# THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. RAMON DE LOYOLA ET AL., DEFENDANTS AND APPELLANTS.

*G.R. No. L-21418. March 17, 1924*

Ponente: JOHNS, J.

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**JOHNS, J.:**

The defendants were accused in the justice of the peace court of Malasiqui, Pangasinan, of the crime of abduction. As a result of the investigation there, the case was sent to the Court of First Instance of the province where the following information was filed:

"That on or about the night of the 6th day of April, 1921, in the municipality of Malasiqui, Province of Pangasinan, P. I., the aforesaid accused, cooperating with each other and conspiring together, did willfully, unlawfully and criminally, without any justification and with lewd designs, abduct by violence and intimidation Marcela Tamayo, a young lady, fifteen years old, against her will, who was at the time gathering fuel under her house, said accused having taken her to the municipality of Urdaneta where the accused, Ramon de Loyola, had sexual intercourse several times with said Marcela, notwithstanding the obstinate opposition and resistance of the latter.

"Contrary to law.'*

As a result of the trial, they were found guilty as charged, and Ramon de Loyola, as principal, was sentenced to twelve years and one day of reclusion temporal, and each of the other defendants were found guilty as accomplices, and sentenced to six years and one day, and all to pay the costs of the trial. All of the defendants appeal, assigning as error:

"The lower court erred:

"1. In not finding the testimony of the supposed victim, Marcela Tamayo, unworthy of credit.

"2. In not absolving the accused for reasonable doubt, and

"3. In imposing a sentence of twelve years' imprisonment upon Ramon de Loyola and six years upon each of the other accused."

**JOHNS, J.:**

The offended party, a girl of seventeen years of age, testified that on April 6, 1921, as she was about to get some firewood, the defendant, Felipe de Loyola, held her by the neck and stopped her mouth; that she was then carried away by Bonifacio Cayabyab to a certain distance, the other defendants going on both sides with their bolos unsheathed; that Ramon de Loyola then took her to a grassy place where, through force and violence, he had sexual intercourse with her.



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The only evidence of the abduction for the prosecution was that of the abducted girl, and if it be true, the defendants are guilty as charged. It is undisputed that the whole party was at the municipality of Urdaneta in the barrio of Mabini in the house of Dionisio Alberto where the girl claims that she slept that night with Ramon de Loyola, and that all of the other defendants also passed the night in the same house and left on the following morning. She testified that the next day she went with Ramon de Loyola to see a priest for the purpose of being married, but that the priest refused because she was under age. She also testified that for the same purpose they went to the justice of the peace, who refused to marry them for the same reason. It is also conceded that while in Urdaneta she made and signed an affidavit before Geronimo Macaranas, a notary public, in which she states that "I went voluntarily with my love Ramon de Loyola." "Our strict agreement being that of contracting marriage which was the purpose I desired, although it is against the will of my parents, who cherished the idea of marrying me with another." "That he, Ramon de Loyola, was in no sense guilty of my separation from my parents because my absence was as above stated due to my spontaneous will, the motive being to avoid the insistence of my parents in marrying me with another person whom I do not love." But it is contended, and the trial court found, that she signed it through coercion.

It appears that the girl had two lovers, and that her parents wanted her to marry the other one and objected to her marrying the defendant, Ramon de Loyola. That soon after her parents objected to her marrying Ramon de Loyola, the alleged abduction took place. The defendants are entitled to the benefit of a reasonable doubt.

As we analyze the evidence, the girl was willing to be abducted, and she never did make any actual resistance. After her abduction she was ready and willing to marry Ramon de Loyola, and also made the affidavit in question. The proof clearly brings the case within article 446 of the Penal Code, which provides as follows:

"The abduction of a virgin over twelve and under twenty-three years of age, committed with her consent, shall be punished by prision correccional in its minimum and medium degrees."

The judgment of the lower court is reversed as to all of the defendants. In lieu thereof, Ramon de Loyola, as principal, is hereby sentenced to three years of prision correccional, to endow the offended girl with P500, to recognize the offspring, if any, and support it, and in case of insolvency for this indemnity, to suffer the corresponding subsidiary imprisonment. Each of the remaining defendants, as accomplices, are hereby sentenced to four months and twenty-one days of arresto mayor, and all to pay the costs in both this and the lower court. So ordered.

Araullo, C. J., Johnson, Street, Malcolm, Avanceña, Ostrand, and Romualdez, JJ., concur.


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