

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JOSE GUEVARA, DEFENDANT AND APPELLANT.

G.R. No. 9265. August 22, 1914

Ponente: ARAULLO, J.

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ARAULLO, J.:

Arraigned and duly tried for the crime of parricide, and having been sentenced by the Court of First Instance of Tayabas in a judgment dated August 14, 1913, to the penalty of life imprisonment and the accessories of the law, to indemnify the heirs of the deceased in the sum of P1,000, and to pay the costs, Jose Guevara appealed from said judgment, in which after a relation of the facts upon which the prosecution was conducted and the conclusions reached as a result of the evidence adduced at the trial, the following was stated:

"It has been proven in the case that about noon of Palm Sunday, March 16 of the present year 1913, in the house of Miguela Soldevilla, mother of Ignacia Salvacion, situate in the barrio of Banuyo of the town of Gasan in this Province of Tayabas, wherein dwelt the defendant Jose Guevara and his wife, the said Ignacia Salvacion, and while the latter was starching clothes, defendant slashed her with a bolo several times, causing three wounds: one, deep and necessarily fatal, on the left side of her forehead, 5 inches in length, cutting through her skull and penetrating her brain; another, 4 inches in length, also deep and serious but not fatal, in her neck without cutting the bone; and another also deep, 6 inches in length in the right shoulder where it joins the arm, cutting all the muscles of that part; and two slight cuts of the skin in the lower and posterior portion of her forearm; that after wounding the deceased defendant fled; and that the victim died as a result of said wounds on April 24 of this same year."

The facts just stated demonstrate beyond all reasonable doubt that the herein accused, Jose Guevara, is guilty as author of the crime of parricide herein prosecuted.

Counsel for the defense tried to prove that when the act under prosecution was executed the defendant was suffering from a fit of insanity; but all the evidence presented for this purpose merely demonstrates the performance of insane acts subsequent to the commission of the crime under consideration, and none of it tends to establish insanity previous to or simultaneous with the deed here recorded. On the other hand, it appears from the testimony of the mother of the deceased, Miguela Soldevilla, that the defendant was not insane when he committed the act, for a little before the vent he had spoken to her nicely, when he advised her that she ought to take her bath, as the day was well advanced. The mother in her testimony pointed out that the defendant seemed to be jealous of the deceased, and that three days before the event he had asked her to go with him to the barrio of Dawis of the town of Gasan, but she had refused to accompany him. The plea set up by the defense to exempt the defendant from criminal responsibility cannot, therefore, be taken into account, as it was not duly proven.

Counsel for the accused alleges in this instance that error was incurred in the foregoing judgment: First, in classifying the act as parricide; second, in not regarding the insanity of the defendant as a ground of exemption; and third, in imposing the penalty of life imprisonment.

It was proven at the trial and admitted therein by counsel for the defendant that the latter was lawfully married to

the deceased Ignacia Salvacion; and that the said marriage had not been dissolved at the time of the occurrence upon which the case is based. It was likewise proven, nor was it questioned or disputed by the defendant's counsel himself in the trial court, that he inflicted on his said wife with a bolo at the time, place, and date mentioned in the judgment, as above set forth, the wounds mentioned in said judgment and as a consequence of which wounds, especially the deep and necessarily fatal one she received in the left side of her forehead, 5 inches in length, cutting through her skull and penetrating her brain, she died thirty-one days later. So there is no ground to support the allegation of the defense to which the first error assigned refers.

With reference to the second error, it must be kept in mind that, while it is true that counsel for the defense attempted to prove in the lower court that the defendant was suffering from mental aberration and was not of sound mind, the evidence related to this point does not refer to any date or time previous to the act that led to his prosecution or to the moment when he executed it. No consideration can be given the testimony of two witnesses at the preliminary investigation, to which allusion is made in defendant's brief before this court, to the effect that some time before the event the defendant had suffered from fever and as a consequence had become insane, because that testimony was not presented as evidence at the trial nor were the persons giving it introduced therein as witnesses for the defense. On the other hand, there is nothing in the evidence to show that the defendant was not of sound mind or that he acted under the influence of a sudden attack of insanity or that he was generally regarded as insane, when he inflicted upon his wife the wound that resulted in her death. It was incumbent upon the defense to prove each of these facts, and in the absence of such proof, the legal presumption is that the defendant acted in his usual state of mind and that he freely, knowingly, and willfully performed the act.

It appears from the testimony of the witnesses presented by the defense that while he was detained in the municipal jail of the town of Gasan by reason of the deed here recorded, the defendant performed acts which seemed to demonstrate that he was not of sound mind; but aside from the fact that, as the fiscal says in his opinion, such acts may have been feigned by the defendant after he had learned of the gravity of the crime he had committed, or might be the effect of conscience, just as in the same way it is no evidence of an unsound mind that, upon being informed of the charge he refused to reply to the question of the justice of the peace, as to whether he pleaded guilty or not guilty, and that he was terrified or showed fear when the president of the board of health tried to take from him a small quantity of blood for examination. Doctor Villanueva, one of the witnesses, who saw the defendant a day after the occurrence and again a week later, stated that he answered the questions put to him and on his own part asked what was a good thing to take because he was suffering from insomnia.

The president of the board of health, Julian Pilares, who by virtue of an order of the court had the defendant under observation from June 27—that is, even before the complaint was filed—at the instance of the fiscal of the province, in order to determine whether said individual was insane or not, in testifying at the trial on August 11 of the same year 1913, said that he had been summoned by one of the defendant's family several hours after the commission of the crime and saw the defendant in the town hall of Gasan in a condition that to his way of thinking was not sane; that in observing him every time he made a visit to said town and in going to the municipal jail thereof so that he might be able to reply to the court, if at any time he should be asked the result of his observations, he had several times seen the defendant naked, lying face downwards, without knowing what he was doing and swimming in his own urine; that when it occurred to him to ask the defendant what he was doing, the latter yelled in reply: "The big man, the big man;" that in view of this and suspecting that the defendant was suffering from some contagious disease or from insanity he took from him a small quantity of blood and sent it to the Bureau of Health in Manila, but the result of the analysis was negative; that at the time when he was extracting the blood he was scarcely able to hold the defendant, who was shouting: "The big man, the big man;" and finally that when he visited the defendant a day later he found him somewhat better, that the latter asked him for medicines and told

him that he had headaches and a lack of appetite; that then, curious to learn about the occurrence, he asked the defendant and the latter told him that he was innocent and did not know whether it was true that he had killed his wife, that several times he had been the victim of persecution everywhere by an extraordinarily big man, and that if he had killed his wife, he deplored it, because he was not in his right mind.

When this same president of the board of health, at the very time he was testifying, was asked by the court regarding what he could report as the result of the observation to which he had subjected the accused, he said: "In my observations I noticed nothing abnormal, I always saw him sometimes reading and sometimes studying, and he replied to my questions perfectly well like any other sane man; never did I observe him in an irrational condition."

Finally, the defendant's mother-in-law, in whose house and company he and his wife, the deceased, lived, stated that for more than a month and a half before the deed occurred said defendant had not been ill with ague or fever; that in his actions previous to that date she had never noticed any signs of insanity while he was living with them; that she did not see any trouble between him and his wife or that they had had any altercation immediately previous to the occurrence, but that it seemed to her that the defendant had suspicions of his wife and was somewhat jealous of her, because he had asked her to go with him to the barrio of Dawis some three days before the occurrence and she had refused to accompany him.

Although it appears from the testimony of the president of the board of health, who had the defendant under observation, by order of the court, for a sufficiently long period of time, that said defendant gave evidence of not being in his right mind for some time while he was under arrest in the municipal jail of Gasan, and that he seemed to be the victim of a hallucination of persecution, yet from this same testimony it is brought out that the defendant was not insane, for this was demonstrated, according to the same witness, by the result of the analysis of his blood, made by the Bureau of Health, and more clearly still by the statements of the same witness as the result of his observations in saying: "In my observations I noticed nothing abnormal. I always saw him sometimes reading and sometimes studying, and he replied to my questions perfectly well like any other sane man, never did I observe him in an irrational condition," until the suspicion was finally awakened that the defendant was then feigning insanity, from the answer given by him to the said president of the board of health to show himself ignorant of having killed his wife, later pretending that he was the victim of persecution by an extraordinarily big man, as though excusing himself for the crime he had committed, and finally lamenting that he had killed her and saying that if he had done so he was not in his right mind.

And if to all the foregoing it be added, according to the defendant's mother-in-law, whose veracity cannot be doubted, for in the course of the trial and in her manner of expressing herself in her testimony and in referring to what had happened to her daughter, the deceased, she did not exhibit any interest in incriminating him, confining herself to stating the facts as they occurred and showing herself to be resigned to her misfortune, that said defendant not only did not suffer from fever at any time previous to the occurrence, as certain witnesses stated in the preliminary investigation, but neither did he show any signs of perturbed reason during the month and a half that he had been living with her in company with his wife in the same house when the event occurred, although she did state that he seemed to be jealous of his wife and angry because three days previously she had refused to go with him to a barrio of the same town whither he wished to take her, it is evident that the lower court did not err in not holding the insanity of the defendant to be ground for exemption, for with the facts in the case and from the result of the evidence examined therein the conclusion cannot be reached that the defendant was insane or was under the influence of a sudden fit of insanity when he performed the act that has led to his prosecution.

As stated before, such an act constitutes the crime of parricide, provided against and penalized in article 402 of the Penal Code, and as no finding is to be made of the concurrence of any generic circumstances mitigating the

responsibility the defendant has incurred as the author of the said crime, the trial court has not erred in imposing upon him the penalty of life imprisonment, which is the lesser of the two indivisible penalties with which such crime is punished, with the accessories of article 54 of the same code, indemnity to the heirs of the deceased in the sum of P1,000, and payment of the costs, as the judgment itself sets forth.

The judgment appealed from being, therefore, in conformity with the law and the merits of the case, we affirm it, with the costs against the appellant.

Arellano, C. J., Torres, Johnson, Moreland, and Carson, JJ., concur.

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