

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSUE MOLAS, ACCUSED-APPELLANT.

G.R. Nos. 97437-39. February 05, 1993

Ponente: GRIÑO–AQUINO, J.

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GRIÑO–AQUINO, J.:

Appellant Josue Molas was found guilty beyond reasonable doubt of the murders of two women and an eight-year old boy in Criminal Cases Nos. 5811, 5812 and 5813 of the Regional Trial Court, Branch 44 of Dumaguete City, and was sentenced in each case to suffer the penalty of reclusion perpetua.

The three (3) separate Informations dated June 3, 1983 filed against the appellant alleged:

"Criminal Case No. 5811

"The undersigned Fiscal ac-cuses JOSUE MOLAS of the crime of MURDER, committed as follows:

"That on or about 6:00 o'clock in the evening of February 2, 1983, at sitio Inas, Dobdob, Valencia, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, then armed with a sharp bladed weapon, with intent to kill and with treachery and taking advan-tage of superior strength, did then and there willfully, unlawfully and feloniously attack, assault, stab and hack Dulcesima Resonable, there-by inflicting the following wounds:

"1. Deep incised wound on the anterior neck, cutting the muscles, blood vessels, esophagus, trachea, extending from the left side of the neck to the right side of the neck;

"2. Deep stab wound on the epigastric region penetrating the abdominal muscles intestines 4-1/2 inches deep 1 inch wide;

"3. Stab wound at the back, below the right scapular bone 1/2 inch deep 1-1/4 inches wide;

which wounds directly caused the death of said Dulcesima Resonable immediately thereafter." (p. 28-29, Rollo.)

"Criminal Case No. 5812

"The undersigned Fiscal ac-cuses JOSUE MOLAS of the crime of MURDER, committed as follows:

"That on or about 6:00 o'clock in the evening of February 2, 1983, at sitio Inas, Dobdob, Valencia, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, then armed with a sharp bladed weapon, with intent to kill and with treachery and taking advan-tage of superior strength, did then and there, willfully, unlawfully and feloniously attack, assault, stab Abelardo Resonable, an 8 year old boy, thereby inflicting the follow-ing wounds:

"1. Multiple stab wounds, right Lumbar transverse colon;

"2. Partial spinal cord transection;

"3. General peritonitis;

which wounds directly caused the death of said Abelardo Resonable thereafter." (p. 29, Rollo.)

"Criminal Case No. 5813

"The undersigned Fiscal accuses JOSUE MOLAS of the crime of MURDER committed as follows:

"That on or about 6:00 o'clock in the evening of February 2, 1983, at sitio Inas, Dobbob, Valencia, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, then armed with a sharp bladed weapon, with intent to kill and with treachery and taking advantage of superior strength, did, then and there, willfully, unlawfully and feloniously attack, assault, stab and hack Soledad Resonable, thereby inflicting the following wounds:

- "1. Stab wound, on the mid-chest 2--1/2 inches deep, 1/2 inch wide;
- "2. Multiple punctured wounds on the anterior neck 1/2 inch deep;
- "3. Stab wound on the right arm, anterior proximal side 1-1/2 inches deep 1-1/2 inches wide;
- "4. Stab wound on the anterior axillary region 1-1/2 inches deep 2-1/2 inches wide;
- "5. Deep stab wound on the left breast 1/2 inch wide, 2 inches deep;
- "6. Stab wound on the right infra-scapular region 1 inch deep, 1/2 inch wide;
- "7. Stab wound on the left lumbar region 1 inch deep, 1/2 inch wide;

which wounds directly caused the death of said Soledad Resonable immediately thereafter." (p. 30, Rollo.)

Upon arraignment, Molas entered a plea of "not guilty" in all the three (3) cases which were jointly tried as they arose on the same occasion and involve the same accused and the same evidence for both the prosecution and the defense.

The evidence for the prosecution established that Molas and Dulcesima Resonable, the victim in Criminal Case No. 5811, were sweethearts. They were engaged to be married in May, 1983. Dulcesima was the daughter of Bernardo Resonable and Soledad Resonable, the victim in Criminal Case No. 5813. The couple had two (2) sons namely Nicolas and Abelardo, the victim in Criminal Case No. 5812.

At about 6:00 o'clock in the evening of February 2, 1983. Bernardo Resonable arrived at his house in Inas, Dobbob, Valencia, Negros Oriental, tired from work on his farm. He was surprised to find his eight-year-old son. Abelardo, at the doorway of his house, bathed with his own blood. He carried his son into the house and placed him on top of a table. Abelardo asked for hot water, which his father quickly fetched, after which Abelardo informed his father that the appellant, Josue Molas, was the person who not only inflicted his injuries but also stabbed his sister Dulcesima and his mother Soledad (TSN of August 7, 1984 of Bernardo Resonable, pp. 7-15). Having been informed of the stabbing, Bernardo looked for his daughter and wife. He found the lifeless body of his daughter Dulce in a dried carabao mud pool some three (3) arms-lengths from his house. He carried her into the house and looked for his wife whose corpse he found near the bench by the door of the house. He ran to report the matter to the barangay captain (Labe) and sought help from the authorities in the municipal building of Valencia. Meanwhile, Abelardo was brought to the Negros Oriental Provincial Hospital by his brother Nicolas, who lived in a house on higher ground. Abelardo expired the next day.

At dawn of February 3, 1983, Josue Molas, with blood-stained clothes, surrendered to Patrolman Geronimo Vallega in the municipal hall of Pamplona, Negros Oriental. He also surrendered "the hunting knife that I used in killing the mother, the daughter and the boy" (p. 14 TSN, June 18, 1985; p. 160, Records in G.R. Nos. 97437--39). The guard forthwith lodged him in jail. Afterwards, he was transferred to the Valencia Police Station,

which had jurisdiction over the crime that was committed in Sitio Inas, Dobdob, Valencia, Negros Oriental.

The next morning, after he was informed of his Constitutional rights, Molas refused to give any statement to the police. However, on March 10, 1983, Patrol-man Paquito Fetalvero, the station investigator at the Valencia Police Station, took down the sworn statement which Molas freely and voluntarily gave without the assistance or presence of counsel. When he was asked to "relate the whole story" (pp. 36-38, TSN, October 16, 1984), he answered as follows:

"A - In our arrival to their house at sitio Inas, Barangay Dobdob, from Kabangogan,[*] this Soledad Resonable lighted a gas lamp in their store and said, 'maayo kay naabot na ta walay makabo-ot nako ug patyon ko ang akong anak,' [It's good that you have arrived, no one can stop me if I kill my own daughter] at the same time went near Dulcisima, her daughter, and grabbed her hair then boxed her to the different parts of her body. Because of faith and sympathy, I stopped Solidad by holding her hands to prevent her boxing Dulcesima, but on my interven-tion, Soledad boxed me hitting my head and arms. Due to blocks I made she was tired and went back again to Dulcisima and again boxed her to the different parts of her body. Because I was hurt on the part of Dulcisima, my wife-to-be and no other means to prevent Solidad, I was able to grab the weapon on my waist and stabbed Solidad hitting her first on the breast, then on the back after which I saw Abelardo, Dulcisima's younger brother at my back holding and boxing my buttock. I stabbed him on the breast and followed again at the back causing him to fall down to the ground, leaving therein the weapon I used causing incised wound on my right little finger and ran away but Dulcisima stopped me by holding my left hand and said, 'puslang nabuhat sa akong ginikanan, patya lamang ko ug layhan ka mag onong ta sa kamatayon.' [How could you do this to my parent, kill me also so we'll all die together] Hearing such words, I responded, 'papatay ka diay kanako.' [You'll kill me after all?] I went back where Abelardo was and pulled the penetrated weapon and stabbed Dulcisima who at that time was following me hitting her breast and caused her life to end. When I saw Solidad her mother walking towards the seat of their store and sat down, I followed her and slashed her neck and stabbed her stomach and immedi-ately ran home."

Molas signed his confession before Judge Celso P. Tayrosa of the Municipal Trial Court of Valencia after the latter and Sgt. Rito Patron, had translated the contents of his affidavit into the Cebuano dialect. Molas did not object to any of the contents of his affidavit as translated. He signed the document willingly, after which the judge affixed his own signature thereon.

During the trial, Molas, testifying as the lone witness in his own behalf, spun a different tale. He declared:

On February 2, 1983 at about 6:00 o'clock in the evening, he was walking towards the store of Soledad Resonable when he saw the lifeless body of his fiancée. Dulcesima, beside the dried mud pool at a distance of about three (3) "fathoms" away from the store. He approached and hugged Dulcesima and "thinking that she was alive, asked 'Day, what is this?' but he received no reply." He looked toward the store and saw Soledad leaning on the wall. He ran to her and asked: "Tia, what is this?" but heard no answer. He discovered that Soledad was wounded in the neck and bathed with blood. Then he heard someone moaning. He got a lamp and saw his future brother-in-law, Abelardo, under a table, still alive, with a hunting knife stuck in his back. He pulled out the knife, held it, and shouted to Nicolas Resonable for help, but nobody responded. Sudden-ly, he heard a voice coming from behind the store saying: "Don't shout, Bay, if you don't want to die!" When he looked, he saw three (3) unidentified persons chasing him. During his flight, he stumbled and injured his middle and small fingers with the hunting knife in his hand. Upon reaching his house, some five (5) kilometers away in Cabangogan, Calinawan, Sibulan, Negros Oriental, he informed his mother about what happened to his fiancée and his prospective mother-in-law. Still wearing his blood-stained clothes, he proceeded to the police station at Pamplona, Negros Oriental, arriving there at 2:00 o'clock in the morning of February 3, 1983. While Patrolman Renzal was investigating him, Patrolman Geronimo Vallega arrived and informed Renzal that Abelardo Resonable tagged Molas as the killer of his mother and his sister so he was put in the Pamplona municipal jail. At 8:00 o'clock the following morning, he was taken to the Valencia Police Station where he

was detained for two months and twenty days.

Although he alleged that he was manhandled by a certain Patrolman Quitoy, he could not substantiate the allegation with a medical certificate. He admitted having signed an affidavit on March 10, 1983 but he denied knowing its contents because it was written in English and allegedly was not translated to him.

The trial court viewed with disbelief Molas' testimony, because it was riddled with inconsistencies. He could not explain, during cross-examination, why he did not shout for help when he was chased by "unidentified persons," and why he "forgot" to tell his mother that Abelardo Resonable, his future brother-in-law, was also wounded.

On August 10, 1990, the Regional Trial Court rendered judgment finding Molas guilty beyond reasonable doubt of three counts of murder. It imposed on him three penalties of reclusion perpetua and ordered him to pay the heirs of his victims P30,000.00 as death indemnity in each case, plus the costs.

He has appealed the decision, alleging that the trial court erred:

1. in admitting as evidence against him his extra-judicial confession which was executed without the assistance of counsel, as required by the Constitution;
2. in giving full faith and credit to the dying declaration of Abelardo Resonable; and
3. in finding that his guilt was proven beyond reasonable doubt.

The appeal has no merit.

Abelardo's statement that it was Josue Molas who inflicted his injuries and also stabbed his mother and sister was given to his father, while he (Abelardo) lay at death's door, bleeding from stab wounds in his colon and spinal cord, as a result of which he expired a few hours later. It was indubitably a dying declaration.

To be admissible, a dying declaration must: (1) concern the cause and surrounding circumstances of the declarant's death; (b) that at the time it was made, the declarant was under a consciousness of impending death; (c) that he was a competent witness; and (d) that his declaration is offered in evidence in a criminal case for homicide, murder or parricide in which the declarant is the victim (Sec. 31, Rule 130, Rules of Court; *People vs. Saliling*, 69 SCRA 427). All of these circumstances were present when Abelardo made his dying declaration.

While it is true that the appellant's extrajudicial confession was made without the advice and assistance of counsel, hence, inadmissible as evidence, it could be treated as a verbal admission of the accused established through the testimonies of the persons who heard it or who conducted the investigation of the accused (*People vs. Carido*, 167 SCRA 462; *People vs. Feliciano*, 58 SCRA 383; *People vs. Fontanosa*, 20 SCRA 249).

The Valencia Police Station investigator, Patrolman Paquito Fetalvero, testifying before the trial court on October 16, 1984, quoted the admissions of the accused. The trial court, which observed his deportment on the witness stand, found him credible.

Rage appeared to have triggered Molas' killing rampage, rage on seeing Soledad maul his sweetheart, Dulcesima, rage when Dulcesima chided him instead of appreciating his effort to stop her mother's attack against her, and rage at Abelardo for attacking him also. But even if that motive may seem insufficient to persons not as easily provoked to violence, the absence of motive only assumes determinative significance when the perpetrator of the crimes had not been positively identified (*People vs. Ballinas*, 202 SCRA 516). In this case, however, both the crimes and Molas' participation therein were definitely established.

At any rate, the trial court did not rely solely on the extrajudicial confession of the accused. Even if that confession were disregarded, there was more than enough evidence to support his conviction. His act of giving

himself up to the police of Pamplona with the murder weapon, his blood-stained clothing at the time of surrender only hours after the killings, Abelardo's dying declaration, and the testimonies of the policemen in the police stations in Pamplona and Valencia to whom he admitted his guilt constitute an unbroken chain proving beyond reasonable doubt that it was he who murdered Abelardo, Dulcesima and Soledad Resonable.

The trial court correctly found the accused-appellant guilty beyond reasonable doubt of the crime of murder.

While treachery was not appreciated as a qualifying circumstance against Molas, the killing of the three victims was raised to murder by the presence of the qualifying circumstance of abuse of superior strength. There was abuse of superior strength when Molas inflicted several mortal wounds upon Soledad. Molas, besides being younger and stronger, was armed with a weapon which he used in seriously wounding her. That circumstance was also present when he hacked eight-year old Abelardo and also Dulcesima who, besides being a woman of lesser strength, was unarmed.

WHEREFORE, the appealed judgment convicting Josue Molas for the murders of Dulcesima Resonable, Soledad Resonable and Abelardo Resonable and sentencing him to suffer the penalty of reclusion perpetua for each of said murders is AFFIRMED, with modification of the death indemnity which is hereby increased to P50,000.00 for each case.

SO ORDERED.

Cruz, (Chairman), Padilla, and Bellosillo, JJ., concur.

[*] Apparently, Molas and Dulcesima had gone out on a date that day and returned home after dark.

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