

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JULIANA BRIOSO, DEFENDANT AND APPELLANT.

G.R. No. 6177. March 11, 1911

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal from a judgment of the Court of First Instance of Sorsogon, Hon. Jose C. Abreu presiding, convicting the appellant of the crime of parricide and sentencing her to reclusion perpetua, to the accessories provided by law, and to pay the costs of the trial.

The information filed against the accused charged:

"That in the municipality of Sorsogon, Province of Sorsogon, P. L., on or about the 23d day of April of the present year (1909), Claudio Chavez, being in his house, in company with his wife, the accused, a dispute arose between them caused by the jealousy of the husband toward the accused by reason of her alleged relations with a policeman, Fermin Micaller; that as a result of the dispute the accused seized a shoe and struck her husband in the face with the heel of it, and, not contented with this, the said accused, being in possession of a knife, 5 1/2 centimeters or inches in length, struck her husband a blow with it in the abdomen, causing a wound in the epigastrium from which the said Claudio Chavez died within a few hours. In violation of the law."

No one saw the commission of the crime except the accused and her deceased husband. The Government presented several witnesses in support of its accusation against the appellant.

Pedro Pagua, the physician who examined the deceased before his death, testified that he found a wound of considerable depth which had intersected the stomach and the vessels of that region, caused by a sharp and pointed instrument; that its direction was inward and downward; that said wound was mortal, and that it was the cause of the death of the deceased.

Bernabe Flores Palma, justice of the peace of Sorsogon, testified that he immediately went to the house where the crime was committed for the purpose of making an investigation and found the deceased lying on his back on the floor, with a wound in his stomach; that he was unable to speak distinctly, but was able, nevertheless, when interrogated by the witness as to what had occurred, to say that -

"He and his wife, Juliana Brioso, had had a quarrel; that his wife Juliana struck him in the face with a shoe and then immediately struck him in the stomach with a knife; that on feeling himself wounded in the stomach he wrested the knife from the hands of his wife and stabbed her; that the wife on being wounded went out of the house and he did not see anything more of her because he remained lying on his back on the floor; afterwards he asked for the services of a priest."

The witness Flores further stated that after his investigations in the barrio, he again went to see the deceased, about 6 o'clock of the afternoon, and took his sworn statement, in which the deceased stated the facts as he had related them before. That his statement was taken after he had confessed to the priest. He further testified that he

found the knife with which the crime had been committed under the petate, and that it was covered with blood; that the deceased did not sign his sworn statement because he was unable to raise himself sufficiently to use the pen; that during his statement he stopped frequently because he was in a very grave condition.

Domingo Aguirre, municipal secretary of Sorsogon, testified to the same facts substantially as the justice of the peace. He was the one who interpreted the dying declaration of the deceased. In regard to the condition of the deceased at the time of his declaration, he stated:

"According to my understanding he was in a very grave condition, and he, Claudio, said that he was going to die finally, this on account of the pain which he felt from the wound which he had."

Lieut. Juan Francisco of the Constabulary testified that, on the afternoon of the said 23d day of April, he also went to the house where the alleged crime had been committed for the purpose of investigating what had occurred; that on arriving there he found a man lying on his back with a wound in the stomach; that he asked him who had wounded him and the man replied that it was his wife and that he had done no more than defend himself; that the deceased was not able to speak well and that he heard no more than the statement that it was his wife who had stabbed him; that the injured man did little but complain of the pain which the wound caused him and to say that he was in a very bad condition.

Jose Capuz, an old friend of the deceased, testified that, arriving at the house where the event occurred, he found his friend wounded in the stomach; that he asked him who had wounded him; that Chavez answered him that he did no more than defend himself; that his wife had stabbed him and that he tried to defend himself and in so doing took the knife away from her and stabbed her; that he felt bad and that he was going to die; that he was anxious to know if they could not get a priest for him; that all this trouble was caused because he desired to take his wife to another place.

These were the witnesses for the prosecution.

The sworn dying declaration of the deceased is as follows:

"I came from the ship and found my wife spinning hemp. We had a quarrel because I was jealous of her and a policeman called Fermin; in this dispute she struck me with a shoe in the face and after that wounded me with a knife in the stomach. The night before I requested her to be good friends with me, but instead of answering me she struck me with her fist. When I felt myself wounded I took the knife away from her and stabbed her in the breast. There was nobody present at that time or in the room where we were quarreling except ourselves; I do not know to whom the knife belonged, I swear that all that I have said is true, that it was my wife who wounded me in the stomach. I thus end my statement, not being able to proceed further in view of my very grave condition."

The appellant, Juliana Brioso, testified in her own behalf as follows:

"On Tuesday night my husband came home from his ship; when he arrived he began abusing me, asking me if my querido was Fermin, and then went away, taking my trunk; the following day, about 2 o'clock of the afternoon, he came back; when he arrived I was sitting spinning hemp with my little child in my lap because I was trying to make him go to sleep; when he arrived he sat down in front of me and began asking me if Fermin was my querido, and I answered him, 'you are talking just to hear yourself talk;' after I answered him thus he slapped me and after he struck me I seized my little boy's shoe and struck him in the face with it; on being struck he arose and drew something from his belt, I do not know whether it was a knife or what, and when he had gotten onto his feet he struck me a blow and in defending myself he wounded me and then afterwards wounded me again, but I held my hand like this and he was unable to stab me very easily; I cried for help, whereupon he stabbed himself. I saw only that he raised his arm and struck himself in the stomach, but I did not know whether he wounded himself or not."

Eduardo Lagarde, a witness for the defense, testified that, at about 12 o'clock, as the alleged murder was committed about 2 of the same day, he and a friend by the name of Sarmiento saw the accused Claudio Chavez in the market and had a conversation with him; that he was pale and appeared nervous and excited; that he stated to the witness and his companion that he was very jealous of his wife and had been so for a long time; that he asked their advice as to what he should do under the circumstances; that he was trembling and shaking to such an extent that he noticed it himself, and, placing himself before a mirror, he said, "I am pale;" that the deceased further said that he would get out of his trouble if it was not for his children; that that was what was making him thin, and if they did not give him what he wanted he would get it by fair means or foul.

Francisco Sarmiento, another witness for the defense, testified that he, in company with the previous witness, Lagarde, saw the deceased at 12 o'clock of the day upon which the alleged murder was committed and had a conversation with him; that on being requested by Lagarde to assist the deceased in his trouble, he told him that they ought to arrange their matters amicably; that to this the deceased replied with the statement that he was disposed to wipe out his dishonor with his life, whereupon he went to the looking glass, and, having viewed his face therein, said, "I am very thin;" that the witness then told him that he ought not to excite himself so much over the matter; that they thereupon separated.

It appears from the testimony of Juliana Briosio that her husband had been jealous of her for more than a year and that he had frequently beaten her by reason thereof.

It also appears from the testimony of the physician who cared for the wounds of the accused, inflicted upon her by the deceased, that there was a wound in the left forearm and one in the breast, close to the heart; that the former was grave in its character, while the other was of such a nature that, at that time, he could not tell whether it would cause her death or not.

We have for decision on this appeal, as appears from the foregoing, simply a question of fact: Did the accused murder her husband or did he commit suicide? We have considered this question with the greatest care. We have studied it from every point of view. We can not bring ourselves to believe that the accused has been proved guilty by the evidence beyond a reasonable doubt. We have here a man who, for something like two years, had been extremely jealous of his wife. He was, during that time, continually meditating upon it, continually talking to her about it, continually quarreling with her and beating her by reason of it. So much had he meditated upon it and such a hold had it taken upon him that, two hours before the alleged crime was committed, he had become so nervous, pale and haggard that it was a matter of special comment among his friends with whom he talked at that time. In this condition, two hours before the crime was committed, he, trembling and excited, had nervously seized one of said friends and drawn him aside for the purpose of asking his views in relation to his family difficulties. At that time and place he had made remarks which clearly pointed to his present intention to commit suicide unless his troubles could be cured.

With these conditions presented undisputed in the evidence, we come to the stories told by the accused and the deceased. The accused states that she was quietly sitting at home, with her child in her lap, spinning hemp; that her husband suddenly came into the house at a time which, in view of the nature of his employment and his habits, was very unusual; that he sat down in front of her and began to upbraid her for her infidelity; that, becoming more furious, he struck her in the face; that thereupon she seized a shoe belonging to the little child and struck him in the face with it; that he leaped up, drew a knife from his belt and stabbed her twice, the first blow producing a serious gash in the left forearm, which she had thrown up to protect herself, and the second producing a very dangerous wound in the vicinity of the heart; that, seeing the wound that he had made, and doubtless in the belief that he had murdered her, he then stabbed himself in the abdomen, inflicting his death wound.

On the other hand, we have the dying declaration of the deceased, in which he states that, on coming home and speaking to his wife about her infidelity to him, she first seized a shoe and struck him in the face and then stabbed him in the abdomen with a knife, producing the wound from which he later died; that, having received the wound, he wrested the dagger from her and stabbed her in the breast.

We are inclined to believe that the story told by the wife is the more credible of the two, as it is more in accord with all the circumstances and probabilities of the case:

(1) The mental and physical condition of the deceased two hours before the alleged crime was committed, as shown by the undisputed testimony of the case, the threat upon his part to wipe out his dishonor with his life, taken in connection with the fact that he had been almost insanely jealous of his wife for more than a year prior to the event, present the picture of a man in exactly the proper frame of mind to act as the accused alleges he did act on the day in question.

(2) It is undisputed that the wife, at the time the event occurred, was seated with her little child in her lap, endeavoring to put it to sleep; that in front of and about her were the instruments and material used in the spinning of hemp. These facts are undisputed. It would seem quite unlikely, if not unreasonable, that in such condition and under such circumstances she should seize a knife and stab her husband fatally in the abdomen, driving the knife through the muscles and walls into the stomach and producing such a frightful gash that the food passed from the stomach out of the wound made by the dagger. Incumbered, as she undisputably was, with the child and with the material and implements for the spinning of hemp, it approaches the unreasonable very closely to say that she could have done as she is alleged to have done in the dying declaration of the deceased.

(3) The wound in the abdomen of the deceased, as described by the physician who examined it, is precisely the wound that would naturally be made by a man stabbing himself as described by the accused. It is true that such a wound might have been made by the wife if she had stabbed him. It is more likely, however, that the wound would have presented a different aspect and would have taken a different course in the body if it had been made by the wife during a struggle or during the efforts of the husband to escape it.

(4) It appears undisputed from the evidence that the deceased had, by his jealous meditation, brought himself to the point where he had the firmest belief of her infidelity and therefore the greatest hatred of his wife's alleged paramour and an infinite dislike of their alleged relations. His regard for his wife had evidently changed into hatred, and he had stated, as disclosed by the proofs, that if it had not been for his children he would have left her long before. Having found, after he had delivered the fatal blow against himself, that his wife had not been killed by the knife thrust which he had given her, it is not at all unlikely that the hatred and odium which possessed him drove him to manufacture a story which, if believed, would forever prevent his wife and her paramour from again sustaining the relations which he believed they had sustained theretofore.

(5) Given the condition, mental and physical, in which the deceased is shown to have been at the time the alleged murder was committed, it would be a very possible act to murder his wife and then kill himself. That he attempted to kill his wife is beyond question and that he almost succeeded is equally beyond dispute. That he at first believed that he had given her a fatal blow is undoubted from all the evidence of the case.

(6) While it is true that the statement of the deceased, to which he thereafter consistently adhered, was made soon after the event occurred, it is also true that the accused gave her version of the affair but a very few minutes after the event, and as consistently maintained it thereafter. Immediately after receiving the wound in the breast she left the house and went to the house of the lieutenant of the barrio for the purpose of telling her story. Finding him out, she at once started for the presidencia, but was overcome by her condition before arriving there. The first statement she made is the story above transcribed, to which she consistently and persistently adhered throughout.

(7) Under the custom of the country, it is unusual for a woman of the character and habits of the accused to carry or have about her the kind of knife which was used in the commission of the alleged crime. On the other hand, such a knife is habitually carried by sailors, to which class of workmen the deceased belonged.

(8) Lastly, it seems to us somewhat unlikely that, having received the frightful wound that he did, which, as we have said, opened the walls of the abdomen and destroyed the stomach to such an extent that the food which the latter contained passed outside of the body between the lips of the wound, the deceased would be able, in spite of such wound, to grapple with an able-bodied woman and forcibly take from her hand a knife and then hold her while he inflicted upon her two serious wounds, one almost fatal. It would appear that, naturally, such a terrible wound would produce such an effect upon the recipient that he would be entirely unable to put forth the strength required to accomplish such a result, especially in view of the great effort which the woman would make to prevent him, she well knowing that in all probability the loss of the knife meant the loss of her life.

These considerations lead us to the belief that there is at least a reasonable doubt of the guilt of the accused, and she is accordingly acquitted.

The judgment of the court below is reversed, the accused acquitted and her discharge from custody ordered forthwith.

Arellano, C. J., Mapa, Carson, and Trent, JJ., concur.

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