2 Phil. 80

[G.R. No. 1006. March 30, 1903]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. NAZARIO ALHAMBRA ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

MAPA, J.:

Counsel for the defendants has petitioned the court to grant the defendants the benefit of the amnesty. This raises a question which, if decided in the affirmative, will make it unnecessary to decide the principal issue in the case.

The defendant Alhambra on the date in question was the commanding officer of the revolutionary forces of the zone in which was included the town of Puncan, in the Province of Nueva Ecija, in whose jurisdiction the crime prosecuted was committed. In obedience to an order given by him to his codefendants, who were his soldiers, the latter, one day in the month of February, 1900, captured and killed Leopoldo Palacios and his family. These facts are, in our opinion, fully proven in the case. Among the evidence introduced by the prosecution are included certain sworn statements made by some of the defendants in November, 1901, before Lieutenant Taylor, of the United States Army, of which the originals were attached to the record at the request of counsel for the Government. It may be said that to a certain extent these statements constituted the sole direct proof of the killing of Palacios and his family, if we exclude the testimony of the defendants themselves in the preliminary investigation held before the provincial fiscal, which they withdrew at the trial.

In their statements made before Lieutenant Taylor two of the deponents, Maximo del Castillo and Anacleto Olengco, affirm that Alhambra ordered the capture and killing of Palacios and his family because he suspected that they were secret *police or spies of the Americans.* Ciriaco Reyes, a witness for the prosecution, substantially corroborates this statement. He says that the motive which led Alhambra to give the order was that Leopoldo *intended to surrender to the Americans.* The complaining witness, Crisanto Sanchez,

brother-in-law of Leopoldo Palacios, also testifies, on page 60, that Alhambra wanted to kill him too, because he believed that the witness was *a member of the secret police.* This statement is corroborated by that of the witness Ciriaco Reyes, just mentioned.

We have no reason to doubt the sincerity of the testimony given by the accused before Lieutenant Taylor, not only because their statements were not controverted in the course? of the trial, they, on the contrary, having been used as proof by the prosecution, but also because it can not be presumed that they gave this testimony with the self-serving purpose of availing themselves of the benefit of the amnesty, for the simple reason that the amnesty proclama- tion was not promulgated until eight months later, that is, on the 4th of July, 1902. The sincerity of these statements is still more (dearly shown by the fact that they have been corroborated with respect to the motive which led the defendants to commit the crime prosecuted by the very satisfactory testimony of the witnesses for the prosecution.

In view of the character of the motives referred to, and which were due to the belief on the part of the defendants that Leopohlo Palacios and his family were spies of the American Army, and therefore their political enemies, we hold that the crime in question, in its complex character of murder with robbery, was a result of internal political hatred or dissensions of a political nature between Filipinos, manifested in this case by reprisals, not only on the person but also on the property of those whom they considered open enemies of the cause which they supported and defended; that the defendants committed said crime while insurgents and during the insurrection against the United States; and that they are therefore entitled to the benefits of the amnesty .proclamation of July 4, 1902.

We therefore declare that the said defendants are pardoned, subject to taking the oath prescribed by the amnesty proclamation. So ordered.

Arellano, C.J., Cooper, and *Ladd, JJ.,* concur.

WILLARD, J.:

I agree with the result.

TORRES, J.:

I am of the opinion that the accused should be pardoned as to the crime of murder, but convicted of the crime of robbery in a band.

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