

FIRST DIVISION

[G.R. No. L-12462. December 20, 1917.]

UNITED STATES, *plaintiff-appellee*, **vs. SIMEON GUENDIA**, *defendant-appellant*.

DECISION

STREET, J :

This case is brought to this court by appeal from a judgment of the Court of First Instance of the Province of Iloilo convicting the defendant upon the charge of frustrated murder.

There is no doubt that an assault with intent to kill was committed by the defendant at the time and place mentioned in the record upon the person of his querida; but the proof shows, in our opinion, that the defendant was crazy at the time and has remained so since. He has now been committed by order of the Governor-General to the San Lazaro Hospital for confinement and treatment. The trial judge says, "I really believe that this man is crazy; or he appeared so, at least, during his trial in this court;" and the action of the trial judge in passing sentence upon the defendant must have been in part due to a desire to keep a dangerous insane person in confinement until proper disposition might be made of him. It is clear from the evidence submitted at the trial that the defendant was insane at the time of the perpetration of the act, and he is therefore exempt from criminal liability under subsection 1 of article 8 of the Penal Code. It results that the judgment of the lower court must be reversed and the defendant acquitted.

It has been suggested in this case that inasmuch as it appears from the evidence that the accused was insane at the time of the trial in the court below it was improper for that court to proceed to hear the case and furthermore that it is now improper for this court to reverse judgment and acquit the accused of the offense with which he is charged. This court by no means concurs in this suggestion.

Undoubtedly the rule is well established that no person afflicted with imbecility or insanity in such a degree as to disable him from making his defense should ever be put upon his trial for an alleged crime or be made to suffer the judgment of the law.

In Blackstone's Commentaries we find the following passage:

"Also id a man in his sound memory commits a capital offense, and before arraignment for it, he becomes mad, he ought not to be arraigned for it; because he is not able to plead to it with that advice and caution that he ought; and if after he has pleaded, the prisoner becomes mad, he shall not be tried; for how can he make his defense? If, after he be tried and found guilty, he loses his senses before judgment, judgment shall not be pronounced; and if, after judgment, he becomes of non-sane memory, execution shall be stayed; for peradventure says the humanity of the English law, had the prisoner been of sound memory, he might have alleged something in stay of judgment of execution."

There were good reasons for this tenderness or "humanity" of the English law, as

the reader will appreciate when reminded of the fact that until modern times no prisoner arraigned before the bar of an English court was ever permitted to have counsel to assist him in his defense; that until within the memory of living man no accused person was ever permitted to give testimony in his own behalf; and finally that it was only in our own day that a person convicted of a crime in an English court has been allowed an appeal for a review of the facts.

When Blackstone here speaks of madness he refers to a general perversion and obliteration of the mental powers much more pronounced than that which is considered sufficient to exempt from criminal responsibility. This is apparent from the fact that the courts have always treated a person as sane for the purposes of being tried if he has sufficient powers to comprehend the nature of the proceedings in which he is involved and to conduct his defense.

In the State of New York, as appears from the case of *Freeman vs. People* (4 Denio, 9; 47 Am. Dec., 216), there was in force in 1847 a statute expressly declaring that no insane person could be tried, sentenced, or punished for any crime. In discussing this provision, the court said:

"In its terms the provision is broad enough to reach every possible state of insanity, so that, if the words are to be taken literally, no person while laboring under insanity in any form, however partial and limited it may be, can be put upon his trial. But this the legislature could not have intended; for although a person totally bereft of reason can not be a fit subject for trial or punishment, it by no means follows that one whose insanity is limited to some particular object or conceit, his mind in other respects being free from disease, can justly claim the like exemption. This clause of the statute should receive a reasonable interpretation, avoiding on the one hand what would tend to give impunity to crime, and on the other seeking to attain the humane object of the legislature in its enactment. The common law, equally with this statute, forbids the trial of any person in a state of insanity. This is clearly shown by authorities which have been referred to, and which also show the reason for the rule, to wit, the incapacity of one who is insane to make a rational defense. The statute is in affirmance of this common law principle, and the reason on which the rule rests furnishes a key to what must have been the intention of the legislature. If, therefore, a person arraigned for a crime, is capable of understanding the nature and object of the proceedings going on against him; if he rightly comprehends his own condition in reference to such proceedings, and can conduct his defense in a rational manner, he is, for the purpose of being tried, to be deemed sane, although on some other subjects his mind may be deranged or unsound. This, as it seems to me, is the true meaning of the statute; and such is the construction put by the English courts, on a similar clause in an act of parliament."

For the purpose of securing these unfortunate persons from the danger of being improperly arraigned and tried, statutes have been enacted in many jurisdictions requiring the court, where the issue of present insanity is raised, or where the present insanity of the accused is otherwise brought to the attention of the court, to submit to the jury a preliminary issue to determine whether the accused is so far insane as to require a suspension of the proceedings; and even in States where no such statute has been enacted it is recognized that the issue of present insanity ought properly to be tried, either by the court itself or by the jury, as a separate issue.

It is, however, entirely clear that, in a jurisdiction like this, where there is no controlling statute, the trial court has discretion as to whether a preliminary investigation into the prisoner's sanity shall be made. In *Jones vs. State* (13 Als., 153), it was said:

"But in the case before us the judge did not see proper to test the prisoner's sanity by any preliminary inquiry to ascertain whether he was capable of pleading to the indictment — he did plead, and a trial and conviction was the result, although we are opinion that the facts disclosed in the bill of exceptions might well have warranted the preliminary inquiry as to the prisoner's mental condition, yet this must be left to the sound discretion of the court below."

In *State vs. Peacock* (50 N.J.L., 34), it was held that it rests in the sound discretion of the court whether a preliminary examination shall be had to ascertain the mental condition of the prisoner at the time of trial, and that where no exception is taken at the trial to the failure of the court to order such examination, it is not available upon appeal. Said the court:

"The method of setting this preliminary question, where it is not the subject of statutory regulation is within the discretion of the trial court. The court can itself enter upon the inquiry , or submit the question to another jury empaneled for that purpose. Whether the action of the court is the subject of exception it is not now necessary to decide, for in the present case no objection was made to the action of the court in respect to a suspension of the proceedings, nor was there any request made by the counsel who defended him that such an inquiry should be instituted. There was nothing proved that displayed such a condition of mental derangement that the court, of its own motion, was called upon to direct a further inquiry into the matter. No court would be bound to stop or justified in arresting the progress of a trial by a mere suggestion of, but in the absence of any substantial evidence of the existence of a degree of mental disorder which would unfit the defendant from conducting his cause or instructing his counsel."

In *Webber vs. Commonwealth* (119 Pa. St. Rep., 223; 4 Am. St. Rep., 634), it was likewise held that the making of a preliminary inquiry into the sanity of the prisoner before the trial upon the criminal charge is begun is discretionary with the court. It was there said:

"The existence of the doubt as to the prisoner's present insanity is a matter which, by the very necessity of the case, could only be determined by the court itself. Up to the time of pleading there is no other tribunal which has the prisoner in charge, and there is no other which can say whether there is a doubt upon that subject. It is one of the functions which must be intrusted to the court, and it is not to be presumed that it will in any case be abused."

Where the court examines into the mental condition of the accused and discovers that he is laboring under a condition of insanity such that he ought not to be brought to trial, it is of course the duty of the court to hold the criminal proceedings in abeyance and commit him to an asylum or hospital for the insane, as the case may require. If, on the other hand, no preliminary investigation into the mental condition of the accused is considered necessary by the trial court, and the accused is brought to trial on the complaint, the question whether he was mentally responsible at the time of the commission of the alleged offense is an open one and if it be found that he was insane when the alleged crime was committed, he will be acquitted. We have found no reported decision in which it has been held or even suggested that an accused person should not be acquitted when it appears at the trial that by reason of lunacy or imbecility he was exempt from criminal responsibility. And the circumstance that he may still be an imbecile or lunatic at the time of the trial does not by any means destroy the power of the court to declare him not guilty. In *Queen vs. Berry* (1 Q. B. Div., 447, 451), it was said by Baron Kelly:

"I believe it to have been the law from the earliest times, that if it is found at

the trial of a prisoner that he cannot understand the proceedings, the judge ought to discharge the jury and put an end to the trial, or order a verdict of not guilty."

It is a very general practice in England and the United States, where a person is acquitted on the ground of insanity, for the court to order his detention in a lunatic asylum. (People vs. Chandler, 196 N.Y. 525; 25 L.R.A.[N.S.], 946; Caffey vs. State, 78 Niss., 645; Peabody vs. Baker, 59 Misc. [N.Y.], 359; People vs. Lamb, 118 N.Y. Supp., 389; *Ex parte* Brown, 1 L.R.A. [N.S.], 540.) Indeed there is a presumption that a person once shown to have been afflicted with insanity or lunacy of a permanent character has remained so, and this presumption prevails, even in the absence of a special finding of the court, until the contrary is shown. (State ex rel. Thompson vs. Snell, 46 Wash., 327; 9 L.R.A. [N.S.], 1191; 89 Pac., 931; In re Thomas Brown, 39 Wash., 2 Ann. Cas., 492.) This idea is at the basis of numerous decisions holding that the statutes providing for the confinement of such persons, without further trial of the issue of insanity, are valid.

In Rex vs. Little, Russ & R.C.C. 430, the defendant was found to have been insane at this time of the commission of the offense, and also at the time of the trial, and was acquitted on account of such insanity. The trial judge ordered him to be kept in strict custody in jail till His Majesty's pleasure should be known.

In U.S. vs. Lawrence (4 Cranch, D.D., 518; Fed. Cas No. 15,557) it was proved that the defendant had shot at the President of the United States under the insane delusion that he himself was King of England, and that the President stood in his way in the enjoyment of his right, and that the shooting was done under such delusion. The jury found him not guilty by reason of insanity, and the court remanded him, being of opinion that it would be extremely dangerous to permit him to be at large while under such delusion.

The conclusion to which we arrive is that when a judge of first instance is informed or discovers that an accused person is apparently in a present condition of insanity or imbecility, it is within his discretion to investigate the matter, and if it be found that by reason of any such affliction the accused could not, with the aid of his counsel, make a proper defense, it is the duty of the court to suspend the proceedings and commit the accused to a proper place of detention until his faculties are recovered. If, however such investigation is considered unnecessary, and the trial proceeds, the court will acquit the accused if he be found exempt from criminal responsibility by reason of imbecility or lunacy. In such case an order for his commitment to an asylum should be made pursuant to the provisions of paragraph 2 of article 8 (1) of the Penal Code. In passing on the question of the propriety of suspending the proceedings against an accused person on the ground of present insanity, the judges should bear in mind that not every aberration of the mind or exhibition of mental deficiency is sufficient to justify such suspension. The test is to be found in the question whether the accused would have a fair trial, with the assistance which the law secures or gives; and it is obvious that under a system of procedure like ours where every accused person has legal counsel, it is not necessary to be so particular as it used to be in England where the accused had no advocate but himself.

Judgment reversed and defendant acquitted, with costs of both instances *de officio*. But the defendant shall be kept in confinement in the San Lazaro Hospital, or such other hospital for the insane as the Director of Health may direct, and shall not be permitted to depart therefrom without the prior approval of the Court of First Instance of the Province of Iloilo. So ordered.

Arellano, C. J., Johnson, Araullo, and Malcolm, JJ., concur.