were joined by Locson and Labasa, who were waiting there with a conveyance, a kind of quiles drawn by a carabao. Soon thereafter the conveyance started on the main road toward Talisay, the occupants being Dominga Treyes,

deceased, and her child, Locson, Penetrante and Labasa. The distance from Bacolod to Talisay is some 8 kilometers, and on the night in question the road appears to have been in fair condition. The weight of the evidence indicates, however, that the party consumed several hours in making the trip. A stop was made at a bridge just before entering Talisay, the duration of which, according to Penetrante, was some thirty minutes. No explanation of the purpose of this stop appears in evidence. Several witnesses testified that they saw the conveyance arriving in Talisay at an early hour, approximately 3 o'clock on the morning of December 4, and recognized among the occupants the appellants Locson and Penetrante, and the woman Dominga Treyes and her child. The public road from Bacolod to Talisay continues directly through the town of Talisay, and is there known as Calle Taft; this street is crossed at right angles by Calle Filipina. From the evidence it appears that the conveyance stopped at or near the corner of Calle Taft and Calle Filipina, about 50 meters from the house of Macaria Treyes on Calle Filipina.

Julian Agriam testified that he saw the conveyance stop at this corner, and that Jose" Locson then drew the woman from the quiles, and putting his arm around her waist, supported her toward the house of her aunt, Macaria Treyes, followed by Penetrante carrying the child. He further testified that he heard Dominga say: "O, Jose", the punishment you have given me will bring me to my grave, but you will afterwards pay for it yourself." This witness further testified that after the two men left the woman and the child at the house of Macaria Treyes, they hurried back to the vehicle and drove away, and that soon thereafter he heard the woman Macaria Treyes calling for help, saying that Dominga was dead.

Another witness, Jose" Agasan, testified that he saw Jose" Locson and Dominga Treyes come from the rig, walking slowly, Jose having his arm around the back of Dominga, and that with them came a man carrying a child.

Leon Cortes, who lives across the street from Macaria Treyes, testified to practically the same facts.

Macaria Treyes, an aunt of Dominga Treyes on the father's side, testified that about 3 o'clock on the morning of December 4 the door of her house was pushed open, and that Jose" Locson left her niece, Dominga Treyes, at the door, where the child was placed by another man. That Dominga supported herself against the door for a short interval, and then fell to the floor, crying "Aunt Caye, Jose killed me," and there and then died, of a single wound, a stab under the left armpit made by a pointed instrument.

In addition to the testimony of these witnesses, other evidence was offered by the prosecution tending to corroborate the main facts herein before stated, which it is not necessary at this time to review.

The defense did not deny the existence at one time of illicit relations between the appellant Locson and the deceased, nor that the criminal proceedings above mentioned were, pending at the time of the woman's death, nor that the trip was taken in the vehicle on the night of the 3d of December, 1909, substantially as above set out, except that the witnesses called by the defense undertook to show that the party arrived in Talisay considerably earlier in the night than the time indicated by the witnesses who claimed to have seen the arrival, the three defendants testifying that Dominga Treyes was unhurt when they left her in Talisay. The theory of counsel for the defense in the court below and on this appeal is that the evidence points to one Demetrio, called by the witnesses "Dimit," an uncle of the deceased woman, as the man who killed her, his motive, as they would make it appear, being the feeling of animosity and enmity which he had for the defendant and appellant Locson, who had seduced his niece, and his rage when he learned that, while criminal proceedings were pending against Locson, based on a complaint filed by her, she had accompanied him in his vehicle from Bacplod to Talisay.

Without undertaking to review the evidence at length, it is sufficient for us to say that we are all agreed with the court below that the evidence introduced by the defense fails to support this theory of the death of the deceased;

and accepting the findings of the trial court as to the credibility of the various witnesses who testified before him, we must conclude that the facts touching the death of Dominga Treyes are substantially those herein before set out.

There is no evidence whatever in the record which casts any light upon the circumstances surrounding the striking of the fatal blow, and we are agreed with the trial judge that there is nothing in the record to sustain the allegations of premeditation and treachery as set out in the information. There seems to be no doubt that the woman started on the journey from Bacolod of her own free will and accord, believing that her former lover was going to take her to her home in Talisay. Just why she should consent to accompany him notwithstanding the fact that she had filed a complaint against him in the Court of First Instance, is not apparent. He himself testified that the trip was undertaken by him with the hope of effecting a compromise of the criminal proceedings which had been instituted against him, and that it was his intention to take her to Silay and have her enter into a settlement of the case before his uncle, Vicente Gamboa, a notary public. All three of the accused testified that this was the object of the trip. The evidence discloses that there was some discussion of this matter between Locson and the woman on the journey from Bacolod to Talisay, and that Locson tried to persuade her to go to Silay, but that she refused to do so. He was insistent and she was unyielding in her refusal. The seduction case was set for trial, and a hearing was to be had in a few days. Locson was interested in effecting some sort of compromise, and since all the witnesses for the defense agree on this point, we see no reason to doubt that this was the object of the trip, and that he was thwarted in his plans. Nothing in the record indicates that there was a prearranged plan to take the life of the unfortunate woman, and it would seem probable at least that the fatal blow was inflicted during an outburst of passion in a moment of disappointed rage and anger because of the woman's refusal to go to Silay, there to make a settlement of the criminal proceedings. But, however this may have been, there can be no reasonable doubt that the fatal blow was struck by Locson, and while it is possible that a conspiracy had been entered into by the party who took her in the vehicle to take her life if she refused to agree to compromise the criminal proceedings, we agree with the trial court that the evidence does not sustain a finding to that effect. In our opinion, it tends rather to indicate that the blow was struck by Locson without deliberate premeditation, and that his companions in the vehicle had no part in the commission of that crime. There is nothing in the record which indicates that Penetrante was a coprincipal or an accomplice. He seems to have accompanied Locson as a sort of cocher or servant in attendance, and there is no evidence on which to base a finding that he in any wise aided his master in striking the fatal blow.

The trial court found him guilty as an accomplice, but we do not think that the mere fact that he was present in the vehicle when the fatal blow was struck, and that after it was struck he continued to accompany the party to the home of the wounded woman to which she was aided by her assailant, is sufficient to show that there was any such cooperation on his part in the striking of the blow as would be necessary to make him an accessory to the crime under the decisions of this court.

Discussing facts very similar to those proven in this case, we have heretofore held that:

"The mere presence of the defendant at the time and place of the commission of the crime is not of itself sufficient to show such an act of simultaneous cooperation as to make such a defendant an accessory to the crime." (U. S. vs. Guevara, 2 Phil. Rep., 528.)

"Where one of two persons jointly engaged in a quarrel with others stabs and kills one of his opponents, his companion could not be held as principal or accomplice where it does not appear that there was some concerted action leading up to the striking of the fatal blow, or that said companion had any reason to believe that a deadly attack was to be made on the deceased." (U. S. vs. Manayao, 4 Phil. Rep., 293; U. S. vs. Cabonce, 11 Phil. Rep., 169; U. S. vs. Flores, 6 Phil. Rep., 383; U. S. vs. Maquiraya, 14 Phil. Rep., 243; U. S. vs. Romulo, 15 Phil. Rep., 408.)

For the reasons herein before stated, the judgment of the lower court is affirmed in so far as it relates to the conviction and imposition of sentence on the defendant and appellant Jose Locson, with his proportionate share of the costs in this instance against him; but it is reversed, in so far as it convicts the defendant and appellant Isidoro Penetrante as an accessory in the commission of the crime charged in the information and sentences him therefor. The defendant Isidoro Penetrante is hereby acquitted of the crime with which he is charged in the information, and will be set at liberty forthwith, with his share of the costs in both instances de oficio. So ordered.

Torres, Mapa, Johnson, Moreland, and Trent,. JJ., concur.

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