1 Phil. 238

[G.R. No. 104. April 22, 1902]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. ALEJANDRO VALDEZ ET ALV DEFENDANTS AND APPELLANTS.

D E C I S I O N

MAPA, J.:

Valdez's codefendants having been acquitted in the court below, this case has been brought before us on appeal by the said defendant against the judgment of the Court of First Instance, by which he was condemned as principal of the crime of homicide committed on the person of Martin Evangelista to fourteen years, eight months and one day of *reclusion temporal* and the accessories, to the payment of 700 pesos to the heirs of the deceased, and to the payment of an eighth part of the costs of the prosecution.

The guilt of the defendant Valdez is fully proven in the record. The judge below acted correctly, in our opinion, in classifying the facts in the case as constituting the crime of homicide. The evidence is insufficient to show that any of the specific circumstances established by article 403 as constitutive of the crime of murder were present in the commission of the crime.

It is true that the defendant testified that Martin Evangelista was killed by one Venancio Cariaga while bound elbow to elbow. This testimony is the only evidence in the record upon this point. If this circumstance were true it would be unquestionable that the crime was committed treacherously (*con alevosia*) and should therefore be classified as homicide, as urged by counsel for the Government in this instance; but we can not admit the testimony of Valdez as true in any degree, not even in so far as it might be prejudicial to him, by reason of the fact that he gave this testimony for the sole and exclusive purpose of incriminating another to exculpate himself, evidently falsely stating the facts and circumstances in such a manner that it would be unwise, in our judgment, to accept any of his testimony as the foundation of a decision. We are of the opinion that it was his purpose to entirely disregard

the truth, his sole purpose being to incriminate another. For these reasons this testimony can not properly be considered a confession of the defendant, but should be regarded as testimony given for the purpose of injuring a third person. Consequently it should be accepted only in so far as it is corroborated by other data in the record.

We therefore decide that the judgment appealed should be affirmed, with the costs of this instance to the appellant.

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

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