

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ADRIANA DE LOS SANTOS, DEFENDANT AND APPELLANT.

G.R. No. 6947. February 16, 1913

Ponente: TRENT, J.

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TRENT, J.:

This case is before us en consulta from a death penalty imposed upon Adriana de los Santos for the murder of her husband.

Agustin Ignacio lived in the barrio of San Roque, municipality of Zamboanga, with his wife, Adriana de los Santos (the defendant in this case) and their live children, aged (about) 17, 14, 7, 6, and 4 years, respectively, the first three being girls and the last two boys. On Sunday night, March 27, 1910, after the family had retired for the night, Ignacio was attacked and fatally wounded with a bolo. After receiving the wounds which caused his death he managed to make his way downstairs and out on the road, where he fell, never to rise again. The justice of the peace arrived about 8 o'clock on Monday morning, March 28. In the meantime the body of the deceased had lain in the street where death had overtaken him and had not been disturbed by anyone. The justice of the peace, on his arrival, conducted an informal investigation at the spot where the body of the deceased was lying and then ordered that the body be taken into the house and washed preparatory to burial. Two days later, on March 30, 1910, a formal preliminary investigation was commenced by the justice of the peace and was concluded on April 6. As a result of this investigation Adriana de los Santos was released from custody. On April 28 and 29 the provincial fiscal also conducted an investigation of this crime, following which Vicente Bonifacio was arrested and charged with committing the crime. The charges against Bonifacio were dismissed on December 9 on motion of the fiscal. On August 10 of the same year a criminal complaint was filed by Marcos Bernardo again accusing Adriana de los Santos of the murder of her husband. By virtue of this complaint Adriana was again arrested and on August 11 another preliminary investigation was held in which the two daughters of the deceased testified. The trial in the court below was held the last of November, 1910, and sentence rendered December 12, 1910, some eight or nine months after the crime was committed.

The principal witnesses, and whose testimony will be considered in this opinion, are as follows: Adriana de los Santos, wife of the deceased; Apolonia (aged 17) and Maria del Carmen (aged 14), daughters of the deceased and Adriana de los Santos; Marcos Bernardo and his wife, Tomasa Iturralde, father and mother of the deceased; Vicente Bonifacio and his wife, Justa Bernardo, the latter being a daughter of Marcos Bernardo and Tomasa Iturralde, and sister of the deceased; Eradio Macoto Cruz and his wife, Marciana de los Santos, niece of the deceased; Alfonso Hipolito, whose wife was an aunt of the defendant, Adriana de los Santos. Marcos Bernardo, Vicente Bonifacio, and Eradio Macoto Cruz and their wives lived together in a house about half an hour's walk from the house of the deceased. Alfonso Hipolito lived about 200 meters from the house of the deceased.

At the informal investigation held by the justice of the peace immediately after his arrival at the scene of the murder, four witnesses were examined. None of these witnesses, however, were sworn at the time. Apolonia Ignacio testified first that she was awakened by the sound of her mother and father fighting. Then she stated that

about 2 o'clock on the morning of the 28th her mother woke her and after showing her a wound on her arm which she stated her husband had inflicted with a penknife, she seized a bolo and attacked her sleeping husband with it. After he had been wounded her father made his way downstairs and out into the street, where he died. Witness stated that she left the house after seeing her mother attack her father and went to the house of her uncle, Alfonso Hipolito, and told him what had occurred. She stated that the first persons to reach the scene of the crime were Tomasa Iturralde and Alfonso Hipolito; and that when they arrived her father was still alive. She further testified that previous to that night her father and mother had not quarreled, and that neither was intoxicated. Maria, the next eldest daughter, testified that she had not seen her mother attack her father, as she had descended to the lower part of the house with her little brother, who had wakened her by his cries; that when she left the upper part of the house her father was still sleeping, and her mother was seated close to him; that she saw her father descend from the house and walk to the spot where he died in front of the house; that the attack on her father occurred about 12 o'clock that night. She did not know whether her father and mother had been quarreling or not. Alfonso Hipolito testified that Apolonia came to his house about 1 o'clock on Monday morning telling him that her father was wounded, and asking for help; that he went immediately to the house of the deceased, and found Ignacio lying in the street in front of his house wounded; that when he arrived he found the family of the deceased there, and Tomasa Iturralde and Marcos Bernardo; that when he arrived Ignacio was no longer able to talk; that his house was about 200 meters distant from the house of the deceased; that he did not know who had inflicted the wounds. Tomasa Iturralde testified that about 12 o'clock on Sunday night Adriana de los Santos, accompanied by her daughter Apolonia, came to her house and informed her that a misfortune had occurred at her house; that she and her husband immediately accompanied the two back to the house of the deceased, and on arriving in front of the house they found Ignacio lying in the street wounded; that when she came up to Ignacio he asked her to bless him as he was going to die; that she asked him who had wounded him, but that he was not able to reply; that about an hour later he died; that she asked Adriana who had wounded him and she replied that several hours previously the deceased had attacked her with a penknife; so that night when she saw her husband was asleep she took a bolo and attacked him; that she made this statement in the presence of Marcos Bernardo and Alfonso Hipolito. The justice of the peace thereupon ordered the arrest of Adriana de los Santos.

The first witness called at the formal investigation conducted by the justice of the peace, which commenced two days later, was the defendant, Adriana de los Santos. She testified that she was 35 years of age. According to her testimony at this time she was sleeping with her husband on the night in question when she was awakened by a noise and looking up saw Vicente Bonifacio striking her husband with a bolo. On seeing this she sprang up and threw her arms around Bonifacio to prevent him from doing her husband further injury, and endeavored to persuade him to leave the house. She then called for help and her two daughters, Apolonia and Maria, were awakened by her cries. At this moment Vicente escaped from the house and ran away. She and her eldest daughter Apolonia then started to go to Tomasa Iturralde for help; that she told Tomasa that her husband had been badly wounded, but did not say by whom; that Tomasa then asked Alfonso Hipolito for help, after which Tomasa and her husband immediately accompanied her back to her home. On the way no further conversation was had. On reaching the scene of the murder the mother of the deceased, Tomasa Iturralde, asked her who had wounded Ignacio. As she had had illicit relations with Vicente Bonifacio for more than a year and wished to avoid the disgrace of having to confess this fact in the presence of her relatives, she replied that she had wounded the deceased; that she told the justice of the peace the same thing that morning and for the same reason. A bolo was produced which she identified as belonging to her husband, and stated that on the night of the murder it was on the lintel of the door and that it was the one Bonifacio had used in making his attack upon the deceased. She stated that the reason her daughters had testified on the morning after the crime that she had killed her husband was that she had instructed them to so testify, as she wished to conceal the fact of her illicit relations with Bonifacio. Upon conclusion of this declaration, Bonifacio was ordered arrested and was immediately

apprehended.

Vicente Bonifacio testified that he was 30 years of age. According to his testimony, about 1 o'clock that night while he was asleep in the house where he lived with his wife and Eradio Macoto Cruz and his wife, Marcos Bernardo and Martin Enriquez came there and awakened him, asking him to go with them to the house of his brother-in-law, the deceased, who, they stated, had been wounded by his wife. Accompanied by Justa Bernardo (his wife) and Eradio Macoto Cruz, they went to the house of the deceased and found him lying in the street. He stated that he had been in his house from 6 o'clock the preceding evening until he was awakened by Marcos Bernardo. Also, he stated that while he sometimes visited at the house of the deceased he had not been there for two months on account of having to attend to his work.

Apolonia Ignacio stated that she was awakened by her mother's cries on that night, and coming out of the room where she had been sleeping saw her father in the outer room wounded; that she did not see who wounded her father; that she and her mother went to the house of Alfonso Hipolito to ask for help, and that when she returned her father was down out of the house; that her mother told her to say it was she who had wounded her husband if anyone asked any questions, and that was why she testified as she did the morning after the crime. This declaration was made on March 30.

Eradio Macoto Cruz testified as follows:

"On Sunday night I was in my house. I did not leave it until 5 o'clock Monday morning, when I went to the house of Agustin Ignacio in company with Vicente Bonifacio, Justa Bernardo, and Marciana de los Santos, my wife, because we were summoned by Maxima Ignacio, who told us that her brother Agustin Ignacio had died. When we arrived there we found Agustin Ignacio dead in the street. I know that the deceased, Agustin Ignacio, was killed because his own wife struck him several blows which caused his death. I know it because his own wife, Adriana de los Santos, told us that she was the one who killed her husband. No other person summoned us except Maxima Ignacio at 5 o'clock on the morning of Monday. I knew about the occurrence from the hour in which we were summoned by Maxima. I live in my house with my wife, Tomasa Iturralde, Marcos Bernardo, Vicente Bonifacio, and Justa Bernardo. Vicente Bonifacio did not leave my house during the night until 5 o'clock in the morning, when he left in company with me and my wife to go to the house of Agustin Ignacio. I slept from 9 o'clock at night until 5 o'clock in the morning. The truth is, I do not know whether Vicente Bonifacio left my house or not during the night. When Maxima arrived at our house to summon us, my wife, Vicente Bonifacio, and Justa Bernardo were there. Marcos Bernardo and Tomasa Iturralde had gone to the house of the deceased, Agustin Ignacio, at 12 o'clock that night because they were summoned by Adriana de los Santos, who said that the misfortune had occurred at her house. I heard Adriana, de los Santos say to Tomasa Iturralde and Marcos Bernardo that a misfortune had occurred at her house. The truth is, that I knew about this matter at 12 o'clock that night and what I stated before was not true."

Marcos Bernardo testified that on the Sunday night preceding the murder he was in his house from 6 o'clock in the evening; that at 8 o'clock he went to sleep and was awakened by Adriana, who told him that a misfortune had occurred in her house; that he and his wife accompanied her home and on arriving there found Ignacio in the street in front of the house wounded; that he asked Ignacio who had wounded him, and the latter replied that it was Bonifacio. Witness's wife Tomasa was present at the time. Witness, on being informed that Bonifacio had wounded the deceased, went to tell the justice of the peace. On his return he found that Ignacio had died. He stated that he, his wife, Eradio Macoto Cruz, Marciana de los Santos, Vicente Bonifacio, and Justa Bernardo lived together; that about 9 o'clock on Sunday night, Bonifacio left the house and did not return; that Bonifacio was not there when Adriana called them; that he first saw Bonifacio after the murder at 8 o'clock on Monday at the house of the deceased; that Eradio saw Bonifacio depart from the house on Sunday evening.

Justa Bernardo, wife of Vicente Bonifacio, testified that she lived in the house of Eradio Macoto Cruz with her

father, mother, and husband, and Marciana de los Santos; that she was awakened about 12 o'clock Sunday night by Adriana, who called to her father Marcos Bernardo, saying that a misfortune had occurred in her house; that her father and mother left the house in company with Adriana; that when Adriana arrived at their house Bonifacio was not there, he having left about 9 o'clock the previous evening. She stated that she first saw Bonifacio about 5 o'clock on Monday morning in the house of Adriana; and that Eradio Macoto Cruz saw Bonifacio leave the house on Sunday evening.

Tomasa Iturralde, 42 years of age, testified that about midnight Adfiana came to their house and called her, saying that there had been a misfortune in her house, and she immediately left with her husband to accompany Adriana back to her house. On arriving at Adriana's house she saw her son Agustin lying wounded in the street near the house; that he asked her to kiss his hand, as he was going to die; that she blessed him and then asked him who had wounded him and he replied that it was Bonifacio; that he then told her husband Bernardo the same thing; that after saying these words Ignacio lost the power of speech and two hours later at what she thinks was about 2 o'clock he died; that she lived in a house with her husband, Eradio Macoto Cruz, Marciana de los Santos, Vicente Bonifacio, and Justa Bernardo; that on arriving at the house of Adriana the latter told her that Bonifacio had killed the deceased; that the daughters of Adriana also told her the same thing; that at the informal investigation held early in the morning after the crime she was so agitated that she did not know what she said then to the justice of the peace. She stated that Bonifacio was not in the house when Adriana called them, he having left about 9 o'clock the previous evening, and not returned.

Apolonia Ignacio was again placed on the stand and testified that about midnight she was awakened and coming out of the room where she had been sleeping she saw Vicente Bonifacio attacking her father with a bolo and saw her mother embrace Ignacio; on seeing this she left the house and went to the house of Tomasa Iturralde, her mother following her; that when she left the house Bonifacio and her father were both still upstairs, but that when she returned her father was lying in the street; that she testified differently in the first investigation because her mother told her to, but that the truth of the matter was that she herself saw Bonifacio attacking her father with a bolo; that her sister Maria del Carmen also saw Bonifacio making the assault on her father.

Maria del Carmen Ignacio, the second daughter of the deceased, testified that about 9 o'clock on Sunday night while she and her little brother were seated on a bench in the house Bonifacio came in. Her father was then asleep and her mother was seated close beside him. Bonifacio seated himself and after a little time arose and taking her father's bolo from its place above the door unsheathed it and attacked her father with it. On seeing this she ran from the house, crying for help. As she was going downstairs her sister Apolonia awoke and also saw what occurred to her father. Her mother saw Bonifacio make the attack on her father with the bolo, but she and Bonifacio had no conversation. She stated that her mother had instructed her to testify differently in the first investigation.

Justa Bernardo, recalled, testified that it was about 5 o'clock in the morning when they started for the house of Adriana; that the party consisted of herself, Marciana de los Santos, and Eradio Macoto Cruz; that Bonifacio was not there when they started. She here identified a pair of blood-stained trousers as belonging to her husband, and stated that she found these trousers on a bench in their house on April 1; that she did not return to her house until April 1, and that she saw these trousers immediately on her return; that on leaving the house that evening Bonifacio wore the same trousers which were before the court; that on arriving at the house of Adriana, Bonifacio was already there; that he then wore the same trousers; that upon her arrival at the house of Adriana, Bonifacio started to return to their house; that she noted the stains on the trousers of Bonifacio when she saw him early that morning in Adriana's house; that these stains were not there Sunday evening when he left the house. This declaration was made on April 2, 1910.

On the 5th of April Adriana de los Santos was recalled and testified that after Vicente had left the house, her daughter Apolonia left, and after her she (witness) followed, with the object of going for help, and went in the direction of Tomasa's house; that she went by the road that led to that house, but thinking that Bonifacio would also take that road she went instead to the house of Alfonso Hipolito and met Tomasa and her husband in front of that house; that she asked them to come with her immediately, as her husband was badly wounded; that on arrival at her house, Tomasa asked her who had wounded Ignacio and with the object of avoiding further disgrace because her relatives were present she stated that it was she; that she told the justice of the peace when he arrived that morning that she had killed her husband because she was afraid that there would be another misfortune.

On April 6 Marciana de los Santos was called to the stand. She testified that while she was in her house on Sunday night Adriana came there; that she heard Adriana tell Tomasa that there had been a misfortune in her house and ask for aid; that while this conversation was going on Adriana was below in the street and Tomasa was in the house; that she heard Adriana tell Tomasa that Ignacio was badly wounded, but that she did not say by whom; that Tomasa and Marcos Bernardo accompanied Adriana to her house; that she saw Adriana alone in the street; that there lived in her house her husband (Eradio Macoto Cruz), Tomasa Iturralde, and Justa Bernardo; that she went to the scene of the crime for the purpose of seeing her uncle; that she found her uncle dead in the street in front of the house; that she knew who had committed the crime because Adriana told her that it was Bonifacio; that Adriana told her this on the moment of her arrival at the latter's house; that she remained in the house of Adriana from 5 o'clock that morning until 9 o'clock at night, Tuesday; that during this time she held no further conversation with Adriana. She here identified the blood-stained trousers as those Bonifacio wore when he left the house on Sunday evening.

Tomasa Iturralde, recalled, testified that she was in her house when Adriana called on her for help; that Adriana merely told her there had been a misfortune in her house; that she and her husband immediately left with Adriana; that they held no further conversation until they arrived at Adriana's house; that upon their arrival there she asked Adriana who had wounded Ignacio and Adriana replied that it was Bonifacio; that that was all Adriana told her; that no one was present when Adriana told her that Bonifacio had wounded Ignacio.

Justa Bernardo, recalled, again said she stayed in Adriana's house from Monday morning at 5 o'clock until noon of Tuesday; that during that time she had had no conversation with Adriana de los Santos.

Marcos Bernardo, recalled, testified that he was in his house when Adriana came asking for help; that she merely told them there had been a misfortune at her house; that no further conversation was held until they reached the scene of the crime; that it was about half an hour's walk from his house to Adriana's house; that on arriving at the latter place he and his wife asked Adriana who had wounded Ignacio and she replied that it was Bonifacio, that he had no further conversation with Adriana. The justice of the peace thereupon ordered the release of Adriana de los Santos. This was on April 6, 1910.

In the investigation conducted by the justice of the peace on August 11, Apolonia Ignacio testified that about 12 o'clock on the night of the murder she was awakened by hearing her mother crying; that her mother ordered her and her sister to go downstairs, telling them that if they did not go she would kill them; that at that time their mother had a bolo in her hands; that after getting downstairs she heard her mother striking her father with a bolo, but did not hear anyone talking upstairs or hear her father cry out at all; that she then saw her mother come downstairs followed by her father, who was bleeding profusely; that her father got as far as the road where he fell down without saying a word; that her mother then took her to the house of Tomasa Iturralde to ask for help; that on returning to their house with Tomasa Iturralde and Marcos Bernardo, Tomasa approached Ignacio and the latter asked her to bless him as he was going to die; that these were the only words which the deceased spoke; that Marcos Bernardo did not go near or speak to the deceased, but on arriving at the scene of the crime and seeing

Ignacio lying there wounded he went immediately to the house of Alfonso Hipolito for assistance; that the reason she had stated before that Vicente Bonifacio assaulted her father was that her mother and one Jacinto Marquez, a sergeant of the municipal police force, had induced her to do so by threats; that Marquez had threatened her in the court of the justice of the peace in moments when that official was downstairs.

Maria del Carmen Ignacio, the second daughter of the deceased, then testified. She stated that she and her sister were awakened by their mother crying; that their mother then ordered them to go downstairs; that she replied that she did not wish to do so, whereupon her mother told them if they did not go downstairs she would kill them; that as they were going downstairs their mother seized a bolo and very soon afterwards she heard the sound of blows. Then she saw her mother come downstairs carrying the bolo and her father followed her as far as the road, where he fell down and her mother and Apolonia went in the direction of her grandmother's house for help; that she testified previously that Bonifacio had killed her father through fear of her mother and Jacinto Marquez. Upon the conclusion of this declaration Adriana de los Santos was remanded for trial before the Court of First Instance.

In the Court of First Instance Maria del Carmen testified that she was sleeping beside her father and mother when her mother awakened her saying, "I am going to die;" that her mother ordered her to get a buyo box, which she did; that she then went into the room where her sister was sleeping and awakened her, after which the two went down stairs; that there was a lamp burning in the room; that her mother did not have a bolo in her hands when she (witness) went downstairs; that she could see her mother from underneath the house striking her father with a bolo, because the cracks in the floor were large. Witness was very positive on this point. She stated that her father said nothing; that after the attack her mother came downstairs followed by her father; that she noted the expression on her mother's face, although she was 5 meters distant; that her mother appeared to be angry; that her mother had a bolo in her hands as she came downstairs; that after her father fell in the road her mother and sister went to Tomasa's house for help; that her mother took the bolo with her; that when Tomasa arrived Ignacio asked her to bless him, but could not reply when she asked him who had wounded him. She was unable to state, even with reasonable accuracy, who was present when her father died, at one time saying Vicente Bonifacio and Justa Bernardo were there. She stated that Bonifacio, Justa Bernardo, Marciana de los Santos, and Maxima Ignacio arrived at 5 o'clock Monday morning; that Bonifacio's trousers were stained with the blood of the deceased while he was helping to carry the body into the house; that Bonifacio carried the head, Eligio the body, and Juan the feet; that blood was dripping from the head; that Bonifacio sent his wife to their home to get some clean clothes and that he changed his clothes in her house and delivered the soiled ones to Jacinto Marquez in her presence. She denied having told the fiscal during the investigation which the latter made that Bonifacio had killed her father, but the fiscal testified that she had told him this. She stated that she had been influenced to testify before the justice of the peace that Bonifacio had killed her father by Jacinto Marquez, but was unable to say whether he had talked with her before or after she had testified in the court of the justice of the peace. She stated that Jacinto threatened her with six months imprisonment in the jail; that he told her what to say and made these threats in the court room of the justice of the peace while she, her sister, and he were seated on a bench; and that Tomasa Iturralde and Justa Bernardo were in the room at the time. She also stated that she forgot to tell the fiscal during his investigation that Marquez had influenced her testimony before the justice of the peace. She further stated that she and her sister had remained under the house for two hours while her father was being attacked by her mother upstairs. Then she stated that her father had told Tomasa on her arrival that Adriana had wounded him.

Apolonia, the eldest daughter of the deceased, was the next witness to testify. She first told the court that she was 14 years of age, but after further questioning stated that she was 17 years of age. She testified that on the night in question she was sleeping with two of the small children in a room which was separated from the room where her father and mother and sister Maria were sleeping by a partition which did not reach to the ceiling; that she was awakened by the weeping of her mother; that her mother was making considerable noise; that her mother had a

bolo in her hands; that she was seated within half a meter of her father; that her mother told them, "Go downstairs because I am going to run amuck;" that when they went downstairs her father was still asleep; that she could see her mother attacking her father through the cracks in the floor; that there were many cracks in the floor from 1[1/3] to 2 inches wide; that her mother was standing up then; that she saw her father get up and try to defend himself; that he cried out, "Ay, Adriana, what are you doing to me? Are you pouring hot water on me?;" that her mother descended first and then her father; that their mother then took her and went to the house of Tomasa for help; that her mother carried the bolo she had used to the house of Tomasa; that her mother simply told Tomasa that there had been a misfortune at her house; that she did not tell them anything more; that while she was telling Tomasa this, Bonifacio, Marciana, and Eradio appeared at the door; that Bonifacio closed the door as her grandparents left the house; that as they were returning to the house of the deceased Tomasa took the bolo from Adriana and asked her who had wounded Ignacio, and that her mother said it was she; that on arriving at where her father was lying the latter said nothing except to ask Tomasa to bless him; that after her father had died she and her grandfather Marcos Bernardo went to tell Hipolito (Hipolito says in both his declarations that the victim was still alive when he arrived); that Bonifacio arrived the next morning at 5 o'clock; that while she was testifying before the justice of the peace, Bonifacio and two others carried the body upstairs; that the body was placed on a petate; that blood was dripping from the head, which was the part Bonifacio carried; that after they had carried the body upstairs she noted that Bonifacio's trousers were stained with blood; that while the body was being carried upstairs she was making her declaration before the justice of the peace; that she was still testifying when Vicente came downstairs; that she did not notice whether his shirt was stained or not, that Bonifacio did not change his clothes in their house. She stated that on Sunday evening from supper time until bedtime her parents had passed the time pleasantly together as usual; that her parents always got along well together; that she could not remember of ever having heard them quarrel. She first denied that she had told the fiscal during his investigation about two weeks after the murder how her father had died, but admitting one thing after another she finally stated that she had told him Vicente Bonifacio had killed her father, but that it was due to the threats of her mother and Marquez; that Marquez had threatened her on Wednesday, March 30; that this was in the court room of the justice of the peace during the absence of the justice; that no one was present at the time but herself, her mother, and Jacinto. Previously she stated positively that no one but her mother had influenced her testimony before the justice of the peace. She first insisted that the last time she had talked with her mother was when the latter told her that if anyone asked her who had killed her father to say that it was her mother who had done it. She denied absolutely having talked with her mother subsequent to that time. Finally she admitted that while she and her mother were living with her aunt for several weeks she had talked with her mother. She stated that she did not understand what was in the declaration which she signed before the justice of the peace, because he talked to her in the Spanish language; but the justice says he talked in the native dialect.

Tomasa Iturralde testified that it was about 12 o'clock when Adriana came to their house telling them that there had been a misfortune at her house; that she did not inquire what was wrong; that Adriana then carried a bolo; that she and her husband went with Adriana; that when they reached the place where the victim was lying, she embraced him and at his request blessed him; that the victim was not able to say anything more; that after he had died she asked Adriana who had killed him, and Adriana replied that she had done it while he was asleep; that Bonifacio was in the house when Adriana called her and her husband; that he was asleep at the time, but that she awakened him before leaving and told him not to leave the house on account of the children; that he remained and did not come to the house of the deceased until the next morning at about 5 o'clock; that the body of the deceased was placed on a petate and carried into the house, Vicente carrying the shoulders, Eligio the middle, and Juan the feet; that there was much blood coming from the wounds at the time; that the reason she had testified differently before the justice of the peace was that her daughter-in-law Adriana and Jacinto Marquez had threatened her with six years' imprisonment in Bilibid if she did not follow the story of Adriana; that her deceased son and his wife

had always lived together in peace because her son was a good worker.

Marcos Bernardo testified that when they reached the house of the victim he was still alive, but had lost the power of speech; that Tomasa, his wife, asked Adriana who had wounded Ignacio, and she replied, "I, myself;" that Bonifacio was at home all of the night of the murder; that he testified falsely before the justice of the peace because Marquez threatened him with six years' imprisonment if he did not do so; that Marquez was interested in the case because he wished to obtain the two daughters of Adriana de los Santos.

Justa Bernardo testified that her father and mother awakened her on Sunday night saying that they were going to the house of Ignacio because there had been a misfortune there; that she, her husband Bonifacio, Marciana de los Santos, Eradio Macoto Cruz, and Maxima ignacio went to the house of the deceased about 5 o'clock in the morning; that Bonifacio was in the house all night; that on arriving at the house she asked her mother (Tomasa) who had assaulted her brother and her mother replied that it was Adriana; that she testified falsely before the justice of the peace because she was excited and because Marquez forced her to. Recalled, she stated that the blood-stained trousers exhibited belonged to her husband; that the stains were from the blood dripping from the body as Bonifacio was assisting in carrying it into the house,

Eradio Macoto Cruz testified that he arrived at the house of the deceased at 5 o'clock in the morning, in company with his wife, Bonifacio and his wife, and Maxima (Ignacio); that he heard Maxima ask Adriana who had killed Ignacio and Adriana replied that it was she; that Bonifacio had remained in the house all of Sunday night,

Marciana de los Santos testified that Bonifacio was at home all that night; that her grandmother awoke her and the rest because they were going to accompany Adriana de los Santos; that Adriana arrived at 12 o'clock and called Tomasa and Marcos, saying "Inay, Tay! Come with me because there has been a misfortune in my house;" that Adriana did not say what kind of a misfortune had occurred; that at 5 o'clock the next morning Bonifacio went with her and the rest of the inmates of that house to the scene of the crime; that she heard her mother Maxima ask Adriana who had killed Ignacio and Adriana replied that she had done it while he was asleep; that Jacinto Marquez caused her to swear falsely before the justice of the peace by threatening her with imprisonment for six years.

Edilberto Enriquez testified that in the months of July and August, 1910, he was a clerk in the office of the provincial fiscal and overheard Adriana de los Santos tell the fiscal that she had had illicit relations with Bonifacio for more than a year; that her youngest child was Bonifacio's; and that three days before the death of, her husband she and Bonifacio held a conversation in which the latter told her that if she did not have a husband he, Bonifacio, would leave his wife and live with her.

Julian Garcia, the justice of the peace who conducted the preliminary investigations, was called as a witness, first by the prosecution, then by the defense, and finally by the court. So his testimony may as well be considered altogether. This witness stated' that during the night he was awakened by one Marcos Climaco Bernardo and another, who told him that there was a man wounded in the sitio of Oac (referring to the deceased). He did not go at once to the scene of the crime, as he did not understand that the wounds were serious. He arrived at the scene of the crime the next morning at about 8 o'clock. There were some eight or ten persons present. Upon his" arrival he addressed these persons generally, asking who had killed the deceased. Adriana de los Santos replied, saying that she had done it, giving as her reason that during the night she and her husband had a quarrel during which he had threatened to kill her; so she waited until he was asleep and then attacked him with the bolo. The justice of the peace stated that she spoke these words in a somewhat low voice and with some emotion; and that she appeared to have been crying. He stated that the body appeared to be rigid, the wounds appeared to be fresh and somewhat moist, and the blood had apparently coagulated. He remained on the scene about an hour and ordered the body

taken in to the house just as he was leaving, but did not see this done. He stated that he had not observed the clothing of the accused nor did he notice that the relatives of the family regarded her with aversion. She appeared to be a very ignorant person. He could not say whether Bonifacio was there at the time or not; but stated that he had not seen him. After the presentation of this witness the prosecution rested.

Jacinto Marquez, called by the defense, denied having used threats against any of the witnesses for the prosecution. He stated that the justice of the peace had asked him to make an investigation of the case, as it appeared to him that everything was not well. Taken as a whole, the testimony of this witness is far from satisfactory. He claimed to have arrested Bonifacio and to have been the one who found the blood-stained trousers in Bonifacio's house; he accompanied the fiscal to the scene of the murder and was present at that investigation. Notwithstanding all this he was ignorant of names, not being able to recall even the name of Bonifacio, although he later admitted that he knew some of the witnesses for the prosecution. He heard Adriana state immediately after being taken to the jail that she had killed her husband; he took her to a lawyer at her request; the whole family had dinner at his house one day during the first investigation by the justice of the peace, during which Adriana told him privately that Bonifacio had killed her husband. Yet he professed to know very little about the progress or details of the case. The justice of the peace stated that he had seen him in the court room occasionally during the progress of the investigation, which was nothing out of the ordinary, and that he had not noted that Marquez displayed any unusual interest in the case; and that he had not asked Marquez to help him investigate the case. While we do not believe there is any trustworthy evidence in the record showing that this witness exerted himself at any time to induce the witnesses for the prosecution to implicate Bonifacio, we must conclude that this man, although an officer of the municipal police force, was at least suppressing if not subverting what he knew to be the real facts of the case.

Miguel Luculan, clerk, testified that in March, 1910, he was chief of police; that on the arrest of Adriana de los Santos the morning after the murder the justice of the peace informed him that she had committed the crime of parricide; that that evening a health inspector came to the jail and stated that the wounds on the body of the deceased were too serious to have been inflicted by a woman, and that he had been sent there to investigate by the health officer. (It may here be stated that there appears in the record a report made by Major Clayton, United States Army, at that time health officer of Zamboanga, in which the wounds on the body—seventeen in number—are described.) This witness further stated that after the health inspector had talked with Adriana the latter said he was of the opinion that her statement that she had killed her husband was not true; that he (witness) then went and talked with her; that she then told him that the guilty person was Bonifacio; that he made a note of this name and told the justice of the peace about it the next day; that Jacinto Marquez accompanied the fiscal and himself to the scene of the crime at the time the fiscal made his investigation; that at that time Adriana and her two daughters showed exactly how the crime had occurred, stating that Bonifacio had committed it; that he did not notice Marquez making threats or promises to the witnesses; that Marquez accompanied the fiscal and him back to Zamboanga. Marquez testified that Adriana had informed him in the police station the morning after her arrest that she had killed her husband. But this witness stated that he never saw Marquez talking to the defendant while she was in jail at that time.

Mr. Gibbons, assistant prosecuting attorney, who conducted the investigations of that office, testified that on April 28 he conducted an investigation in his office, and that it not being satisfactory he requested permission from his superior to go to the scene of the murder to make an investigation on the ground; that the following day, accompanied by Jacinto Marquez, a secret service man, and the chief of police, he went to the house of the deceased and held an investigation there; that by arrangement, the principal witnesses for the prosecution were there at that time; that the investigation was conducted upstairs and that the witnesses were called up one by one and testified in the presence of himself and his two assistants, no other persons being in the room; that at that time

the defendant testified that she was sleeping on the floor with her husband when she was awakened by cries and saw Vicente Bonifacio striking her husband with a bolo; that her husband arose and fell in another place, Bonifacio all the time striking him with the bolo; that she tried to save her husband and then caught Bonifacio by the arms, when the latter threw the bolo to the floor and ran out of the house; that she told him then that the reason she had stated to the justice on the morning after the murder that she had killed her husband was because she did not want everybody to know that she had had illicit relations with Bonifacio, especially in the presence of her relatives, and that she had instructed her daughters to tell the same story for the same reason. Witness testified that Apolonia and Maria stated the day previously in his office that Bonifacio was the perpetrator of the crime, and that in the investigation at the house they told the same story, and represented exactly how the crime had been committed; that they stated the reason they had once testified that it was their mother who was guilty of the crime was that she had instructed them to so testify; that they testified before him under oath; that Tomasa Iturralde testified that she did not know who had killed the deceased but that she had suspicions of who the perpetrator was; that she testified only on the question of where Bonifacio was on that night; that he asked her who was the guilty party and that according to his recollection she replied that she had heard no declaration of guilt but that she suspected it was Bonifacio. He stated that according to his recollection the house was new, less than a year old, and that the cracks in the floor were very narrow, and estimated their width at one-eighth of an inch. He stated that on July 10 he made another investigation, at which time he examined the same witnesses; that on that occasion the two daughters of the deceased testified positively that their mother had committed the crime; that he himself had requested Jacinto Marquez to accompany him on April 29 to the house of the deceased; that Marquez acted as his interpreter part of the time, the chief of police also assisting in this capacity; that he did not notice Marquez taking any unusual interest in the case.

Alfonso Hipolito, called by the court after both the prosecution and the defense had rested, testified that Apolonia and Marcos Bernardo came to his house about 12 o'clock that night, asking for help; that he went with them immediately; that when he arrived at the house he found there Tomasa Iturralde and Adriana de los Santos and her daughter Maria; that the deceased was then unable to talk; that he and Marcos Bernardo then went to inform the justice of the peace; that Apolonia did not tell him who had wounded her father when she came asking for help, and that he did not ask her; that he made no inquiries, as to who had committed the murder, and heard nothing at all about it.

As counterproof, the defense introduced the defendant, Adriana de los Santos. She stated that about four years previous to the murder, during a six months' absence of her husband from their home, Bonifacio commenced to have illicit intercourse with her; that her youngest son, 4 years of age, was Bonifacio's; that after her husband returned and until they moved into their new house about a year previous to the murder, these illicit relations had ceased; that after moving into this house she and Bonifacio had resumed their adulterous intimacy; that about two days before the murder, Bonifacio told her that if she did not have a husband he would leave his wife and live with her; that on the evening of the night preceding the night of the murder Bonifacio had come to the house and had carnal intercourse with her before Ignacio had returned from work; that when her husband came she told him about it and her husband ordered her not to permit Bonifacio to enter the house in his absence; that when Bonifacio came on the evening of the night of the murder she told him about this order; that Bonifacio became angry and said that since she and her husband had moved into their new house they had become very proud, and that he would come up anyway; that on leaving that night he stated he would return later to speak to her husband; that she asked him what he was going to say to her husband, but that he did not reply; that she was awakened by the sound of the attack Bonifacio was making on her husband; that she sprang up and commenced to struggle with Bonifacio for the possession of the bolo, during which struggle she received a cut on the arm (here showing the court a scar); that after she had succeeded in wresting the bolo from Bonifacio he left the house; that her daughters

saw him while he was attacking her husband; that she and her daughter Apolonia then started for the house of Tomasa for help; that she did not carry the bolo with her but left it in the house; that they met Tomasa and her husband on the road near the house of Alfonso Hipolito; that although this was such an unusual hour to be out, she thought nothing of it as Tomasa was a midwife; that she returned with Tomasa about half an hour after she had left her home; that on reaching her husband, Tomasa Iturralde asked him who had attacked him and he replied Bonifacio; that Marcos Bernardo and her two daughters were present and heard this statement of her husband; that Bonifacio returned shortly thereafter and told her that if she did not state that it was she who killed her husband he would kill her; that Bonifacio was not there when the justice of the peace came, but that she told the justice of the peace that she was the guilty person because his family were around her and because Eligio Ignacio was making inquiries and she did not wish him to attempt to revenge the death of her husband; that Justa Bernardo, Eradio Macoto Cruz, and Marciana de los Santos arrived at the house about 3 o'clock in the morning; that she had never told anyone before about the threats of Bonifacio; that when she testified before the fiscal she forgot to tell him about this.

The two children, aged 6 and 7, were also called by the defense, but their testimony cannot be considered because, as stated by the trial court, they had not yet arrived at the age of discernment and their testimony strongly indicated that they had been taught what to say.

Vicente Bonifacio was called as counterproof by the prosecution. He denied that he even knew what the occupation of the deceased had been. He stated that the first and only time he had ever been in the house of the deceased up to the time of the murder was on the morning¹ after the deceased had been killed. Later he was able to describe the house of the deceased generally, and the distance to the nearest neighbor's house. He stated that the body was carried into the house upon the conclusion of the testimony of the girl Apolonia; that it was not first placed on a petate; that he changed the blood-stained trousers in his own house. He stated that his testimony before the justice of the peace that he had occasionally visited the house of the deceased and that Marcos Bernardo and another had called him to go to the scene of the murder was false.

The foregoing rather extended review of the evidence in this case has been rendered necessary by the amazing contradictions in the testimony of the principal witnesses, to be found on practically every page of their testimony.

It will be noted from the foregoing that two general theories of the crime have been developed. One is that Adriana de los Santos waited until her husband was asleep and then attacked him with a bolo, inflicting the wounds which caused his death. The other is that Vicente Bonifacio left his home early on the night of the murder and entered the house of the deceased while the family was sleeping and assaulted the deceased. Both of these hypotheses are supported by testimony of record. Either, to the exclusion of the other, would doubtless be acceptable upon which to base a judgment of conviction.

That the two daughters of the deceased, his mother and father, his sister Justa, and his niece Marciana, knew to a certainty who was the perpetrator of the crime before any of their various declarations of record were taken, we have not the slightest doubt. We are of this opinion from the fact that the two daughters of the deceased were necessarily eyewitnesses of the crime, while the others arrived there within such a short time after its commission that they evidently obtained sufficient information of the crime and the motive therefor to expose the guilty person. If we can accept the joint declarations of these six witnesses that Jacinto Marquez, by threats of imprisonment, induced them to accuse Bonifacio of the murder, our task will be greatly simplified. In that case the more serious contradictions in the testimony of these witnesses will be explained away, and that fact established, will react upon the defendant as an added indication of her guilt. It is therefore necessary to first determine whether there is any merit in the charge that Jacinto Marquez intimidated these witnesses and compelled them, through fear of imprisonment, to accuse Bonifacio of the crime in the preliminary investigations

at which they testified to that effect.

A mere perusal of the testimony taken at the first formal investigation conducted by the justice of the peace, which commenced two days after the crime was committed, shows that every one of these witnesses contradicted the accused on a material point: that is, that Adriana found Tomasa and her husband in their house' when she went to ask their assistance, and not in front of the house of Hipolito as stated by Adriana. Not only this, but Tomasa Iturralde and Marcos Bernardo were recalled expressly to testify upon this point after the defendant had. stated that she found them in the road in front of Hipolito's house, and flatly contradicted this statement, insisting that Adriana found them in their own house, where they had been all night: and Marciana de los Santos, who did not testify at all until after the defendant had made the above statement, also declared that Adriana came to their house on the night in question and called Tomasa and Marcos Bernardo. The defendant stated in this investigation that she was awakened by hearing the noise of the assault which Bonifacio was making upon her husband. In the same investigation, Maria testified that Bonifacio came to the house after her father was asleep and while she was sitting on a bench and her mother was sitting near her sleeping husband; that Bonifacio seated himself and after a while deliberately took the bolo from its place on the wall and commenced attacking her father. In the same investigation Apolonia testified first that she did not see who wounded her father and later that she saw Bonifacio assaulting her father with the bolo. That these inconsistencies between the statements of the defendant and these witnesses are material cannot be questioned. Had these witnesses testified under the fear of imprisonment as claimed by them, it is incredible that they would have had the temerity to contradict the story of the accused upon such important points. Again, Marquez testified that he knew none of the witnesses for the prosecution prior to the date of the murder. This testimony is not disputed by them. These same witnesses testified that he threatened them in the courtroom of the justice of the peace while the trial was actually in progress, at odd moments when the justice was downstairs. When the investigation was suspended on March 31, all of these witnesses had testified accusing Bonifacio of the crime. As the investigation started the day before, this means that a total stranger, in the few moments at his disposal during these two days, when the justice was absent from the room, had succeeded in influencing these witnesses to tell a story which they knew to be absolutely untrue. And further that Marquez had the audacity to carry on this dangerous business under the nose of the justice. But we must go still further in order to accept the explanation of these witnesses as to why they accused Bonifacio as the murderer, for one month later they again testified, this time before the provincial fiscal, that Bonifacio was the guilty person. Could threats of imprisonment by a sergeant of municipal police have induced these witnesses, on two different occasions thirty days apart, to testify so at variance with what each and all of them knew to be the truth of the matter? Credulity itself would not accept such a story. That such a fear should effectually seal the lips of six witnesses, all of whom had the most perfect personal liberty, for a period of more than one month, during which time they saw the guilty party set free while an innocent man, by reason of their false declarations, was suffering unmerited imprisonment, and they, in the meantime, repeating under oath these same untrue statements, is not by any means within the bounds of ordinary human conduct.

Apolonia testified three times that her mother killed the deceased. The first time she started out by saying that she was awakened by the sound of her father and mother fighting. In the same breath she stated that her mother awoke her and after showing her a wound on her arm which she stated her husband had inflicted with a penknife, she seized a bolo and attacked her sleeping husband with it. She also stated that she went to the house of Alfonso Hipolito for help. Before the justice of the peace on August 11 she stated that she was awakened by hearing her mother crying, and that after the assault on her father her mother took her to the house of Tomasa Iturralde for help. In this same investigation she testified that she heard her mother attacking her father and that no one said anything or made any outcry during the assault. In the Court of First Instance she testified that she saw her mother attacking her father through the cracks in the floor (stating that there were many from 1 1/3 to 2 inches wide),

describing how her father got up and tried to defend himself; and that he cried out: "Ay, Adriana, what are you doing to me? Are you pouring hot water on me?" Maria del Carmen testified three times that her mother was the guilty person. She testified in the first investigation that her little brother awakened her by his cries. On August 11 she testified that it was her mother's crying that had awakened her. In this last investigation she further testified that she heard her mother attacking her father, while in the court below she stated she saw her mother attacking her father through the cracks in the floor, which were very large. On this latter occasion, under a lengthy cross-examination (as shown by the analysis of her testimony above) this witness was unable to maintain even a semblance of a plausible story. It further appears from the testimony of the assistant fiscal that the cracks in the floor of the house, instead of being from one and one-third to two inches wide as stated by Apolonia, or "very wide" as stated by Maria, were only about one-eighth of an inch wide, which would have rendered it difficult if not impossible to see from underneath the house what was going on upstairs, even though a light were in the room as stated by one of these witnesses. From this slight resume of the testimony of these two girls, which does not by any means enumerate all the discrepancies in their declarations, it is apparent that there is no foundation in fact for their claim that they were coerced into accusing Bonifacio of the crime, or that they were telling the truth when they implicated Adriana de los Santos, from the fact that they directly contradict the latter in the very investigation in which they claim they testified under duress, and from the further fact that their declarations at other times when they claimed to be telling the truth were not consistent with each other. If anything more be wanting, we have the statement of the justice of the peace and of the assistant fiscal to the effect that during the time they were conducting their investigations they observed nothing suspicious in the actions of Marquez. And furthermore, the trial court evidently did not believe the statement of these witnesses with regard to Marquez, since he sentenced each and every one of the witnesses who changed their statements to varying terms of imprisonment for perjury. For these reasons we reject as utterly absurd the allegation that these witnesses were induced to testify falsely by Jacinto Marquez. And as that is the sole explanation offered by them of their testimony wherein they accused Bonifacio, the inevitable conclusion is that all of these witnesses have committed perjury beyond the possibility of argument, either in their testimony which supports the hypothesis that Adriana de los Santos committed the crime, or when they testified, that Bonifacio was the guilty person. And in conformity with the rule that testimony of a perjured witness should not be accepted unless corroborated by other independent and reliable evidence, we must look to the other evidence of record to support a judgment of conviction.

As for Eradio Macoto Cruz, a perusal of his testimony before the justice of the peace shows that he was attempting to fabricate a plausible story favorable to Bonifacio.

There remains to be considered the testimony of Julian Garcia, the justice of the peace. The lower court accepted the testimony of this witness and practically bases his judgment of conviction upon the confession made to him by Adriana de los Santos the morning after the crime. We also are disposed to place entire confidence in the integrity of this witness. But the court erred in appraising the confession made to him on the morning after the murder.

If a confession be free and voluntary—the deliberate act of the accused with a full comprehension of its significance, there is no impediment to its admission as evidence, and it then becomes evidence of a high order; since it is supported by the presumption—a very strong one—that no person of normal mind will deliberately and knowingly confess himself to be the perpetrator of a crime, especially if it be a serious crime, unless prompted by truth and conscience.

Is there any evidence in the record before us tending to show that the confession of the accused was not voluntary? The testimony of the accused in subsequent proceedings certainly answers this question in the affirmative; but the trial court appraised this testimony as worthless, assigning as his reason for so doing that it was inconsistent with the said confession. This, we think, was clearly erroneous. To disregard her explanation of

the circumstances under which the confession was made because it repudiates the confession is to deny her the right of attempting to show that it was involuntary. Statements made during an involuntary confession are not on the same plane with statements made willfully and perversely, which, latter constitute perjury when made before a court under oath. They are, it is true, knowingly false, but not willfully so. An opportunity should not be denied the accused to disown a confession, to show that he was the mere mouthpiece of another person, or was actuated by an uncontrollable and overpowering emotion in speaking falsely. And such exculpatory statements are not to be considered as impeaching the accused, whereby the maxim, *falsus in uno, falsus in omnibus*, should be applied to his testimony. Such statements should primarily be considered as negating any presumption or any evidence tending to show that the confession was voluntary. If the declaration of the accused, together with any other evidence he may produce, that his confession was given involuntarily is not considered sufficient to establish the fact that it was so rendered, he stands convicted without resort to the maxim, provided, of course, the confession is corroborated by independent proof of the *corpus delicti*. But if the accused shows, that the confession was involuntary, as that term is used with reference to confessions, the confession cannot be considered as evidence of the guilt of the accused. His conviction must depend upon other evidence. Involuntary confessions are rejected by all courts—by some on the ground that a confession so obtained is unreliable; and by some on the grounds of humanitarian principles which abhor all forms of torture or unfairness toward the accused in criminal proceedings. But either theory arrives at the same goal. Such a confession is not legal evidence and must be rejected. If the accused satisfactorily shows that it was made involuntarily, the confession stands discredited in the eyes of the law and is as a thing which never existed. It was therefore error to reject the testimony of the accused in the present case because it was in conflict with her confession. The admissibility of that confession should have been first decided. If admissible as evidence, it is unnecessary to further consider the evidence of record, as it is virtually equivalent to a plea of guilty in open court. But if not admissible as evidence, the prosecution must rely on other evidence to sustain a conviction.

Owing to the fact that we have set aside as unreliable the testimony of practically all of the witnesses for the prosecution, the testimony of the accused in this case stands practically uncontradicted. This is due to the fact that no other witnesses than those already discredited were able to testify directly to any of the occurrences of that night, and to the further fact that there is so little circumstantial evidence available.

It is true that the bolo with which the deceased was killed was produced in evidence, and that it was shown to belong to the deceased. The defendant admitted that it was in the house on the night of the murder and that it was the instrument with which the wounds were inflicted on her husband. While this is evidence which would aid in convicting the accused, we cannot conclude that because the deceased was killed with his own bolo in his own house that his wife is guilty of the crime. To do this we would have to assert that beyond a reasonable doubt no other person could have availed himself of the bolo for the purpose of committing the crime. Were it shown that only the accused knew the location of this bolo or that no one else could have procured it for the purpose of killing the deceased, the principal fact would indeed be strongly indicative of the guilt of the accused. But obviously, these additional facts with regard to the bolo cannot be presumed.

There is one other piece of circumstantial evidence—the blood-stained trousers of Bonifacio. Bonifacio admitted that the blood on his trousers came from the body of the deceased. He explained this by saying that his trousers were stained while he was assisting in carrying the body to the house, stating that the blood was still dripping from the wounds on the head, which was the part of the body he carried. The justice of the peace testified that he arrived at the scene of the crime at 8 o'clock and did not leave until about 9 o'clock, when he ordered the body taken into the house and then left, before the order was carried out. He further stated that the body appeared to be rigid and that the blood appeared to be coagulated. According to the testimony of the accused the crime was committed about 12 o'clock at night and the deceased died some two hours later. It may be safely concluded that

the body was lying exposed to the air for several hours after death.

"Blood coagulates more slowly in the dead body than in a vessel into which it has been drawn.[1] The blood may remain fluid in a dead body from four to eight, and according to Donne, as long as twelve hours after death. (Cours de Microscopie, 52.) It rarely begins to coagulate until after the lapse of four hours; but if drawn from a blood vessel and exposed to the air, it would coagulate in a few minutes after its removal" (1 Smith's Taylor on Medical Jurisprudence, 439.)

The statement, therefore, that the blood was dripping from the wounds on the head at the time it was carried into the house does not ring true. In addition, we must take into consideration the unsatisfactory testimony of Bonifacio himself on other matters, and the palpable attempt of Eradio Macoto Cruz to account for Bonifacio's whereabouts on the night of the murder. Had the testimony of Bonifacio and his friend Cruz been more consistent, we might overlook the improbability of the former's statement that the blood was dripping from the head of the deceased so long after death occurred, and accept his explanation of those stains. But under the circumstances, we seriously doubt the truth of his statement that his trousers were stained at the time and in the manner he claims they were. Could Bonifacio's explanation of these blood-stained trousers be accepted as true, their triviality as evidence in this case would be apparent. But that explanation is not satisfying, and Bonifacio accounts for these stains in no other way. On the other hand, in the story of the defendant, an explanation is offered both reasonable and probable. If, as stated by the accused, Bonifacio wielded the bolo which caused the death of her husband, there is nothing inherently improbable, indeed it is inherently probable, that these stains on his clothing were made at that time. Blood-stains on the clothing of a suspected murderer have often been important links in the chain of evidence securing his conviction. (Wharton on Homicide, § 611.) Inferences drawn from circumstantial evidence should be fair and natural and not forced and artificial. (Com. vs. Webster, 5 Cush. (59 Mass.), 295.) Of the two theories set forth as to how the stains in question occurred, it seems patent that the latter is far more in conformity with the rule than the former. We are, of course, not considering the guilt of Bonifacio, except in a negative way. We would not be heard to say that these stained trousers are sufficient to convict him of the crime. But they certainly do serve to embark the question of the guilt of the defendant upon a sea of uncertainty and suspicion. Again, when it is considered that the discredited witnesses for the prosecution, in deliberately trying to serve the court with an account of the murder which would place the responsibility for the crime on Adriana de los Santos and completely exonerate Bonifacio, signally failed to render a consistent and passable story of the crime, and that these witnesses undoubtedly knew the real facts of the case, the question arises, Why did they fail to such an extent unless it be that to accomplish their purpose it was necessary to depart far afield from the truth, and that their inventive capacity was unable to cope with the difficulties they encountered in their undertaking?

From the foregoing observations, therefore, it is concluded: (1) That the witnesses for the prosecution have committed perjury, either in accusing Bonifacio of the crime, or in accusing Adriana de los Santos of it; (2) that Bonifacio and his friend Eradio Macoto Cruz were unable satisfactorily to account for the former's whereabouts on the night of the crime; (3) that Bonifacio's explanation of the blood-stains on his clothing is highly improbable; and (4) that the testimony of the perjured witnesses accusing Adriana de los Santos of the crime is sufficiently inconsistent and self-contradictory, taken altogether, to inspire grave suspicion as to its being the true version of the affair.

The testimony of the defendant in a criminal case is, generally speaking, subject to much the same rules and principles as that of any other witness. (U. S. vs. Bolar, 1 Phil. Rep., 243.) He is presumed to be innocent until his guilt is proven, and in determining his guilt, the whole evidence of record must be considered. His testimony, if true, is to be considered subject to the qualification that he is interested in the outcome of the trial, and is testifying in his own behalf, in determining his credibility; but that alone is no reason for disregarding it.

(Underhill on Crim. Ev., § 58.) There is nothing inherently improbable in the defendant's account of the crime. The murder of a husband by the paramour of his wife is a common, sordid tale, too frequently met with in the annals of criminal law. Homicide having as its cause conjugal infidelity is considered of sufficient importance and frequency by the textwriters to deserve special notice (1 Greenl. Ev., § 14 (o); Wharton on Homicide, § 598; 21 Cyc, 913), and the cases will be found digested in 10 Dec. Dig., "Homicide," §§ 166 (7) and 166 (8), and 26 Am. Dig., §§ 326 and 327. The defendant's account of this criminal intimacy in the court below, under a searching examination, is consistent in every way. It no time did Bonifacio or his relatives meet this charge of adulterous relations with the defendant with anything like adequate and convincing statements. Mere perfunctory denials on the part of the daughters of the deceased and Bonifacio that he had been at their home for a week or two prior to the murder is the only reffitation of the defendant's story in this respect. In the investigation held two days after the crime had been committed, we see them all apparently accepting the testimony of the defendant in this respect as true.

If it be said that she assigned as the reason for her selfinculpatory statements to the justice of the peace, first, that she wished to avoid the necessity of disclosing her illicit relations with Bonifacio, and, second, that Bonifacio had threatened her with death if she did not assume responsibility for the crime and also that she did not wish to expose Bonifacio as Eligio Ignacio was there making inquiries and she was afraid of further violence, it may be answered that all three of these reasons might have influenced her to make the confession. They are not necessarily inconsistent with each other. And that the reasons she assigned in the Court of First Instance for making this confession would be sufficient to compel her to accept responsibility for the crime a few hours after its commission, when surrounded only by the relatives of Bonifacio, can scarcely be doubted. Upon the question of whether a confession is voluntary, the age, character, and situation of the accused at the time it was made is an important consideration. Much depends upon the situation and surroundings of the accused. This is the position taken by the courts, whatever the theory of exclusion of incriminating statements may be. (Beckman vs. State, 100 Ala., 15; 14 So., 859; Com. vs. Sheets, 197 Pa., 69; 46 Atl., 753; United States vs. Cooper, Fed. Cas., No. 14864.) Much depends upon the intelligence of the accused or want of it. The defendant must realize the import of his act. (Cady vs. State, 44 Miss., 332.) In Biscoe vs. State (67 Md., 6; 8 Atl., 571), the court said (P. 7):

"It is not, of course, an easy matter to measure in all cases the force of the influence used or to decide as to its precise effect upon the mind of the prisoner; much, very much we may add, depends upon the age, the experience, the intelligence and character of the prisoner."

In the case at bar the defendant was a very ignorant woman. She had been surrounded by the relatives of the deceased for some hours before the arrival of the justice. This environment was, to "say the least, propitious for inducing the accused by threats to assume the responsibility.

The Attorney-General suggests that even if not the actual murderer of Ignacio, the defendant at least aided and abetted Bonifacio in committing it. There is no evidence whatever in the record before us of collusion between these two persons in the commission of the crime. As stated above, two theories have been developed: one that Bonifacio killed the deceased, and one that this defendant killed him. There is no foundation upon which to base a finding that this defendant was an accessory to the crime.

In conclusion, after a thorough review of the case, we do not have that "abiding conviction to a moral certainty of the truth of the charge * * * a certainty that convinces and directs the understanding and satisfies the reason and judgment of those who are bound to act conscientiously upon it."

The judgment of the trial court is therefore reversed, and the defendant ordered set at liberty forthwith. Costs de oficio.

Arellano, C. J., Mapa and Johnson, JJ. concur.

DISSENTING

TORRES, J.,

Notwithstanding the always estimable opinion of the majority of the court, still I hold to be fully proven in this case the fact of the treacherous killing of the unfortunate Agustin Ignacio and the guilt of his wife, Adriana de los Santos, at least as coprincipal of so horrible a crime, properly classified as parricide, committed at a time when the hapless husband was peacefully asleep in his own house.

Whether or not participation in said crime has been proven with respect to Vicente Bonifacio, against whom a separate prosecution was conducted, the evidence of the prosecution and other merits appearing in the present case clearly demonstrate the wife's criminal responsibility for adulterous relations with her said associate.

In view of the fact that there concurred in the commission of the crime the aggravating circumstance of treachery, and the special extenuating one established by article 11 of the Penal Code, amended by Act No. 2142, which offset each other, it is proper, as the Attorney-General requests, that the defendant be sentenced to the penalty of life imprisonment and the accessories of article 54 of the Penal Code, with the rest as set forth in the judgment under review which should be reversed with reference to the penalty of death imposed upon the accused.

Judgment reversed and defendant ordered set at liberty.

[1] During life or after death.

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