

3 Phil. 437

[G.R. No. 1245. March 21, 1904]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. CASIANO SAADLUCAP,
DEFENDANT AND APPELLANT.**

D E C I S I O N

TORRES, J.:

On November 17, 1902, the provincial fiscal filed an information in the Court of First Instance of Misamis charging Casiano Saadlucap with the crime of murder, in that the said Saadlucap in 1899, with evident premeditation, in Julao-julao, of the capital of Misamis, with a cutting weapon, killed an old woman named Ines Acosta, contrary to the statute in the case made and provided.

The accused pleaded not guilty. From the testimony of Andres Baal and that of an fidel Moro named Danga, given at the trial, it appears that one morning in the year 1899 about 8 o'clock, the day and month not appearing, the witnesses, who were going to assist the accused in gathering cocoanuts, found him with blood stains upon his clothing, near the corpse of a woman lying face down ward with spots of blood on the shoulder; that the accused told them that he had killed the woman because she had told Fausto Sarenas that lie, the accused, had stolen some bananas belonging to the said Sarenas; that he then asked the witnesses to assist him in taking the corpse to the place where he proposed to bury it; that they refused to do this and ran away; that impelled by curiosity they concealed themselves behind some bushes and then saw him, aided by his wife, Saturnina by name, bury the corpse near a clump of bamboo; that after Danga was imprisoned, for some reason which does not appear, the body was exhumed; that the witness Baal was subsequently informed by Fausto Sarenas that the accused had told the said Sarenas that he had killed the old woman Ines;

this was three months after the occurrence.

Fausto Sarenas testified that Ines Acosta lived in a shed belonging to him from 1898 to 1900; that she died in 1900, three months after the Americans arrived at Cagayan; that on account of the woman's disappearance he instituted a search for her; that a year afterwards the accused, who had lived near the witness's land long before the death of Ines and who was known to the witness, as he frequently came to his house, told him that he was the one who had killed the woman; that this statement was made by the accused one morning in the presence of the witness's wife; that the accused made this confession upon being questioned by the witness, who knew the facts before hand, having been informed thereof by the said Danga and Baal; that the corpse was disinterred in December, 1901.

Carpio Nery testified that one day while the accused was in his house he asked him to state why he had killed the woman, Ines; that the accused replied it was because she had charged him with stealing bananas, and stated further that on that occasion he, the accused, had asked the witnesses Danga and Baal to help him gather cocoa nuts, but that upon seeing the corpse of the woman they ran away; that the witness asked the accused this question as he had already heard the facts from others. Albina Tabacuan testified that she heard of the occurrence after the accused was in jail.

Upon this testimony, on February 9, 1903, the judge below rendered a decision convicting the accused and condemning him to the penalty of life imprisonment (*cadena perpetua*) with the costs *de officio*, from which decision the defendant appealed.

From the testimony of credible witnesses it has been shown that Ines Acosta was mortally wounded in the shoulder with a pocketknife and that her body was buried in the field a short distance from the house of the accused. In view of the fact that no qualifying circumstance was present in the commission of the crime which would justify a higher classification, the offense must be regarded as homicide, defined and punished in article 404 of the Penal Code.

Although the accused pleaded not guilty to the crime of which he was charged, the proof of his guilt is entirely sufficient. We have not only the testimony of

the two witnesses who saw him, his clothes stained with blood, burying the corpse of Ines Acosta, and the fact that she disappeared from that time on and that her body was found when it was exhumed in December, 1901, but we also have the testimony of two others, one of whom was the employer of the deceased, who affirmed that they heard the accused confess that he had killed the woman whose body was buried some 15 brazas from his house, from which place it was subsequently exhumed in the presence of Fausto Sarenas, the employer of the deceased. Consequently the guilt of Casiano Saadlucap as sole principal, by direct participation, of the crime of which he is charged, is unquestionable.

In the commission of the crime aggravating circumstance No. 20 of article 10 of the Penal Code must be considered against the accused by reason of the sex and advanced age of the deceased, there being no mitigating circumstances to offset these.

Although the defendant was charged with murder in the information, he can, nevertheless, under the provisions of the law of procedure, be convicted of homicide, for this offense may be considered as included in the crime of murder, as the violent killing of a human being may constitute either of these crimes.

For the reasons stated we are of the opinion that the judgment below should be reversed and Casiano Saadlucap convicted of the crime of homicide and sentenced to seventeen years four months and one day of *reclusion temporal*, with the accessory penalties of absolute temporary disqualification to its full extent, and subjection to the vigilance of the authorities during the period of the penalty and for another equal period to run from the date of its expiration, to the payment of 1,000 Insular pesos to the heirs of the deceased, and to the costs of both instances. Judgment will be entered accordingly and the case remanded to the court below for execution thereof, with a certified copy of this decision. So ordered.

Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, JJ., concur.

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