

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS.. JOSE R. GOROSPE, DEFENDANT AND APPELLANT.*G. R. No. 10433. August 07, 1915*

Ponente: JOHNSON, J.

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On the 17th day of September, 1914, a complaint was presented against the defendant in the court of the justice of the peace of the pueblo of Pozorrubio, charging him with the crime of faithlessness in the custody of documents. The defendant was arrested and taken before the justice of the peace for a preliminary investigation. The justice of the peace, at the close of the preliminary investigation, found that there was probable cause for believing that the defendant was guilty of the crime charged and held him for trial in the Court of First Instance.

On the 13th day of October, 1914, the prosecuting attorney of the Province of Pangasinan presented a complaint against the defendant, charging him with the crime of faithlessness in the custody of documents. The complaint alleged:

"The said accused, Jose R. Gorospe, in or about the month of July, 1914, in the municipality of Pozorrubio, of the Province of Pangasinan, he then being the postmaster of the said municipality, duly appointed and qualified to act as such, did willfully, maliciously, and criminally remove from a letter addressed by Manuel Venezuela to the commercial firm called La Fortuna, at No. 360 Calle Santo Cristo, Binondo, Manila, and mailed, on the 13th of the said month of July, 1914, in the post office of the aforementioned municipality of Pozorrubio, which was in charge of the accused, Jose R. Gorospe, postal money order No. 1570, inclosed in said letter, drawn for one hundred and fifty pesos (P150) and issued by the said accused, Jose R. Gorospe, in favor of the commercial firm La Fortuna on the date aforesaid of July 13, 1914, after he had received from the said Manuel Venezuela the aforementioned sum of one hundred and fifty pesos (P150) for its remittal to the said commercial firm La Fortuna; and that the accused afterwards did appropriate to himself the said sum of one hundred and fifty pesos (P150) and did, for this purpose, sign at the foot of the said postal money order the Christian name and the surname of Manuel Venezuela: which acts have caused serious damage and harm to the said Manuel Venezuela and to the public weal and constitute the said crime of faithlessness in the custody of documents, committed within the jurisdiction of this Court of First Instance and in violation of the law."

Upon said complaint, the defendant was arrested, arraigned, tried, found guilty of the crime charged, and sentenced by the Honorable Julio Llorente, judge, to be imprisoned for a period of eight years and one day of prision mayor, to pay a fine of 1,000 pesetas, to suffer the subsidiary imprisonment provided for by the law, and to indemnify the offended person in the sum of P150, and to pay the costs.

The sentence of the lower court further disqualified the defendant from holding the office of postmaster, or any other analogous office, for a period of eleven years and one day. From that sentence the defendant appealed to this court and made several assignments of error. The assignments of error relate principally to the sufficiency of the evidence to show that the defendant was guilty of the crime charged. The appellant also alleges that the penalty imposed by the lower court was not in conformity with the law.

After a careful examination of the evidence brought to this court, we are of the opinion that the finding of facts made by the lower court is a true and faithful relation of the facts proved. They are as follows:

"On July 13, 1914, Manuel Venezuela secured a postal money order for \$75 in United States currency, made out to and in favor of the commercial firm La Fortuna, of Manila. The postmaster, who was the accused, issued the receipt for this order. Manuel Venezuela put the postal money order, together with his letter addressed to La Fortuna, inside an envelope which, properly sealed, he delivered to the postmaster to be forwarded by him. As Manuel Venezuela received no acknowledgement of receipt of the order, he called on the postmaster and the latter advised him to write to the La Fortuna and inquire whether this firm had received it. The said firm replied that it had received no such order. Then Manuel Venezuela again called on the accused and the latter promised him that he would try to secure authorization from the Director of Posts at Manila to issue to the sender a new money order or to return him the amount paid in. On August 29, 1914, the accused advised Venezuela that the authorization for the issuance of a new order or the return of the P150 had already arrived. As the postmaster, according to his statement, had on hand no more than P75 or P80, Manuel Venezuela would not receive this amount. The accused told him to return on Monday, because on that day he, Gorospe, would be able to make up the sum. The offended party had to go on that day to Magaldan, as one of his children was sick; but from there made complaint directly to the head office of the Bureau of Posts, at Manila. The proper investigation of the case was made and the postal money order, Exhibit E, signed by Manuel Venezuela, was found in the post office in charge of the accused. The offended party denied having signed the said order. The accused presented three witnesses who testified that they had seen Manuel Venezuela sign it; notwithstanding, upon comparing with each other the documents Exhibit E, Exhibit C, and Exhibit F, it is seen that the signatures of the Exhibits C and F, which are the unquestionable signatures of the offended party, are entirely different from the signature that appears at the foot of the Exhibit E. A simple inspection is enough to convince one of this. Furthermore there is no satisfactory explanation as to how the postal money order came to be in the possession of the offended party when, as he testified, and in this he was not contradicted, he delivered the said order, together with the letter addressed to La Fortuna, to the accused himself. The court believes that the accused is guilty of the crime charged."

The foregoing facts clearly show that the defendant, as postmaster of the municipality of Pozorrubio, is guilty of the crime charged in the complaint, to wit, faithlessness in the custody of documents, and should be punished in accordance with the provisions of article 360 of the Penal Code. (U. S. vs.. Mariño, 10 Phil. Rep., 652; U. S. vs.. Peria, 12 Phil. Rep., 362; U. S. vs.. Filoteo, 14 Phil. Rep., 73; U. S. vs.. Misola, 14 Phil. Rep., 142; U. S. vs.. De Toro, 15 Phil. Rep., 181; U. S. vs.. Balilo, 17 Phil. Rep., 459.) We find that the lower court committed no error in fixing the penalty. (U. S. vs.. Mariño, 10 Phil. Rep., 652, 659.)

After a careful consideration of the entire record brought to this court in relation with the assignments of error, we find no reason for modifying the conclusions or sentence of the lower court. The same is therefore hereby affirmed, with costs. So ordered.

Arellano, C. J., Torres, Carson, Trent, and Araullo, JJ., concur.

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