

A

SUPREME COURT OF THE TERRITORY OF PAPUA AND NEW GUINEA

THE QUEEN.

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against

NICHOLAS LAGIT of ABAR

Criminal Trial (Gore, J.) at Madang
5th, 6th and 7th July, 1961.

Insanity - grandiose paranoia - delusions.

LAGIT arranged for a Catholic bishop to visit his flock in GAREGUT, the village of his very great friend LOREN and, as part of the arrangements, he had a large enclosure made as a sort of courtyard to the entrance of the house the bishop stayed in. The fence of the enclosure was 6 feet high and excluded observation from the village. After certain ceremonies according to the rites of his church, the Bishop went into his house to pack, whereupon LAGIT addressed the people to the effect that he had had successes in the past which were solely due to his own efforts and he ended by asking the people if they wished him to "do something" which "they could see". On the people voicing their agreement he told the leaders to enter the enclosure and stand along one side of it. Then he told one of the leaders to bring the Bishop down into the enclosure. When all were assembled he went through a covered opening in the opposite side of the enclosure carrying a long and ancient knife (3 feet long) in his right hand. Presently he returned with LOREN. They came into the enclosure "hand in hand as two friends going for a stroll". When they reached the centre of the enclosure LOREN raised his left arm - his right hand still in LAGIT's left hand - and, raising his head skywards, thrust his neck out. LAGIT chopped his neck with the knife and LOREN fell down dead. No-one knew what it was LAGIT was going to do that they "could see" and the psychiatric evidence was that LOREN had given LAGIT secret information that if LAGIT would spill LOREN's blood a new era would dawn - kind of Utopia. The psychiatrist diagnosed the disease of the mind: grandiose paranoia, and gave evidence that a person suffering from it would not have the capacity to know that he ought not to do what he did - that, on the contrary, his delusion would be such that he would believe that what he did was eminently right.

HELD

- (i) The Court is "not bound to find in accordance with the medical evidence because the medical attitude may not be in accordance with the legal view. But the medical opinion must be regarded with much respect." (para 17.)

- (ii) In considering whether the defence has established, on the balance of probabilities, (para 6.) that the accused was of unsound mind at the time he killed LOREN, "one may consider LAGIT's conduct before, at the time of, and after the event" (para 16.) in addition to the medical evidence.
- (iii) A reasonable jury would find that LAGIT was insane at the time he killed LOREN and he is so found by the Court.

P.J. Quinlivan, Chief Crown Prosecutor, for the Crown.

W.A. Lalor, Public Solicitor, for the Defence.

Editor's Note

Because the press consistently called this a case of "ritual killing" and referred to a "black rooster" this report would be an incomplete record if we did not note that:

- (i) although the killing could be called "ceremonial" in the sense that it was theatrically staged, it was a single act (without precedent anywhere or at any time) done as a result of a secret kept between two people. It presumably will not be repeated since one of the men is now dead and the other confined as criminally insane.
- (ii) According to the evidence and the experts, the only significance of the rooster is that it was set aside as an item for dinner.

On 7th July, 1961, His Honour delivered the following judgment:-

GORE, J.

In this case the Accused is charged with the wilful 1.
murder of one LOREN, a male Native of the village of GAREGUT, Gore, J.
on the 7th May, 1961.

A person is guilty of wilful murder if he unlawfully
kills another intending to cause death. There is not in this 2.
case any relief from criminal responsibility such as accident,
provocation or mistake, so that consideration of relief, by
reason of those matters, ca. be dispensed with.

There is, however, a presumption that every person is
of sound mind, and he is not criminally responsible for what- 3.
ever offence he has committed if he is not of sound mind at the

time of the commission of the act which constitutes the offence.

There is no doubt that LOREN was killed by the Accused 4.
 Nicholas LAGIT. The act of killing was in the presence of many
 witnesses and the Accused made a clean breast of the incident.
 There is also not the slightest doubt about the intention of the
 Accused.

The Defence has set up insanity. 5.

Now the burden of proof is laid upon the Crown to show 6.
 beyond a reasonable doubt that the Accused committed the crime.
 This burden is always on the Crown in criminal cases but there
 is an exception when the defence is insanity. Then the burden
 shifts from the Crown to the Defence. The Defence, however, in
 such a case has not to carry as heavy a burden as that laid upon
 the Crown, for the Defence does not have to remove all doubt but
 to establish on a balance of probabilities that the Accused was of
 unsound mind at the time when he committed the offence.

Well, I have no doubt that the accused killed LOREN and 7.
 he intended to cause his death, so that the Crown has discharged
 the onus placed upon it.

It remains only to consider the Defence of insanity 8.
 in relation to the charge.

Section 27 of the Criminal Code defines insanity as a 9.
 relief from criminal responsibility in the following terms:- Gore, J

"A person is not criminally responsible for an
 act or omission if at the time of doing the
 act or making the omission he is in such a
 state of mental disease or natural mental
 infirmity as to deprive him of capacity to
 understand what he is doing, or of capacity to
 control his actions, or of capacity to know
 that he ought not to do the act or make the
 omission.

"A person whose mind, at the time of his doing
 or omitting to do an act, is affected by

delusions on some specific matter or matters,
but who is not otherwise entitled to the benefit
of the foregoing provisions of this section, is
criminally responsible for the act or omission
to the same extent as if the real state of things
had been such as he was induced by the delusions
to believe to exist."

As to the requirements for relief of criminal
responsibility as set out:— that he did not understand what he
was doing and had not the capacity to control his actions, I need
not dwell upon. The evidence showed that he knew only too well
that he was killing LOREN, and his capacity to control his actions
was obvious from the evidence. 10. Gore J

It is only the remaining requirement which needs consider- 11.
ation upon the Defence. This is whether he had the capacity to
know that he ought not to do the act of killing.

The Defence is that he was suffering from the delusion that 12.
the killing of LOREN was right.

It appears that from the second part of Section 27 a person 13.
who is affected by delusions on some specific matter but is not
otherwise entitled to the benefit of the provisions of the Section,
is criminally responsible for the act or omission to the same extent
as if the real state of things had been such as he was induced by
the delusions to believe to exist. I do not think that the words
of that part can affect this case.

Although it is the state of mind at the time of the 14.
commission of the offence which is exclusively important, one
might consider the facts both before and after the event. This
is an odd case, - one which I should say would be regarded as
peculiar anywhere. In it is bound up the confusion of a heathen
people in the acceptance of Christianity. The Accused knew,
as an ex-Catechist, that it was wrong to kill according to the
Christian belief. As a man often in touch with the Administration
he would know that it was wrong in law.

The question is, using the words of the Section, 15.

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whether he had the capacity to know that he ought not do the act. I do not think he had such capacity, for he firmly believed that the killing of LOREN was right, and he was unable to appreciate the wrongness of what he was doing because his understanding functioned only in relation to some weird salvation.

One may consider LAGIT's conduct before, at the time of, 16. and after the event. He had taken a leading part in requesting Gore J. Bishop Noser of Alexishafen to pay a visit to Garegut for the purpose of conducting religious services there. He entered into the services. He made the arrangements for them. He brought out LOREN, who was as a son to him coming hand in hand as two friends, and then killed him, a willing person, in front of his own Bishop, whom he had requested to be present. Except LOREN, none of the important people assembled had any knowledge of what he was going to do. Then with several others he came to Madang and to the District Officer to tell him all about it and to receive from him approval for the killing of LOREN. He showed no contrition, but on the contrary was calm and collected, and indeed pleased with himself. He had no expectation of punishment for the killing of LOREN, knowing full well the Commandment "Thou shalt not kill" - God's law - and the consequences for wilfully killing a person under the Law of the Land.

Now I am not bound to find in accordance with the medical 17. evidence, because the medical attitude may not be in accordance with the legal view. But the medical opinion must be regarded with much respect. The medical opinion is given in this case by a psychiatrist who, from my observation and his record, ~~possesses much learning~~ and has had great experience in the field of insanity. Dr. Burton-Bradley, relying upon his examination and observation of the accused, told us the man suffered at the time, and is still suffering from, a disease of the mind which he described as "Grandiose paranoia," and that he is not likely to recover. He said, too, that he would, as a Medical Practitioner, certify him as insane, and he felt that other medical men would do the same.

I accept the opinion of the medical witness, Dr. Burton- 18. Bradley, the more readily so when the matter is to be decided upon

a balance of probabilities. I believe that a reasonable jury would do the same.

I find that the accused was insane at the time he killed 19.
Gore J
LOREN.

The result is that I find Accused Not Guilty on the ground 20.
of insanity at the time of the offence.

The Accused will therefore be kept at Her Majesty's 21.
pleasure.

(end)

Reported by P.J. Quinlivan, Esq.,
Barrister-at-Law.

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