

THE UNITED STATES, PLAINTIFF AND APPELLEE VS. PEDRO DAAMO, EULALIO CESAR, MARIANO CESAR AND HERMENEGILDO CESAR, DEFENDANTS AND APPELLANTS.

G.R. No. L-11925. February 17, 1917

Ponente: TRENT, J.

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TRENT, J.:

The defendants, Pedro Daamo, Eulalio Cesar, Mariano Cesar, and Hermenegildo Cesar each having been sentenced to eight years and one day of presidio mayor, to jointly and severally indemnify the Roman Catholic Church of Gingoog in the sum of P1,000, and to pay the costs of the cause for the crime of arson, appealed to this court.

It is alleged in the complaint that on or about the 1st day of May, 1913, in the municipality of Gingoog, Province of Misamis, the appellants willfully, maliciously, and feloniously, at nighttime burned and destroyed a Roman Catholic Church, together with all the images and ornaments which were contained therein, in the barrio of Daan Lungsod, of the value of P1,500.

On May 7, 1913, the municipal president of Gingoog filed a complaint in the justice of the peace court against the appellants and one Julian Daamo, charging them with this crime of arson. After the preliminary investigation the justice of the peace, on May 15, 1913, held all the therein defendants for trial before the Court of First Instance. On September 13, 1913, the case was continued by order of the judge of the Court of First Instance until the next term of court. On December 12, 1914, the provincial fiscal filed a motion asking that the case be provisionally dismissed without prejudice to the filing of another complaint for the same crime in case he should be able to obtain better testimony. In this motion the fiscal stated: "The undersigned, having carefully examined the witnesses for the prosecution, has been unable to find sufficient evidence upon which to base a criminal complaint against these defendants." On April 22, 1916, the provincial fiscal filed the complaint upon which the appellants were tried. Julian Daamo being too sick to be present, the trial of the case proceeded against the others, who were found guilty and sentenced, as above indicated. The only question raised is one of fact. The witnesses for both the prosecution and the defense testified substantially as follows:

"Claudio Guibuni: When we were working on the church, Eulalio Cesar came and told us to discontinue the work. As we continued with the work, he then said: 'If you keep on working on this church, this church will not be of any use to you.' We continued working until the church was finished. A few months thereafter when the nipa roof and walls were dry, the church was burned. When they burned the church I was on the sea, fishing. At about midnight I landed and started for my house. While I was going up the steps of my house, I happened to look around and saw a sheet of flame issue from the church. Then I went to the church and upon arriving at the corner of the street near the main door of the church, I looked to find out what that sheet of flame was that I saw. Not long thereafter I saw a person strike a match and set fire to the wall of the church. After setting fire to the wall of the church, the flame spread and when the fire was burning I recognized each of the defendants by the light. After

recognizing them, I ran toward the house of the lieutenant of the barrio and upon arriving there I pushed the door and called out that something had happened. The lieutenant was somewhat frightened and asked what was the matter. I replied that our church had been burned. After hearing that the lieutenant got up and we returned to the church together and on arriving near the church we noticed that the defendants were leaving, going in the direction of the road near the river. The church belonged to the Roman Catholics. I do not know the religion of the defendants because I did not find out. The church, which was burned on the 1st day of May, 1913, was composed of galvanized-iron, nipa, bamboo, and wood and had in its images, curtains, and other things. The church had been dedicated and mass had been said in it before it was burned. It was constructed by the people of the barrio. The church was burned about five or six months after it was completed. I was in charge of the church as fiscal. The first time I went to the church on that night it was not yet burning. I then saw Julian Daamo strike a match and set fire to the wall. The other four defendants were with Julian at that time, but I did not see them do anything. When the lieutenant and myself arrived, the defendants were then walking away. When I returned from fishing and while walking up the steps of my house, I saw a streak of fire. The church was not then burning. The church was about 40 yards from my house and about 90 or 100 yards from the lieutenant's house. I did not know whether the defendants ever had any trouble with the Roman Catholic priest of Gingoog or not."

"Adolfo Tigon: On Thursday, the 1st day of May, 1913, at about 1 o'clock at night, Claudio Guibuni pushed upon the door of my house and said, 'Lieutenant, our church has been burned.' I asked him who set fire to the church and he said the defendants (naming them). After hearing that, I immediately ran down from the house toward the church and when I got there I examined the surroundings of the church, looked in toward the vestry of the church and I found Julian Daamo and the other defendants. They came from the vestry of the church. After I recognized their voices, they left and ran toward the river. When Claudio and myself arrived at the church, the fire had gained headway up to the top of the roof. When we got there the defendants had already set fire to the church and were standing near it. Julian and Pedro Daamo are brothers. The three Cesars are brothers. Eulalio Cesar is married to Pedro Daamo's sister. I do not know whether the Roman Catholic priest ever had any trouble with the defendants or not. The church was worth P1,500, more or less, not including the images."

"Francisco Sampson (a Chinaman): I know all five of the defendants were talking about burning the church. When they were talking about burning the church, they were then upstairs in the house belonging to the mother-in-law of one of the Cesars. I had a store at that time in the lower part of the same house. There was a small lamp burning upstairs when I heard them say they were going to burn the church that week. The first time they talked about burning the church, they did not burn it because the nipa was not dry; it was green. They said, 'In one month, during holy week, the nipa and the timber will have dried and then we will burn it.' I heard this conversation at nighttime more than one week before the church was burned. Half of the ceiling of the lower part of the house was sawale and the other half had no sawale. My store was then closed, but I was making some entries in my book. The agreement made by them was that each one of them should carry a beer bottle full of oil, with a piece of rag, and matches. I did not testify in the justice of the peace court in 1913 because I was not called. I met some Constabulary soldiers in Bulua and I referred the matter to them on that occasion. That was last year—1915. I did not say anything about it before because I was afraid I would be killed. The church was burned about one month after I moved my store from the lower-story of the house where I heard the defendants talking about burning the church. Yes, upon meeting the Constabulary, I immediately informed them of the conversation among the defendants which I heard in 1913."

"Eulalio Cesar (one of the defendants) : I know the other defendants because two of them are my brothers and Pedro Daamo is my brother-in-law. On the 1st day of May, 1913, I was at work on my farm. I know the Chinaman, Francisco Sampson. I had trouble with him. In the barrio of Da-an Lungsod my father-in-law took a piece of land and I planted coconuts on that land, and this Chinaman claimed that land belonged to him, and that

is why he got mad at me. This was in the month of May, 1915. I knew of the burning of the church, but I was then living on my land, which is about one hour's walk from the church."

"Hermenegildo Cesar (another one of the defendants): I know my co-defendants and also the Chino, Francisco Sampson alias Chua, I was a witness to Chua's marriage. Francisco Sampson was running a store until about the middle of February, 1913, in the lower part of the house of Merced Adran, who is my mother-in-law. In April or May, 1913, I was living with my mother-in-law and my wife and children upstairs in the same building where the Chino had his store. I know that Francisco Sampson left the house of Merced Adran in the month of February, 1913, because after he moved away I opened my store in the same building. I opened my store there on March 10, 1913, long after the Chinaman had moved out. This Exhibit A is my account book of the store. This signature on the first page under the words 'Approved for the effects of the circular letter No. 298 of the Collector of Internal Revenue, Gingoog, March 10, 1913,' is that of Jose Fernandez, internal-revenue agent."

Claudio Guibuni says that while they were working on the church Eulalio Cesar came and advised them to discontinue the work, saying that if the church was completed, it would be of no use to the people. No explanation whatever was given why Eulalio should make such a statement. The record is absolutely silent with reference to his motive for making the threat that the church would be destroyed. Guibuni first stated that while he was going up the steps of his house about midnight on May 1st, he saw a flame issue from the church. He then went near the main entrance and saw a person set fire to the wall. After this the flame spread and when the church was burning, he recognized each of the defendants. He then ran to the lieutenant's house, a distance of about 100 yards, aroused the latter, and they returned to the church together about the time the defendants were leaving. Later on this witness changed his testimony and stated that when he went to the church the first time it was not then burning, but he did see Julian Daamo set fire to the wall of the church. Adolfo Tigun stated that Guibuni, upon arriving at his house, informed him that the church "has been burned." Tigun further stated that when he and Guibuni arrived near the church he examined the surroundings of the church, looked in toward the vestry and found Julian Daamo and the other defendants, and that they came from the vestry of the church. This witness further stated that when he and his companions arrived at the church the fire had gained headway up to the top of the roof. It is admitted that the church was constructed principally of bamboo and nipa. This kind of material, of course, burns very rapidly when dry. If Guibuni saw a sheet of flame issue from the church at the time he was going up the steps of his house, it is quite certain that Tigun did not see the defendants inside of the church and near the vestry at the time he arrived, which must necessarily have been several minutes later. Again, if the fire had reached the top of the roof at the time Tigun arrived on the scene, he certainly did not then see the defendants inside of the church. The provincial fiscal had examined these two witnesses when he made a motion to dismiss the case upon the ground that the testimony was not sufficient to warrant a conviction.

The testimony of Francisco Sampson adds nothing to the case for the prosecution because it is not worthy of credit. Sampson said he heard the conversation among the defendants with reference to burning the church more than one week before the church was burned. Later he says the church was burned about one month after he moved his store into the new building. That Sampson vacated the lower part of the house, wherein he said the agreement to burn the church was made, prior to March 10, there can be no question. Hermenegildo Cesar opened a store in the same place on that date. This fact is established by his book of accounts, which was approved on March 10 by the internal-revenue agent. Sampson said nothing about hearing this conversation until after he had had trouble with Eulalio Cesar, one of the defendants, over certain lands. This trouble occurred some two years after the burning of the church. Taking into consideration the great length of time which transpired from the date the church was burned until these defendants were finally brought to trial, together with the nature and character of the evidence of the prosecution's three witnesses and the fact that no motive on the part of the defendants whatever was shown for destroying the church, we must conclude that there is, at least, a very serious doubt as to

the guilt of the defendants. The trial judge failed to give due consideration to the inherent weaknesses in the testimony of Guibuni and Tigun and due weight to the motives which prompted the Chinaman Sampson to testify against the defendants.

For the foregoing reasons the judgment appealed from is reversed and the defendants are acquitted, with costs de officio. So ordered.

Torres, Carson, Moreland, and Araullo, JJ., concur.

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