

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
LORETO PABELLA ET AL., DEFENDANTS. DEMOCRITO JARA,
APPELLANT.**

G.R. No. L-84. April 15, 1946

Ponente: PERFECTO, J.

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PERFECTO, J.:

The information filed in the Court of First Instance of Tayabas on July 30, 1945, reads as follows:

"The undersigned, Provincial Fiscal, accuses Loreto Pabella and Democrito Jara of the crime of theft of large cattle, defined and punished under article 309, paragraph 5, in connection with article 310 of the Revised Penal Code, as amended by Commonwealth Acts No. 273 and 417, committed as follows:

"That on or about the 29th day of June, 1945, in the municipality of Tayabas, province of Tayabas, P. I., and within the jurisdiction of this Honorable Court, the said accused, with intent to gain but without violence against or intimidation of person nor force upon things, conspiring and confederating together and helping each other, did then and there willfully, unlawfully and feloniously take, steal and carry away without the consent of the owner thereof, one female carabao and a calf valued at ONE THOUSAND THREE HUNDRED PESOS (P1,300) Philippine currency, belonging to Pablo Caban, to the damage and prejudice of the said owner in the said amount of P1,300.00. Contrary to law."

Four witnesses testified for the prosecution.

1. Pablo Caban, the offended party, testified that before June 29, 1945, he had in his possession as owner a female carabao and her calf; that the animals disappeared on June 10, although he does not know what day; that he informed the authorities about the disappearance of the animals on July 1; that he gave the information to the mayor and to the sergeant of police Esquillo; that when he gave the information he was accompanied by his mother Leona Abarsusa and by his wife Rosario Alvarez; that the value of the animals is P1,300; that Democrito Jara is residing in the barrio of Pandacaque, the same where witness is living; the witness does not know whether Democrito Jara has carabaos of his own or not.

2. Leona Abarsusa declared that: she knows Democrito Jara because he lives in the barrio of Pandacaque; she saw Democrito Jara on June 29, 1945, because he went to her house and asked for the whereabouts of her husband, to which she answered that her husband was in the town; Democrito asked for water and afterwards went out; afterwards she remembered the instructions of her husband to watch the corral where the female carabao and a calf were kept; she saw Democrito Jara tying the fence through which the animals passed; the animals were already out of the fence; when she saw Democrito Jara in the act of tying the fence she was inside the corral; Democrito Jara was accompanied by an individual unknown to the witness, and who was then in the woods; afterwards Democrito pulled the animals, while the unknown individual was goading them; she did not call their attention for taking the animals, because she was afraid, she being alone and the two individuals were carrying bolos; the animals belong to Pablo Caban and were kept in the corral under her care; she notified the authorities of

the taking away of the animals on a Sunday; the corral is located very near her house, approximately 60 meters; when Democrito Jara went to her house to ask for a glass of water, she already suspected that he was going to take the animals because he asked for her husband and for said reason she followed him after she had closed the door of her house; when Democrito went upstairs of her house and went down he was not carrying anything; Democrito took the animals at 5:00 o'clock in the afternoon; she knows very well Democrito and his father, they being neighbours in the same barrio of Pandacaque; she knows Democrito since his childhood; she did not go the next morning to the house of Democrito to ask him why he took the animals; she knows that Democrito and his father are owners of carabaos; when Democrito Jara was pulling the carabaos outside the fence the day was still bright; Democrito is not her relative.

3. Dominador Rodillas testified that: on June 29, 1945, he saw the accused pulling carabaos in the coconut grove of Froilan Lopez; the carabaos were carrying the brand of Rufino; the witness went home later; the witness did not testify in the justice of the peace court, although, later, he said that he did; he came to the court of first instance on petition of Pablo Gaban; no one brought him to testify as a witness.

4. Remigio Esquillo testified that Pablo Caban and Leona Abarsusa went to his office, as police sergeant, to denounce that the accused took away the carabaos, and he took the affidavit of Democrito Jara who denied having taken the carabaos.

The two accused and two witnesses testified for the defense.

1. Ananias Abrasia testified that the offended party, Pablo Caban, told him in a conversation that his carabaos disappeared on June 10, and that Dominador Rodillas was residing in the house of Pablo Caban as a servant.

2. Simplicia Abrigo declared that; she is the mother of the accused Loreto Pabella, who is residing with her in Lucena since the town of Tayabas has been bombed; on June 29, 1945, Loreto Pabella was in her house in Lucena, and during said day he did not go to Tayabas.

3. Democrito Jara denies having taken the carabaos, and testified that; if he had taken them, as declared by Leona Abarsusa, she would have called his attention because she is his aunt; there are neighbors near the house of Leona Abarsusa; the motive of accusing him is the fact that the accusers went to a clairvoyant to ask who stole the carabaos, and the clairvoyant answered that the person, who stole the carabaos is the same person who had lost a carabao, and the Japanese had taken one of the carabaos of the accused; accused is the owner of two carabaos; one time he placed them near the corral of Pablo Caban; on June 15 he met Pablo Caban who told him that he had lost his carabaos on June 10, and asked him about said carabaos but the accused answered that he did not know the whereabouts of said carabaos.

4. Loreto Pabella testified that: It is not true that he had taken the carabaos in the company of Democrito; he has not been in the barrio of Pandacaque; hence the town of Tayabas was bombed he did not come back any more to said town; he knows the motive for his being included in the prosecution, because he was a member of the guerrilla and he maltreated offended party Pablo Caban, because Pablo Caban refused to reveal the whereabouts of his companions who were spies of the Japanese.

Pablo Caban, testifying in rebuttal, admitted that the accused Loreto Pabella had maltreated him, stating that Loreto Pabella was a member of the guerrilla and as such he asked Pablo Caban for chicken and pig and as Pablo Caban could not give them, Pabella maltreated him although Caban himself was also a member of the guerrilla.

The evidence of this case does not show the guilt of appellant Democrito Jara beyond all reasonable doubt. To arrive at this conclusion we have taken into consideration the following facts:

1. That Democrito Jara's testimony to the effect that his accusers have consulted a clairvoyant to determine who is the author of the theft of the lost carabaos of Pablo Caban has not been denied nor contradicted.
2. That it was shown that Pablo Caban had a grudge against accused Loreto Pabella for having maltreated him, as he himself admitted. Loreto Pabella has been acquitted by the lower court.
3. That Pablo Caban testified categorically that he lost the carabaos in question on June 10, and that his testimony on this fact is supported by the testimony of Ananias Abrasia and Democrito Jara.
4. That Leona Abarsusa, the only witness who testified about the taking of the lost carabaos, testified that the carabaos were taken by the accused on June 29, 1945.
5. That witness Dominador Rodillas, who is supposed to apparently corroborate Leona Abarsusa, has incurred several contradictions which make his testimony unworthy of credit.
6. That accused Loreto Pabella who, according to the prosecution, was in the company of Democrito Jara in the act of stealing the carabaos in Pandacaque, municipality of Tayabas, has not been in Tayabas on June 29, 1945, but in Lucena, where he transferred and remained since Tayabas was bombed.
7. That in the testimony of Leona Abarsusa there are circumstances which make her testimony incredible such as follows:
 - (a) Before taking the carabaos, Democrito Jara had to pay her a visit in her house and request for a glass of water.
 - (b) She failed to impede or even to call the attention of Democrito Jara when the carabaos were being taken away from the corral, her reason for not daring to call the attention of Democrito Jara, that is, of being afraid because Democrito was carrying a bolo, being a flimsy one, because she is an acquaintance of Democrito whom she knew since he was a child and the fact that he was carrying a bolo is routinary, being one of the habits of men in the barrios.
 - (c) Leona's failure to go to the house of Democrito Jara, alone or accompanied by her husband, the day after the taking of the carabaos to ask Democrito or his father about the carabaos.
 - (d) Leona's failure to give alarm or to denounce the theft immediately after the after the commission of the crime, she having waited for two days before she went to see the mayor and the sergeant of police.
 - (e) The fact that the alleged taking away of the carabaos took place in broad daylight, and that the alleged thieves did not attempt to conceal themselves while committing the act; but, on the contrary, committed it under circumstances open to and noticeable by the whole world.

Loreto Pabella was acquitted by the lower court.

The present case shows an instance where wrong beliefs and prejudices of ignorant people may lead to a miscarriage of justice.

We cannot close our eyes to the fact that among the most ignorant elements of our people there are still many who believe in the infallibility of charlatans who are posing; as diviners or clairvoyants, taking advantage of the weakness of the power of common people for mental analysis, these dangerous individuals claim and boast of hidden and mysterious ability for divination and ply their deceitful trade, working on the credulity and stupidity of persons who, although full-grown, in stature and ripe in years, remain by lack of education possessing infantile mentality.

Unfortunately, faith in clairvoyance is not a monopoly of ignorant elements of our people. In all countries of the

world there are clairvoyants who successfully profit by and exploit the ignorant. More unfortunate even is the fact that all over the world there are many persons who, notwithstanding their great opportunities for culture in colleges and universities, still rely on the nonsensical prophecies of Nostradamus, that genial impostor who had the ability of attracting the attention of many persons to his cabalistic predictions and of awakening the most unscientific and unreasonable belief in them.

All the people of all countries need to be emancipated from the bondage of ignorance that fertilizes the propagation and perpetuation of the anti-culture lineage of Nostradamus.

All lovers of culture agree that the practice of clairvoyancy should be discouraged in such a way that it may not cause further harm, like the one suffered by the two persons who were unjustly prosecuted in this case, one of them, the herein appellant, having been erroneously convicted by the lower court and imminent jeopardy of serving unjustly a long and heavy term of imprisonment, with the consequent criminal ignominy stigmatizing him for the remainder of his life.

Among the things that the practice of clairvoyancy makes so harmful is the force of suggestion which it creates. Such is the extent of that force that persons influenced by it are liable to commit, without much freedom in consciousness, outright falsehoods in order to bring out facts or fabricate evidence to tally with and conform to the belief suggested by the clairvoyant's charlatanism.

We hope that the crusaders of culture shall not lose time launching a drive against such forms of pernicious ignorance as the practice of clairvoyance depicts, and that in the future the repetition of such unjust prosecutions similar to the one which commenced this case shall be minimized until it is reduced to an absolute nil.

The decision of the lower court finding appellant guilty beyond reasonable doubt of theft of large cattle and sentencing him to an indeterminate penalty of from 6 months and 1 day to 4 years and 2 months of prison correccional, to indemnify the offended party in the amount of P1,300 as value of the stolen carabaos, to suffer subsidiary imprisonment in case of insolvency, and to pay one-half the costs, is reversed and appellant is acquitted of the crime charged in the information, with costs de oficio.

Ozaeta, De Joya, Hilado, and Bengzon, JJ., concur.

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