

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. MORO QUINTA, DEFENDANT AND APPELLANT.

G.R. Nos. 29373-29375. August 04, 1928

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

Moro Quinta appeals to this court from three judgments of the Court of First Instance of Cotabato in the first of which he was found guilty of parricide, defined and penalized in article 402 of the Penal Code, and in the other two he was held liable for serious physical injuries; and taking into consideration the provision of section 106 of the Administrative Code of the Department of Mindanao and Sulu, he was sentenced to fourteen years, eight months and one day reclusion temporal for the crime of parricide, with the accessories of the law, and to indemnify the deceased's heirs in the sum of P500, and for each of the crimes of serious physical injuries, to four months and one day arresto mayor and six months and one day prision correccional, taking into account the extenuating circumstance of lack of instruction, and to pay the costs of each action, deducting one-half of the preventive imprisonment suffered.

The three cases were jointly heard, and the defendant was convicted and sentenced in all. The defendant appealed from the judgment in the three cases, making the following assignments of error: (1) The trial court erred in convicting the defendant in these three cases, basing its findings only on his statement before the court admitting that the facts alleged in the information are true; (2) the trial court erred in considering said statement of the accused in open court, not having been given under oath, as equivalent to a free and spontaneous plea of guilty; (3) even admitting the statement of the accused as a confession of guilt, nevertheless, the trial court erred in not permitting the accused, in spite of his sworn petition of February 13, 1928, to withdraw said alleged plea of guilty and substitute one of not guilty; (4) the trial court erred in abusing its judicial discretion by not permitting defendant to substitute the plea of not guilty for the plea of guilty, in view of all the circumstances of the case.

The three cases were set for trial, and the accused having been arraigned upon the three informations successively, by interpretation in his dialect, he pleaded guilty. But the court, not being satisfied with this plea of guilty of the accused, notwithstanding the fact that the latter was accompanied by counsel de oficio, and perhaps because one of the crimes carried with it capital punishment, submitted him to an examination, in the course of which he made the following statement:

"It was on a Friday when I left my house going towards Cotabato and after having gone some distance, I remembered that I had left my cedula at home, and I had to return in order to get my cedula, and when I arrived at my house I found my wife cohabiting with Tukul, and when I went upstairs, one Lumaka who came after me and before I reached the upper part of the house, caught hold of me, and thus it is that I could do nothing to the two and I was still looking for a bolo, and the only thing I did to my wife was to slap her face and she fell. After this they told me to calm myself because the matter would be brought to the attention of a datu. Then they brought me before Datu Dikalano, who is a relative of Tukul, and he punished me. I do not understand why he did that to me, since it was Tukul who committed the offence, and besides they gave me nothing but burnt rice to eat for three days. Then I told my wife's relatives of this, and they laughed at me and

ridiculed me saying that I am a coward, and that what I ought to have done was to separate from my wife, because I was good for nothing. Early on Tuesday I went to the field and returned home at about 7 o'clock, and on arriving there I asked where my wife was, and they told me that she had gone to another house to cook, and I went in search of her and found her in a vinta going down the river, and it was untrue that she was cooking, and I suppose that she was going to Tukul's place, so what I did was to jump into the water and on coming up to the vinta, stabbed my wife with a dagger and then leaped from the vinta to look for Tukul, and coming to where he was I dealt him a blow and said to him: 'Now you may get my wife,' and he started to run, and when Gandalibo saw me, he came to help Tukul and wanted to cut me up, whereupon I cut him too, and after this, retired and wounded nobody else."

After hearing the accused's explanation of the manner in which he came to commit the three crimes, the trial court admitted his plea of guilty made in open court, and ruled as set forth at the beginning hereof.

Four days after said judgments were rendered, that is, on February 11, 1928, Attorney Tomas Sison filed a motion praying the trial court to permit the accused to withdraw his plea of guilty, and to substitute a plea of not guilty. The trial court considering this motion, denied it by an order dated February 21, 1928.

The four alleged errors assigned by the accused as committed by the trial court may be reduced to two, namely: That the lower court erred in admitting the accused's plea of guilty not made under oath; and that the lower court erred in denying the accused's motion to substitute the plea of not guilty for that of guilty, filed before the judgment had become final.

With respect to the first assignment of error, sections 24 and 25 of General Orders No. 58 provide as follows:

"SEC. 24. Should the demurrer be disallowed, the court must require the defendant to plead. If he refuses, a plea of not guilty shall be entered for him.

"There are four kinds of pleas to an information or complaint: (1) Guilty; (2) not guilty; (3) a former judgment of conviction or acquittal of the offence charged, which may be pleaded either with or without the plea of not guilty; (4) once in jeopardy, which may be pleaded with or without the plea of not guilty.

"The plea must be oral, and a minute thereof in writing filed with the papers in the case.

"SEC. 25. A plea of guilty can be put in only by the defendant himself in open court. The court may at any time before judgment upon a plea of guilty, permit it to be withdrawn and a plea of not guilty substituted."

It will be seen that neither of these legal provisions requires that the defendant's answer to an information pleading guilty of the crime of which he is accused be made under oath. The reason for this is obvious. The instinct of selfpreservation and protection impels a man to do and say whatever is favorable to himself, whether it be true or not; and, on the other hand, he avoids saying or doing that which is injurious to himself. When an accused admits his guilt, he acts against his own interests, and no oath is required to believe his declaration, unless it is proved that he acted under the pressure of circumstances against his will.

Touching the second question raised by the second assignment of error, section 25 of General Orders No. 58, quoted above, leaves it to the sound discretion of the court either to permit or not to permit the accused to withdraw his plea of guilty and substitute one of not guilty, and unless the court has committed an abuse in the exercise of its discretion, it is unlawful to alter its ruling.

In this case, the herein accused, when arraigned upon the information for parricide filed against him, was assisted by an attorney de oficio, informed of its contents, the same having been read to him in his dialect, and he was permitted to explain how he came to commit the crime. And there is nothing in the record to show that in pleading guilty he was subject to such an influence as to control his will and deprive him of all knowledge of his action

and its consequences.

The trial court acted within its judicial discretion, and did not err in denying the motion for substitution of plea.

The instant case is identical with that of *United States vs. Neri* (8 Phil., 669), in which this court laid down the following doctrine:

"1. CRIMINAL PROCEDURE; WITHDRAWAL OF PLEA OF GUILTY.—At any time before judgment, it is within the discretion of the judge of the trial court to permit the accused to withdraw his plea of 'guilty' and substitute a plea of 'not guilty.' (U. S. vs. Patala, 2 Phil., 752; U. S. vs. Molo, 5 Phil., 412.)

"2. ID.; ID.; DENIAL OF MOTION.—A refusal to permit such withdrawal and substitution is not reversible error unless there is an abuse of discretion. (U. S. vs. Paquit, 5 Phil., 635.)"

In consideration of the premises, and finding no error in the judgments appealed from, the same are hereby affirmed in all their parts, with costs against the appellant in said cases.

Let a copy of this decision be attached to each of said cases. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Villamor, Ostrand, and Romualdez, JJ., concur.

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