

3 Phil. 81

[G.R. No. 1026. December 21, 1903]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. VICTORINO CORREA ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

COOPER, J.:

Victorino Correa, Alejo Correa, Martin Lagursay, Tito Correa, Anastasio Mufios, Leandro Monte, Marcos Tagaca, Miguel Aguinaldo, Nicolas Reyes, and Eulalio Camayon are charged with the crime of the murder of Pablo Jangat on the 1st day of July, 1902, committed with *alevosia*.

The Court of First Instance found the defendants Victorino Correa, Alejo Correa, Martin Lagursay, and Leandro Monte guilty as principals, and Romualdo Monte as an accomplice, and Marcos Tagaca as an *encubridor*, condemning the first-named defendants as principals to the penalty of life imprisonment (*cadena perpetua*), the defendant Romualdo Monte to twelve years and one day of imprisonment (*cadena temporal*), and the defendant Marcos Tagaca to six years and one day imprisonment (*prision mayor*), with their respective accessories, and acquitting the other defendants of the accusation.

After the cause was removed to this court the appellants made application for amnesty under the proclamation of the President of the United States of date the 4th day of July, 1902. The application was heard by this court on the 15th day of December, 1902, and was overruled. (See IOff. Gaz., 77.^[1])

The judgment of the Court of First Instance is fully sustained by the evidence contained in the record.

Apolinario Castro, a witness for the prosecution, testified that in the month of January, 1902, he was invited by the defendant Victorino Correa to join him in the barbecue of a pig; that he was also told by the defendant to invite Pablo Jangat; that the witness accepted the

invitation and sent word to Jangat, and went to Victorino's house; that, shortly after, Pablo Jangat arrived, and was immediately seized by Leandro Monte, aided by Alejo Correa and Martin Lagursay; at the same time Romualdo Monte seized the witness and took him a short distance away from the place, and from this point he was able to see what occurred through the openings between the trees; that he was detained in this place for about half an hour, and that at the expiration of that time was allowed to return; that he did not see Jangat there, but saw some of the accused; that he did not ask where Jangat was because he was afraid; that about half an hour afterwards Martin Lagursay, Leandro Monte, Alejo Correa, and Victorino Correa returned; that Jangat did not come with them; that they then proceeded to carve the pig, and after eating it each one went home. The witness stated that he observed a wound on Jangat's head at the time he was seized, but did not know which one of the accused inflicted it; that while he was in the brush detained by Romualdo Monte he heard one of the men present say in a loud voice, "Anyone who goes about telling of this occurrence will be killed, with all his family;" that the time of the occurrence was between 7 and 10 o'clock a. m.; that he did not report the facts to the authorities because he was afraid of Victorino Correa who told the witness that if he said anything about the matter he would kill him; that when Pablo Jangat was seized by these men there were no other persons present, except Victorino Correa, Alejo Correa, Leandro Monte, and Martin Lagursay, but added that when the pig was carved several other men came around, and among them were Marcos Tagaca and Nicolas Reyes.

Leon Bumaró testified that on Friday in the month of January, 1902, he had been requested by the accused, Victorino Correa, to come to his house for the purpose of joining him in a barbecue of a pig; that the witness accepted the invitation and went to Correa's house, where he met Pablo Jangat, the deceased, Apolinario Castro, Alejo Correa, Leandro Monte, Martin Lagursay, Marcos Tagaca, and Nicolas Reyes; that after a few moments he saw Leandro Monte approach Pablo Jangat and seize him; that at the same time Alejo Correa approached and struck Jangat on the head with a stick, which caused a large wound from which a great deal of blood flowed; that immediately after Martin Lagursay approached and also seized Jangat, and then the three proceeded to tie his arms behind his back and to tie his feet together; that after Jangat was so tied he implored Alejo Correa to pardon him; that Correa thereupon asked him where he had put the ring he had taken, to which Jangat replied that he knew nothing about it he had not taken any such ring; that upon this Monte seized a piece of cane and thrust it between Jangat's legs, assisted by Martin Lagursay, and that they then tied Jangat's body to the cane with the rope so that lie might be carried; that after this was done Victorino Correa, who was the man that ordered

that Jangat be seized, directed all the other persons present to carry Jangat a short distance into the woods, and to bury him there, Jangat at this time being in a dying condition; Thereupon Leandro Monte and Martin Lagursay each placed on his shoulder an end of the cane, which had been passed through the legs of the deceased, and from which he was suspended, and carried him into a neighboring wood; that these men were followed by Yictorino Correa, Alejo Correa, Marcos Tagaca, and the witness; that the latter two followed because they were afraid of Victorino Correa; that Tagaca had a crowbar with him, and after reaching a point in the woods some distance to the southwest, of Yictorino Correa's house Victorino Correa ordered a grave to be dug in which to bury Pablo Jangat, who was then dead; that the grave was dug by Alejo Correa, Martin Lagursay, Marcos Tagaca, and Victorino Correa himself; they put Jangat's body in it and covered it with earth; this having been done they returned to Victorino's house.

After they returned to the house of Yictorino they found that the hog had already been carved and that some other men Tito Correa, Romualdo Monte, Miguel Aguinaldo, Nicolas Reyes, Eulalio Gamayon, and Apolinario Castro had arrived and were engaged in distributing the meat; that the deceased Jangat was seized in the yard in front of Correa's house; that the body was buried about half an hour after he was seized and wounded; that Yictorino Coirea not only ordered Jangat to be seized but ordered him to be carried away and buried; that he heard Alejo Correa say that the ring concerning which he had interrogated Jangat after striking him on the head was the property of Correa's sister, who said that it had been taken from her the night before, and the witness supposed that this was the motive for the killing of Jangat. The witness testified further that Marcos Tagaca did not voluntarily assist the other accused above named in digging the grave; but the witness added that he did not know where Tagaca got the crowbar or whether he had been instructed to get it, or whether, on the contrary, he provided himself with it of his own free will.

Isidro Mariano testified that one day in the month of January, 1902, while he was plowing a field, the deceased, Pablo Jangat, approached him and invited him to go with some others who were to meet at Victorino Correa's house for the purpose of barbecuing a pig; that the witness told Jangat to go ahead and that he would come later, which he did; that the witness, after taking breakfast, started for the place, but before arriving there went over to Alejo Correa's house; that just at this time Martin Lagursay arrived and told the witness that by order of Victorino Correa he was to go immediately to the latter's house; that the witness obeyed, and, upon arriving at Victorino's house saw Pablo Jangat's body stretched on the ground, dead, his arms tied elbow to elbow, with a wound on the left side of his

head; that a short time after Victorino Correa ordered Leandro Monte and Martin Lagursay to carry Jangat's body away from that place; that they did so, followed by Victorino Correa, Alejo Correa, and Tito Correa; that the witness did not know what they did with the body, as he remained at the house with Miguel Aguinaldo, Nicolas Reyes, and Romualdo Monte for the purpose of killing and carving the pig, as they were ordered to do by Victorino Correa. The witness further testified that upon his arrival at the house he found the men he mentioned as being present engaged in conversation around the body of Pablo Jangat, who apparently had just died; that Victorino had a bolo and that Alejo Correa, Tito Correa, and Miguel Aguinaldo had clubs, which were spotted with fresh blood; that there was another bloody stick lying on the ground; that the witness arrived at the house about 10 o'clock in the morning, and that a short time afterwards they carried the body away, but that the witness did not know where they buried it. The witness further stated that the reason why he did not leave at once was because Victorino Correa had prohibited him from doing so, and that he, being afraid, had obeyed him. The witness was then asked if he knew what was the motive for killing Pablo Jangat, to which he replied that he did not know why Jangat was killed, nor could he testify, of his own direct knowledge, as to whether the defendants present at the trial were the ones who killed Jangat, although he strongly suspected that they were all implicated in the killing in question, from the fact that he found them all sitting around near the body, and especially with respect to Victorino Correa, on account of the warnings and threats of the latter, who told the witness not to reveal to anyone what he had seen, under the penalty of death. The witness testified to having seen the witnesses Apolinario Castro and Leon Bumaro at the place in question; that Leandro Monte, Martin Lagursay, Victorino Correa, Alejo Correa, and Tito Correa all went together and in the same direction with the body of the deceased; that Victorino Correa compelled the others to carry the body. The defendant Victorino Correa testified in his own behalf and stated that he did not invite the party to come to his house to barbecue the pig. He denied ever having had any acquaintance with the deceased.

Alejo Correa, another one of the defendants, testified, stating that he was not present at the time of the killing of the deceased; that he was at another barrio on this very day from sunrise until 7 o'clock at night; that he never knew the deceased and did not know whether or not he was dead; that it was not true that the deceased had stolen a ring from his sister.

The defendant Martin Lagursay testified that on the day in question he was away from his house planting tobacco from sunrise to sunset; that he never knew the deceased and had never heard of his death.

Leandro Monte testified that on the day in question he was busy grinding sugar cane at his house, some distance away from the place in question; that the first time the witness heard anything about the death of Pablo Jangat was in the justice's court at Dingras, after this case was commenced.

Romualdo Monte testified that he knew nothing about the killing of which he was accused,

Martin Lagursay testified that on Friday, in January, 1902, he was busy planting tobacco until about 10 o'clock in the morning; that after having rested until after 12 o'clock he went to Tito Correa's house for the purpose of getting some tobacco seed; that while there Tito told him that Victorino Correa had killed a pig; that he went to Victorino's house; that he saw no other persons except Victorino and the latter's wife, and that he had observed nothing worthy of attention.

It is contended by the counsel for the defendants that the qualifying circumstance of *alevosia* has not been shown in the case.

Alevosia, as defined in article 10 of the Penal Code, exists when the culprit commits the crime by employing means, methods, or forms in the execution thereof which tend to directly and specially insure it without risk to the person of the criminal, arising from any defense the injured party might make.

The proof is entirely sufficient to show the existence of *alevosia* as defined by the statute. The deceased was treacherously invited to the home of the defendant Victorino Correa to enjoy his hospitality, accepted the invitation, and when he arrived there he was seized by Leandro Monte. While held by Monte the defendant Alejo Correa gave him a stroke on the head and at the same time Martin Lagursay approached and seized him. While thus firmly within the grasp of the defendants he received mortal wounds at their hands. He was then bound hand and foot, and, notwithstanding his supplications for pardon, a cane was thrust through the ropes thus binding him, and he was then, at the direction of Victorino Correa, carried off in a dying condition and buried. The methods thus employed tended directly and specially to insure the accomplishment of the crime without any risk to the person of those executing it.

While the motive for the commission of the offense is not entirely clear the testimony not disclosing anything upon this point further than that after the deceased was struck and bound he was asked where he had put the ring he had taken yet it is evident from the facts contained in the record that there was a conspiracy on the part of the accused persons, led

by Victorino Correa, to murder the deceased. The alibi proof contained in the record, if true; testimony were credible, might be entitled to some consideration; but we place but little confidence in this character of testimony when the connection of the parties with the commission of the offense has been proven by eyewitnesses, who not only testified to the acts committed but clearly identified the parties who engaged in their commission.

The counsel for the defense contends that the evidence shows that, Tagaca assisted in the burial of the body of the deceased against his will, acting under fear on account of threats made by Victorino Correa. Tagaca had a crowbar with him with which the grave was dug, and no explanation was made as to whether he had provided himself with it of his own free will, or whether it was furnished by Victorino Correa when the parties set out for the burial of the deceased. Tagaca himself has not set up this defense. On the contrary, he has attempted to prove an alibi and to show his entire ignorance of the matter.

It seems probable from the evidence that Victorino Correa was the leader of a lawless band, and, for some cause not very evident, had assembled the members at his house for the purpose of killing the deceased. Whether this band was engaged in the insurrection, and the offense committed by them was of a political character, we are unable to say, there being nothing in the record to show the purposes of the organization, if such organization existed. The judgment of the Court of First Instance should be affirmed, which is accordingly done.

Arellano, C.J., Torres, Willard, Mapa, and McDonough, JJ., concur.
Johnson, J., did not sit in this case.

^[1] Phil. Repts., 549.
