

4 Phil. 295

[G.R. No. 2012. March 17, 1905]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. ENGRACIO ANGEL ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

TORRES, J.:

In a complaint dated April 4, 1904, the provincial fiscal of the Province of Rizal charged Engracio Angel, Pablo Angel, and Saturnino Angel with the crime of double murder in that these defendants did, on the morning of the 18th day of May, 1899, willfully, illegally, treacherously, and with premeditation kill Leonarda Geronimo and her daughter, Rosa Garcia, a girl of very tender age; that the defendants did the killing with cutting and blunt weapons and contrary to law.

After the trial was held the court, on April 29, 1904, sentenced Engracio Angel (*alias* Feliciano Angel), Pablo Angel, and Saturnino Angel to *cadena perpetua* with the accessories, to indemnify the heirs of the deceased in the sum of 1,000 pesos, and to pay the costs.

On the trial of the case it was proven that on the morning of said day at about 3 o'clock the defendants Engracio Angel and Pablo Angel entered the banca which was anchored near the place called Bacog, jurisdiction of the town of Malabon, Province of Rizal; that Manuel Garcia, his wife, Leonarda Geronimo, and their child, a young girl 7 years of age, together with Rufino Dizon and Jose Castillo, were aboard said banca; that after having bound all the men and compelled them to lie face downwards they demanded of Leonarda all the money which she had and, notwithstanding that the woman gave them the sum of 14 pesos, they searched the trunks and finding nothing they demanded more money from Leonarda; that she could not give them any more, and then the

defendants Engracio and Pablo seized her and took her to the stern of the boat, she taking with her the child in her arms, and threw her into the hold where the pigs were kept; they immediately went down to her and dealt her several blows on the head with their bolos; that as a result of these blows she died; that she was wounded in the neck and both her hands were cut off; that they then disappeared. The child Rosa was taken from the hold alive, but from that day she lost her appetite and grew thin and in spite of the milk which they gave her she finally died, fourteen days later, without the cause of her death being known. That during the assault Saturnino Angel remained on shore on the bank of the river watching Roberto Oliveros, who had been taken prisoner. That said Saturnino now and then shouted loudly in tagalo "Don't be afraid," and at other times compelled Oliveros to shout the same words.

From the facts stated and which have been clearly proven in this case, the commission of the crime of murder appears fully proven. Leonarda Geronimo was the victim, she being of the weaker sex and defenseless on board of the boat and in view of the suddenness of the attack, that this aggression was made by two armed men and it was difficult, if not impossible, for her to defend herself or flee, and for this reason we must consider as having existed in the commission of the crime the qualifying circumstance of treachery (*alevosia*), which carries with it a severer penalty, in accordance with the provisions of article 403 of the Penal Code and with the decisions of the supreme court of Spain dated January 24 and February 5, 1881.

There is not sufficient evidence to prove that the death of the young girl, Rosa Garcia, which occurred fourteen days after the affray took place, resulted from the fact of her having been thrown into the hold, and therefore this court will abstain from considering this fact in its opinion. Nor shall this court take into consideration the robbery committed by the defendants before the murder of Leonarda, because such robbery is not the subject of the complaint.

The three defendants, Saturnino, Engracio, and Pablo, all of them surnamed Angel, are equally liable as principals in the crime of murder, for which they are prosecuted. Notwithstanding the fact that

they pleaded not guilty, and notwithstanding their allegations in trying to establish their innocence, the testimony of the two eye-witnesses who saw the assault perpetrated in the boat and the aggression against the woman, Leonarda, her dead body being found after the defendants left the boat, and the statements of Ruperto or Roberto Oliveros, who corroborates the statements of the other two witnesses, show beyond reasonable doubt that the three defendants are guilty of the crime charged against them. Engracio and Pablo went aboard the banca and committed the crime of murder while Saturnino remained on shore watching, aiding, and abetting the material execution of the crime. The liability of the defendant Saturnino is equal to that of his codefendants, because, although he did not go on board the banca nor did he take any material participation in the commission of the crime, yet he cooperated in a direct manner in the execution of the crime by watching, aiding, and abetting his codefendants and guarded them from being surprised, and therefore it is undeniable that the three defendants conspired together and came to an understanding previously to carry out the crime.

In the commission of the crime we must consider the existence of the aggravating circumstance of nocturnity. This circumstance is counterbalanced by that provided for in article 11 of the Penal Code, considering the special conditions prevailing at the time the crime was committed, due to the disorder the towns of Malabon and Navotas and other towns were in, and also on account of the resistance interposed by some of the inhabitants of some of the towns against the authorities. Therefore the proper penalty should be imposed in its medium degree.

By virtue, then, of the reasons above stated and of those stated in the judgment below, we are of the opinion that the judgment below should be affirmed, with one-third of the costs in this instance to each of the three defendants. It being understood that these defendants are also sentenced to indemnify, jointly and severally, the heirs of the deceased in the sum of 1,000 pesos. This case to be returned to the court below together with a certified copy of this decision and of the judgment to be rendered in accordance herewith. So ordered.

Arellano, C. J., Mapa, Johnson, and Carson, JJ., concur.

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