

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MACARIO DOMINGO ET AL., DEFENDANTS. CELESTINO RAMIREZ AND REGINA DOMINGO, APPELLANTS.*G.R. No. 7443. August 12, 1912*

Ponente: TORRES, J.

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This is an appeal raised by the defendants from the judgment of conviction rendered in this case by the Honorable Herbert D. Gale, judge.

About 10 o'clock on the night of one of the last days of the month of November, 1910, Pedro Cabigting, a curandero, who was in a house situated in the barrio of Bagbaguin, pueblo of Caloocan, in which he was attending a patient, heard a voice, which apparently came from the neighboring house of Macario Domingo, utter the words: "Jesus, Maria y Jose, pardon me." He therefore immediately left the house, with the intention of going to that of the said neighbor, as he was aware that the latter's wife was also sick, and when he was near the yard of Domingo's house he also heard a groan, and upon getting near the yard, he saw, in the zaguan or on the ground under the house, a person stretched out and around him the master of the house, Macario Domingo, and the men Pedra Mauricio and Celestino Ramirez, whom he knew previously, even to their voices. At this moment Mauricio, addressing Domingo, said to him: "Why have you treated him so?" To which Domingo replied: "It is because this son of a b_____ would not cease making love to my daughter." Then Mauricio replied, saying: "Since you have done that, it would be better to kill him outright;" and Celestino Ramirez, joining in the conversation, said: "Nothing can now be done but to finish him and conceal him in order that it may not get to the public and cause us trouble." After the curandero, Pedro Cabigting, had heard these statements, he returned to the house whence he had come.

Several days afterwards, the date not appearing in the record, Julian Cleofas, a brother of Doroteo Cleofas, who had disappeared and was subsequently found to have been killed, found an anonymous letter on his gate, whereby, according to a neighbor who read it, he was informed that his brother had been murdered, as well as who his murderers were and where his corpse was buried. He therefore reported the matter to the police of Caloocan, and, in company with Lieutenant Dominador Aquino, Sergeant Indalecio Tan and some others, proceeded to make investigations to find the body and the perpetrators of the crime. They arrested Pedro Mauricio and Macario Domingo, as the reported perpetrators, and found, under the latter's house, dried blood stains covered with earth and the strips of bamboo, which formed the floor of the said house, untied directly above the spot in the zaguan where the said blood stains were noticed.

After making several investigations, with the guidance of the contents of the aforementioned anonymous letter, they found, in a wood 120 meters away from the house of Macario Domingo, the place where the body of Doroteo Cleofas was buried, which, upon being exhumed in the presence of Julian Cleofas, was identified by the latter as that of his said brother, notwithstanding that it was in an advanced stage of decomposition, though it was observed

that the skeleton was that of a male. It had a hemp cord wound around the wrist of the right hand, both thighs had fallen off through decomposition, the flesh was gone from the neck, and the legs and arms were doubled up. It was dressed in a white shirt and colored trousers. Such was the result, also, of the examination made by the physician who is the president of the board of health of the pueblo of Caloocan.

From the facts before related it is concluded that Doroteo Cleofas was violently killed on the night of one of the last days of November, 1910, in the yard or zaguan the house of Macario Domingo; that afterwards his body was buried by his slayers in a neighboring wood 120 meters distant from the said house, in which place it was subsequently found by the public officers, about January 23 of the following year, Julian Cleofas, a brother of the deceased; being then and there present; and that the body of the deceased was identified by his said brother, notwithstanding the advanced stage of decomposition a professional examination showed it to be in.

The acts constituting the crime in question were brought to light through the declarations of the curandero, Pedro Cabigting who on the night of the occurrence saw a man stretched out on the ground, apparently dead, and heard the conversation among the perpetrators thereof, and also by the statements made by the alleged perpetrators thereof to the lieutenant and the sergeant of police of Caloocan, Dominador Aquino and Indalecio Tan. But as Macario Domingo died after judgment had been rendered in the case in first instance, and Pedro Mauricio, who was sentenced to life imprisonment, has not appealed, this decision shall only deal with the other two defendants, the appellants Regina Domingo and Celestino Ramirez, who were also sentenced, in the said judgment appealed from, to the penalty of twenty years of reclusion temporal.

It is improper to hold upon the merits of the case that Regina Domingo took part in the violent death of the deceased Doroteo Cleofas, and to consider her guilty as a coprincipal or even as an accomplice in the crime under prosecution, merely from the testimony of the lieutenant of police, Dominador Aquino, to the effect that Regina Domingo revealed to him the fact that, in obedience to the orders; of her father, Macario Domingo, she had sent for and invited Doroteo Cleofas to the zaguan of her house on the night in question, and when he entered the place she had to strike him with a bolo she had ready, and that as soon as the assaulted man Cleofas fell to the ground, her father, who was on watch, and a brother of his, came down out of the house, immediately set upon the victim and finally killed him. Such testimony as to statements attributed to the defendant Regina Domingo is insufficient in itself alone to determine her guilt, as it is not supported nor corroborated by any other evidence, or even by any circumstantial fact tending to produce in the mind full conviction of her guilt.

She absolutely denies the charge and the acts attributed to her. The circumstance, that she was the sweetheart of the deceased, or that the latter was courting her, is not a sufficient reason to hold her to be a coprincipal in the killing of the deceased. Pedro Cabigting, who went to the scene of the crime when it had just been committed and testified that he saw the persons then around the assaulted party, who was apparently dying or dead, has not revealed whether the defendant Regina Domingo was also present there. Besides the testimony of the lieutenant of police, Aquino, who declared that Regina made to him the statements before related, the record furnishes no other fact, even circumstantial, in corroboration of such statements, denied absolutely by the defendant, to whom they were attributed. Neither her father, when alive, nor the other defendant, Pedro Mauricio, made the slightest mention of her having taken part in the crime, and had she known of its perpetration, on the supposition that she was in her father's house that night as well as when they buried the victim's body in an adjoining wood, such facts could not serve as grounds for her incrimination or responsibility, for even on that hypothesis she was not obliged to report the occurrence to the authorities, nor was she responsible for her silence, on account of the kinship between herself and the principal alleged perpetrator of the crime. (Art. 16, Penal Code.)

In view of the fact that Celestino Ramirez denies the charge absolutely, as well as any participation in the criminal act, the mere testimony of the curandero, Pedro Cabigting, is not sufficient evidence whereupon to find him guilty as a coprincipal or even as an accomplice, for the reason that the testimony of this sole witness for the prosecution does not appear in the record to be corroborated by any other evidence, even, circumstantial, of the guilt of the defendant Ramirez, against whom, moreover, there is no other incriminating evidence, even from the policemen who searched for him to arrest him.

Were it permissible for us to take up the matter of the responsibility of Macario Domingo and Pedro Mauricio, we might perhaps be able to show how the testimony of the policemen who arrested them would be admissible and effective against them; but with respect to the defendants Regina and Ramirez, especially the former, it is neither proper nor just to admit such testimony as proof, for the reasons before stated.

Section 57 of General Orders, No. 58, prescribes that a defendant in a criminal action shall be presumed to be innocent until the contrary is proved, and in case of reasonable doubt that his guilt is satisfactorily shown he shall be entitled to an acquittal. This legal precept, perfectly rational and just, being applied in behalf of the defendants, Regina Domingo and Celestino Ramirez, they must be acquitted, for the want of satisfactory and conclusive proof of their guilt.

In view of the nature of this finding and of the fact that of the two defendants found guilty in the judgment appealed from, one of them, Pedro Mauricio, acquiesced in his sentence and is serving it out at the present time, and the other has died, it would be futile to discuss whether the crime under prosecution should be classified as murder or as simple homicide and whether any circumstance qualifying the crime attended the commission thereof.

For the foregoing reasons we are of opinion that the judgment appealed from should be reversed with reference to the defendants Regina Domingo and Celestino Ramirez, and they should be and are hereby acquitted, with two-fourths of the costs of both instances de oficio, and they shall immediately be released through an order to the Director of Prisons, unless held on some other charge. So ordered.

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

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