

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ENRIQUE DE LEON AND PEDRO DE LEON, DEFENDANTS, ENRIQUE DE LEON, APPELLANT.

G.R. No. 9656. August 20, 1914

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 22d day of January, 1913, a complaint was presented against the said defendants, charging them with the crime of assassination. This complaint was presented in the court of the justice of the peace of the municipality of San Antonio, Province of Zambales. Said justice of the peace conducted a preliminary examination and found that there was sufficient proof to show that the defendants were probably guilty of the crime charged and held them to be tried before the Court of First Instance of said province.

On the 17th day of March, 1913, the prosecuting attorney of the Province of Zambales presented a complaint in the Court of First Instance charging the said defendants with the Crime of assassination, alleged to have been committed as follows:

"On or about January 13 in the place called Nagsasa, municipality of San Antonio, Province of Zambales, Philippine Islands, the said accused did willfully, unlawfully, and criminally, with treachery and premeditation, on that same night, kill and murder Robert A. Kubillus in his house, taking advantage of his sleep and later burning the house with the corpse of the deceased and burying all the effects United States vs. De Leon and De Leon belonging to said deceased in two spots a short distance from the house, all of which have been recovered. A deed done in violation of the law."

Upon the foregoing complaint the defendants were brought to trial. Before the commencement of the trial the prosecuting attorney presented a motion asking that the complaint against the defendant Pedro de Leon be dismissed and that he be discharged from the custody of the law, for the reason that the proof was insufficient to support the charges against him. Said motion of the fiscal was granted, with one-half the costs de officio, and the defendant Pedro de Leon was discharged from the custody of the law.

The other defendant, Enrique de Leon, was duly arraigned, tried, and found guilty of the crime of assassination, with the qualifying circumstance of alevosia and the aggravating circumstance of nocturnity, and was sentenced to suffer the penalty of death; to indemnify the heirs of the deceased, Robert A. Kubillus, in the sum of P1,000; and to pay one-half the costs. From that sentence the defendant appealed to this court.

From an examination of the record brought to this court it appears that the said Robert A. Kubillus was a surveyor; that he was a married man; that his wife's name was Felisa Banal; that for some time prior to the 13th day of January, 1913, he had been living with his wife in the city of Manila; that about one week before the said 13th day of January, 1918, he, together with the defendant, Enrique de Leon, and his son, Pedro de Leon, went to the Province of Zambales; that the deceased, Robert A. Kubillus, went to the Province of Zambales for the purpose of doing some surveying; that the defendant, Enrique de Leon, and his son accompanied him for the

purpose of rendering some assistance (the record does not disclose whether they went as servants or otherwise); that very soon after they had arrived in the Province of Zambales, at the sitio of Nagsasa, in the Province of Zambales, on or about the 13th day of January, 1913, in the nighttime, the house or shack in which the said Robert A. Kubillus, with the defendant and the defendant's son, had been living was burned and that within a few days thereafter the charred remains of a human being were found in the ashes of said house; that within a few days thereafter (after the 13th of January, 1913) the defendant and his son appeared in the city of Manila; that the said Felisa Banal met them on a street in the city of Manila and they all went together to the house of the defendant; that while they were in the house of the defendant, the latter made a confession to the said Felisa Banal, telling her that her husband, Robert A. Kubillus, was dead, and described the manner in which he had been killed, showing to the said Felisa Banal a knife and a gold watch which she recognized as the property of her husband, and saying that the surveying instruments and other effects of her husband had been buried in the sand near the place where her husband had been killed; that the said Felisa Banal, even though the defendant had threatened her with death if she should disclose what he had confessed to her, reported the confession to the police of the city of Manila and to the Constabulary authorities; that an investigation was at once made, both by the police authorities of the city of Manila and the Constabulary authorities; that the defendant could not be found in the city of Manila; that an order was sent to a captain of Constabulary, E. R. Nicholson, who was then in the Province of Zambales, for the purpose of having an investigation made in and about the sitio of Nagsasa, for the purpose of discovering the body of said Robert A. Kubillus; that Captain Nicholson made an investigation and found a place where a house had been burned and the charred remains of a human body in the ashes; that a further investigation was made and a trunk, a tampipi, a suitcase, a tripod, a transit, shoes, and other effects were found; that said effects were later proved to be the property of the said Robert A. Kubillus; that the burned house and the said hidden effects were in a very isolated place; that the Constabulary authorities continued to look for the defendant and later found him in the Province of Tarlac at the sitio or barrio of Buso; that the defendant was arrested and identified; that there was found upon his person a cedula, which he said belonged to him, in which he had given his name as Cornelio Vinuya; that the defendant was questioned as to why he had a cedula under the name of Cornelio Vinuya; that he said it was a mistake on the part of the authorities who issued the said cedula; that he admitted that his name was not Cornelio Vinuya but Enrique de Leon; that later and while the defendant was under arrest, and without any threats or intimidation, he voluntarily and willingly confessed to the officer (Cornelio Viray) who made the arrest, that he had killed the American Kubillus; that he had killed the said Kubillus on account of his bad conduct; that Kubillus was a bad man; that he was mean and used to scold every day.

The defendant was sworn in his own behalf as a witness. He admitted that he and his son accompanied the said Robert A. Kubillus to the Province of Zambales; that Kubillus was dead; that the house in which Kubillus lived had been burned; that on the night the house was burned, he, the defendant, and his son were out fishing; and that there were other persons in the house with Kubillus.

In this court the appellant presents a brief and the only defense which he makes is that the evidence adduced during the trial of the cause was not sufficient to show that he was guilty of the crime with which he was charged, beyond a reasonable doubt.

In addition to the fact that he was seen in the city of Manila by Felisa Banal, in possession of a knife and a gold watch which belonged to the deceased Kubillus, and which were taken by the deceased to the Province of Zambales, we have his voluntary extrajudicial confession that he committed the crime at the place and time and in the manner described in the complaint. His extrajudicial confession was corroborated in three particulars—a place was found where a house had been burned in the sitio of Nagsasa, Province of Zambales; the charred remains of a human being were found in the ashes of the burned house; a trunk, tampipi, a suitcase, a tripod, a transit, shoes

and other effects were found buried in the sand near the place where the house was burned, in accordance with the confession of the defendant. Courts are slow to accept extrajudicial confessions, when they are subsequently disputed, unless they are corroborated by other testimony. Generally the question of the admissibility of extrajudicial confessions is necessarily addressed, in the first instance, to the judge, and since such discretion must be controlled by all the attendant circumstances, the courts have wisely foreborne to mark with absolute precision any rules limiting the admission or exclusion of such testimony. Their admissibility must depend largely in each case upon the facts and circumstances surrounding the same. (Hopt vs. Utah, 110 U. S., 574; Bram vs. U. S., 168 U. S., 532; Wilson vs. U. S., 162 U. S., 613.)

In all cases, however, before such confessions are admissible, it must be shown that they were made freely and voluntarily, without compulsion or inducement or hope of reward of any sort. (Wilson vs. V. S., 162 U. S., 613; Bram vs. U. S., 168 U. S., 532; Hardy vs. V. S., 186 U. S., 224.)

One reason why the courts should be careful in accepting as evidence extrajudicial confessions, is that they are frequently made because the defendant may be induced to make them through hope or fear or for a reward. In order to constitute a voluntary confession, it should have been freely and voluntarily given, with no promise, inducement, encouragement, hope, favor, threats, or violence. (Wilson vs. U. S., 162 U. S., 613.)

Confessions which are obtained by coercion or threat, by creating a fear or by giving a promise of assistance or reward, will be subject to objection and rejection on the part of the court. (Bram vs. U.S., 168 U. S., 532; Hardy vs. U. S., 186 U. S., 224.)

After a full consideration of the record and of all the facts and circumstances, we are convinced that the defendant is guilty of the crime charged, and that the sentence of the lower court should be affirmed, with costs. So ordered.

Arellano, C. J., Torres, Carson, and Araullo, JJ., concur.

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