

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. MAXIMO REYES, DEFENDANT AND APPELLANT.

G.R. Nos. 23112-23114. March 17, 1925

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

On the night of November 5, 1923, in the barrio of Santa Clara, municipality of Santo Tomas, Province of Batangas, the accused attacked Maria Jaurigue, Higino Mayuga and Antonio Mercado with a bolo, inflicting several wounds on different parts of the body of Maria Jaurigue, three of which were necessarily mortal, according to medical opinion, and caused her death five days after the event, on account of certain complications. Higino Mayuga also received wounds which healed after one month, and Antonio Mercado was wounded on the back, the breast and on one side, his wounds having been serious, and, according to the testimony of the physician who made the autopsy, two of said wounds, those on the back and the side, would have caused his death had not the weapon met with an obstacle, namely, the ribs, which prevented it from reaching the lungs and kidneys.

The accused was prosecuted separately for the death of Maria Jaurigue and the wounds inflicted upon Higino Mayuga and Antonio Mercado. The three cases were tried jointly by agreement of the parties approved by the court, and the trial court rendered separate judgments finding the accused guilty of the crime of homicide with the aggravating circumstance of nocturnity for the death of Maria Jaurigue, and sentencing him to seventeen years, four months, and one day of reclusion temporal, with the accessories provided by the law, to indemnify the heirs of Maria Jaurigue in the sum of P1,000, and to pay the costs of the action, crediting him with the imprisonment suffered by him as detention prisoner. For the wounds of Higino Mayuga the trial court found the accused guilty of the crime of lesiones graves, without any modifying circumstance, and sentenced him to one year and eight months of prision correccional, with the accessories provided by the law, to indemnify the offended party Higino Mayuga in the sum of P200, to suffer, in case of insolvency, the corresponding subsidiary imprisonment, and to pay the costs of the action; and for the wounds of Antonio Mercado, the trial court found the accused guilty of the crime of frustrated homicide, with the aggravating circumstance of nocturnity, and sentenced him to ten years and one day of prision mayor, with the accessories provided by the law, to indemnify the offended party, Antonio Mercado, in the sum of P530 and to pay the costs of the action, it being understood that the accused shall serve the penalties imposed upon him successively in the order of their relative gravity.

The defense argues that the trial court erred in not giving credit to the declarations of the witnesses for the defense.

We have examined the record before us, and find that the evidence shows beyond a reasonable doubt that the accused is guilty of the three crimes he is charged with. The accused was a suitor of one Maria Encarnacion Jaurigue, niece of the deceased Maria Jaurigue, and believing himself rejected by the spouses Antonio Mercado and Maria Jaurigue, in whose house the girl was living, he decided on the night in question to do away with them, which he did as follows: Said spouses Antonio Mercado and Maria Jaurigue were then working in the camarín (shed) of Higino Mayuga, engaged in the drying of coconuts for the manufacture of copra. The deceased was near

a furnace where there was a lamp, while Antonio was about 15 brazas from her, seated upon his heels, gathering coconut shells and putting them in a sack. Suddenly Antonio was attacked with a bolo while he was with his back toward the aggressor, and received the wounds above-mentioned, having spent P50 for medical assistance and P80 for medicines to cure them. This offended party distinctly identified his aggressor as Maximo Reyes, because there was a lamp in the place, with which Antonio illuminated the coconut shells that he was gathering. And due to his wounds, he fell to the ground unconscious.

Higino Mayuga, the owner of the camarin, upon hearing the cries of Maria, who was about 15 meters from his house, ran immediately to see what was happening, and there he met Maximo Reyes, who also assaulted him, wounding him near the stomach and on the forearm, and fleeing away thereafter.

Higino Mayuga was incapacitated to walk on his hacienda for more than one month, and spent P200 for medical attendance and medicines.

The testimony of these witnesses was corroborated by Francisco Reyes and Aquilino Belleza.

The defense presented two witnesses by the names of Bonifacio Landicho and, Andres Mendoza who in substance testified that on that night, due to the disturbance aroused by the wounding of the three persons, they left their homes, just as the accused Maximo Reyes did, having seen near the camarin a person who was running and whom they did not recognize, but supposed he was the author of the crime in question.

The trial court gave no credit to the testimony of the witnesses for the defense, and we are of the opinion that this is no error. The testimony of the witnesses of the accused seems to us so improbable that we cannot see how it can be believed without ignoring the rules of sound judging. His Honor, the trial judge, who saw and heard these witnesses, says that their testimony had been studied by heart and we add that they had not learned the lesson well, for we find in the testimony of the principal witness Bonifacio Landicho several substantial contradictions which entirely discredit him. We hold that the testimony of the witnesses for the defense in the instant case is worthless, as compared with the declarations of the witnesses for the prosecution.

The Attorney-General observes that the accused must be held guilty of the crime of frustrated murder for the wounds inflicted upon Antonio Mercado, in view of the treacherous manner in which said offended party was assaulted by the accused, and recommends that the judgment appealed from be modified so that the maximum degree of the penalty be imposed upon the accused, which is from presidio mayor in its maximum degree to cadena temporal in its medium degree, that is to say, fourteen years, eight months, and one day of cadena temporal, with the accessories provided by the law.

As thus modified, the judgment appealed from must be, as is hereby, affirmed with the costs against the appellant. So ordered.

Johnson, Malcolm, Ostrand, Johns, and Romualdez, JJ., concur.

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