

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. PIO LACORTE, DEFENDANT AND APPELLANT.*G.R. No. 9995. November 19, 1914*

Ponente: TORRES, J.

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On April 28, 1914, the provincial fiscal filed a complaint in the Court of First Instance of Batangas, charging Pio Lacorte with the crime of murder, and on the 27th of last May the Honorable P. M. Moir, judge, found the accused guilty of the crime of homicide and sentenced him to the penalty of fourteen years eight months and one day of reclusion temporal, to the accessory penalties, to indemnify the heirs of the deceased in the sum of P500, without subsidiary imprisonment in case of insolvency, and to pay the costs. From this judgment the defendant appealed.

At about 4 o'clock in the morning of March 25 of the present year, Tomasa Alvarez left the house of Jacoba Aguilera where she was living; this house is situated on a street which crosses Calle Real, Lipa, Batangas, and which passes in front of the church a short distance from the said house. A little while afterwards the defendant also left the same house, where he too was living, and followed the woman Alvarez, with whom he was maintaining amorous relations. Justo Siautong, another resident in the said house, saw them leave it one after the other and observed them afterwards walking together in the direction of the church. However, the woman and the defendant could not have gone to the church, which was in the same street, but must have followed Calle Heal, and turned to the left in the direction of the bridge, for Juan Mayo, while passing along Calle Real, saw them there just before he reached the bridge and at a point about 50 meters distant therefrom. The defendant was holding Tomasa Alvarez hand, and the witness heard the woman say: "Why do you behave so toward me?" and then noticed that the woman seemed to be crying, for her voice was hoarse and the defendant was striking her. Witness at the time was about 3 meters distant and he recognized the couple by the light of an adjacent street lamp, but as he knew that they both lived in the same house and that amorous relationship existed between them, he abstained from interfering and continued on his way.

Simeon Abarquez, another witness who that morning must have passed along the same street a few moments afterwards, positively testified that he saw Pio Lacorte on the approach of the bridge carrying a woman on his back; that upon asking him what the matter was the defendant replied that his wife had fallen ill while on her way with him to church. Witness then advised the defendant to lay the woman on the ground and wipe the perspiration off her, and, acting on the suggestion, Lacorte propped her against the wall formed by a part of the balustrade of the bridge. Witness saw that the defendant was supporting the woman; that her head lolled to one side, that her face was pale and her eyes were closed. As witness was in a hurry he left them there and continued on his way, paying no attention to what he had seen, for he believed that the woman was then only sick and that she really was the defendant's wife. The evidence further shows that at about 5.30 that morning the said Justo Siautong, who had remained in the house, saw Pio Lacorte hastily return to it, naked, wet up to his knees and covering his private parts with his hands. Dionisio Manalo, who was living in the next house, testified that he saw the defendant return

home alone just at daybreak, clad in a white shirt and white drawers and wet to his knees; that he did not pass through the door of the house but entered the yard by jumping over the low wall that inclosed it.

Very early in the morning of the said date the corpse of Tomasa Alvarez was discovered in the bed of the Sabang River near the aforementioned bridge, and upon the arrival of the local authorities they found it lying face upward with one of the arms slightly bent toward the head and the left leg curved half way to the body. The woman's chemise, skirt, and underskirt were raised a little and her hair was disheveled. She had on a tapis and skirt of black materials, a rose-colored bodice, and a kerchief fastened with a pin, while her skirt and chemise were turned up half way to her knees. A couple of meters away from her head a prayer-book and a pair of slippers were found and near her feet a veil. Her body was lying in about 6 centimeters of water and all the said articles and the clothing of the deceased were wet.

A post-mortem examination of the body in the house of the decedent by Dr. Francisco Campo, a physician of the Bureau of Health, in the presence of Dr. Sixto Rojas and the justice of the peace, disclosed a discoloration about the size of a peseta above the nipple of the right breast, another 4 centimeters long, in the region of the iliac fossa, a number of abrasions in the region of the sacrum and gluteus, the upper medial part of the right thigh and on the left thigh, a contused wound in the region of the femoral coccyx, other contusions of the size of a half-peso on the knees and elbows, and several smaller ones on the inner lower part of the forearms. The head, pericardium, and lungs were apparently in a normal condition, no lesions being discovered in them. About 25 grams of liquid were found in the pericardium. The heart showed nothing abnormal. The lungs were a little congested and the stomach was completely empty. In the upper part of the liver there was a rupture about 10 centimeters in length. The gall bladder was full of a greenish liquid and there was a large extravasation of blood in the transverse colon, due to the rupture of the spleen. The kidneys, uterus, Fallopian tubes, supra-renal capsules, and the ovaries were found to be in a normal condition.

According to the opinion of the physician, Tomasa Alvarez' death could not have been occasioned by any single one of the aforesaid injuries, but try all of them together and through a kind of nervous shock produced by a blow such as would result from a fall or collision with some blunt instrument; that the rupture of the liver might have been, caused by a blow or by collision with such instrument, or else by a strong convulsion, though the record does not show that the deceased received any blow in the region of this organ.

Dr. Sixto Rojas, as a witness for the defense, testified that in his opinion the rupture of the liver was necessarily caused by a fall; that the abrasions found on the body must have been occasioned by the woman's trying, at the moment of her fall, to avoid striking her head against the ground; that she suffered a traumatic shock in falling from a buttress of the bridge, a height of about 4 or 5 meters, and that had she fallen from the floor of the bridge, a distance of 19 meters, the bones of her body would have been dislocated and broken. This witness added that the deceased was afflicted with mental disorders and hysteria and that he had rendered her medical attendance.

From the foregoing facts, which were duly proved, it is concluded that Tomasa Alvarez died a violent death as the result of a nervous traumatic shock and the rupture of her Liver caused by maltreatment and blows inflicted with a hard, blunt instrument; that her liver might have been injured by a violent convulsion, inasmuch as the body presented no sign whatever of any lesion or bruise in the region where this organ is situated.

Notwithstanding the opinion of the physician, Doctor Rojas, who was present at the autopsy and afterwards testified as a witness for the defense, we find, after a careful examination of the evidence, that the said Tomasa Alvarez lost her life as a result of the maltreatment she received in the street or on the approach of the bridge, and that after she died her body must have been dragged over the hard ground in various ways to the bed of the river, as evidenced by the slight bruises and abrasions running along and down the body, which the sanitary officer

testified were found on the back, in the region of the sacrum, on the forearms, thighs, knees, elbows, and in the region of the left iliac fossa. It cannot be affirmed that the woman fell from the floor or the balustrade of the bridge, for the reason that, as that part of the bridge is 19 meters high, and as the river bed next to the bank where the body was found, is of cement, had she fallen from either of these points, the autopsy would necessarily have disclosed dislocations and fractures of bones, and none were found at the time the post-mortem examination was made by the said physician. On the other hand, the latter testified that he found no signs of the woman's having been strangled, or that she had been drowned, for there were scarcely 6 centimeters of water in the river.

Against the opinion of the physician, presented as a witness by the defense; that the deceased, on account of her being afflicted during her lifetime with hysteria and mental disorders, must have thrown herself down from one of the buttresses of the bridge and from a height of 4 or 5 meters, producing by her fall a rupture of the liver and the traumatic shock that occasioned her death; the conclusion may be drawn from the evidence, that after the death of Tomasa Alvarez her slayer dragged her body from the street to the river and placed it, as above stated, in the bed of the stream.

The defendant denied the charge and pleaded not guilty. He testified under oath that he and the deceased had maintained amorous relations with each other and had agreed to get married; that they lived in the same house, though not conjugally, but that they had not determined upon the day of the marriage; that early in the morning of the aforementioned date, Tomasa left the house to go to church, and, when the defendant heard the bells ring announcing the mass, he arose, dressed, and also went to the church to hear mass; that after the service was over he left the church and then met Sergio Gomez; that he walked along with him until they arrived in front of a bakery, which Gomez entered, but the defendant continued on his way with the intention of returning to his house; that upon arrival there he changed his clothes and bathed himself on the porch, on which occasion his drawers got wet; that, while engaged in sweeping the lower floor of the house, where his silver smith's shop was located, he observed that people were passing the place in great excitement and heard them say that somebody had died under the bridge; that thereupon he picked up his hat and went there to see the corpse; when he saw it he noticed that its dress was like the one Tomasa Alvarez had worn and, besides, heard the people say that the dead woman was the said Tomasa, called in the town Cang Asay; that he then returned to his house and awoke its owner, Ventura Maralit, to apprise her of what had happened; that, in his haste to return home, he passed, behind the house and jumped over the inclosing wall which was more than a meter in height; that when he left the church the day was just beginning to break; that he did not see the deceased inside of the church, although by her dress he supposed she was there at worship; and that at that time he was wearing white trousers, a white Chinese shirt, and a pair of slippers only, not shoes.

Notwithstanding the defendant's denial and the statements made by him in his testimony, the record shows sufficient circumstantial evidence which, when carefully weighed, produces in the mind a full conviction of his guilt as the sole perpetrator of the crime under prosecution.

This conclusion is based upon the following testimony:

Justo Siautong, who lived with the defendant in the same house of Ventura Maralit, from one of its windows saw Pio Lacorte walking with Tomasa Alvarez in the direction of the church, situated a short distance from the house on the same street, but witness did not notice whether Lacorte entered the church. About an hour and a half afterwards, toward 5 o'clock in the morning of the same date, the defendant returned to the house. He was wet up to his knees and had his privates covered with his hands as he entered the small room where he changed his clothes. Although defendant testified that he had been in the church to hear mass, he was unable to say whether or not Tomasa Alvarez was there and merely supposed that she was, because she used to go there every day.

That same morning, while it was yet dark, Juan Mayo saw the defendant in Calle Real, near the bridge, holding the deceased by the hand. Judging from her voice the woman appeared to be crying and was asking the defendant why he behaved in that way toward her. Witness believed that the defendant was then maltreating her.

The trial judge doubted the veracity of the testimony of this witness, Juan Mayo, for the reason that, if it were true that he saw the defendant and the deceased at a place 50 meters distant from the bridge, under the circumstances above stated, instead of relating the matter to the chief of police in the presence of the municipal vice-president, he confined himself to asking the former whether he knew anything about the death of the woman, to which the chief of police replied that up to then he knew nothing of it.

Mayo's behavior does not necessarily demonstrate that he was a false witness. He perhaps wanted to know from the lips of the chief of police the reason why the defendant abused the deceased and very likely on this account abstained from telling what he had seen several hours before.

Simeon Abarquez also saw the defendant and the deceased early that same morning near a lighted street lamp and at a distance of about 10 or 12 meters from the bridge. The defendant was then carrying the woman on his back and upon being asked what was the matter, replied that she was his wife and that she had fallen ill while accompanying him to church. When the defendant put the woman on the ground and rested her against the balustrade of the bridge, witness noticed that her eyes were closed, her face was pale, and that her head was inclined to one side.

If it is true that, while the defendant and the deceased were going to church, as the witness Siantong, who saw them go out of the house and walk in the direction of the church, supposed that they were going, the woman fell sick and the defendant thereupon had to carry her, it is strange that the witness Simeon Abarquez should have seen them in such a posture on the approach of the bridge that is a continuation of Calle Real—a place some distance away from and nearly opposite that where the church is situated. Besides, from the house where the defendant and the deceased were living the church is not reached by way of Calle Real and the road to the bridge is in exactly the opposite direction from that leading to the church. If it is true that the woman fell sick on the way to the church and was unable on that account to proceed further, she should have been taken to her house, which was near by and situated on the same street as the church. They should not have gone toward the bridge, on the approach of which they were seen, first by Juan Mayo at the time the defendant was maltreating Tomasa Alvarez, and afterwards by Simeon Abarquez when the woman, then in a bad condition and apparently dead, or at least exhausted and fainting, was being carried by the defendant on his back. As the witness Abarquez, being in a hurry, left them and went on, his way it is to be presumed that after his departure the defendant must have carried the body of the woman Alvarez to the river bed, a distance of almost 4 meters from the bridge.

The defendant and the deceased together left the house in which they were living and went in the direction of the church. This fact was affirmed by the witness Justo Siantong and by the defendant himself. The latter, however, was unable to state positively whether the deceased entered the church or, if she did, whether she remained in it upon his leaving to return to his house. It is therefore to be presumed that the defendant's statements in this regard are not true, inasmuch as two witnesses saw him with the deceased on the approach to the bridge—a place shown by the rough sketch presented by the prosecution to be distant from and opposite that where the church is situated.

From the defendant's testimony it is inferred that he denied having been with the deceased on the approach of the bridge near which the body of the woman Alvarez was found. He cited as a witness Sergio Gomez, who saw him in the doorway of the church. This witness, however, testified that the defendant was then wearing a white coat, ash colored trousers, and shoes, contrary to the statement made by the latter that early that morning he was dressed in a Chinese shirt, white trousers, and a pair of slippers.

The witness Dionisio Manalo testified that early in the morning of the day above mentioned he saw the defendant hurriedly return to his house; that his trousers were wet up to his knees, and that in entering the house he did not pass through the door, but jumped over the wall into the yard.

This testimony, corroborated by Justo Siautong, contradicts that of the defendant and his witness, Sergio Gomez, to the effect that Lacorte had then come from the church, for he would not have returned from it hurriedly with his trousers wet up to the knees—a detail which the defendant endeavored to explain by saying that he had wet his drawers in washing himself on the porch of the house.

The record does not show that when the deceased left the house early that morning accompanied by the defendant, she was suffering from any sickness. After her departure she never returned to the house again and when broad daylight came she was found in the bed of the river, lying in 6 centimeters of water. When the defendant returned to his house at daybreak his trousers were wet up to his knees, indicating that he had been in the said river, yet he has not explained how and in what manner Tomasa Alvarez came by her death.

Two witnesses for the defense, Emerenciana Tolentino and Nicanor Hernandez, the latter a minor 12 years of age, gave testimony tending to prove that the defendant was not then at the bridge with the deceased and which to some extent corroborated the opinion of Doctor Rojas that Tomasa Alvarez threw herself from the bridge to the river bed, but their testimony, however, did not shake the decisive and conclusive evidence introduced by the prosecution.

The corpse was found, not in the middle of the Sabang River, but nearer to the bank, lying on the cement bed of the stream where there were not more than 6 centimeters of water and at a point about 4 meters below the level of the bridge. If the body of the deceased had fallen or had been thrown from the balustrade of the bridge, it would have been found nearer to the bridge and not 4 meters away at a spot which she could not have reached even had she jumped; besides, in view of the fact that the top of the buttress of the bridge is beveled, it would be rather difficult, according to trustworthy opinion, to climb from the balustrade of the bridge out on to the buttress. The conclusion, therefore, is logically reached that the body of the deceased must have been carried and dragged along the road leading from the street to the said river.

The record discloses no motive that may have induced the defendant to deprive the deceased of her life, but it does show convincing circumstantial evidence of his guilt as the sole proved perpetrator of the crime in question, and in order to arrive at a conviction, it is not necessary and indispensable to prove the motive when the guilt of the principal has been positively and conclusively shown.

Nor does the record reveal the manner in which the defendant performed the acts which caused the death of Tomasa Alvarez, so it would not be proper to consider the qualifying circumstance of treachery, and the crime is properly classified as that of homicide, comprised within article 404 of the Penal Code. Neither do the aggravating circumstances 9 and 20 of article 10 apply, since, in the present case, the quality of sex is inherent in the crime in such manner that without it the deed could not have been committed ; nor may it be considered that the crime was attended by any other generic circumstance, especially the particular one defined in article 11, for the reason that the defendant does not come within the conditions that determine the application of the said article, as amended by Act No. 2142. Consequently, the penalty provided for the crime by law should be imposed upon the defendant in its medium degree.

In view of the fact that, for the reasons hereinbefore stated, the error assigned to the judgment appealed from has been duly refuted, we should and do hereby affirm the said judgment; provided, however, that the defendant shall be sentenced to the penalty of fourteen years eight months and one day of reclusion temporal, to the accessory penalties of article 59 of the code, to indemnify the heirs of the deceased in the sum of P1,000 and to pay the costs

of this instance.

Arellano, C. J., Johnson, Trent, and Araullo, JJ., concur.

Moreland, J., dissents.

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