

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MANUEL BAUTISTA, DEFENDANT AND APPELLANT.*G. R. No. 10678. August 17, 1915*

Ponente: JOHNSON, J.

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This defendant was charged with the crime of assault upon agents of the authorities and insulting them. Upon said complaint the defendant was arrested, arraigned, tried, found guilty, and sentenced by the Honorable Vicente Nepomuceno to be imprisoned for a period of four years two months and one day of prison correccional, with the accessory penalties of article 61 of the Penal Code, to pay a fine of P300, and in case of insolvency to suffer subsidiary imprisonment, in accordance with the provisions of the law, and to pay the costs. From that sentence the defendant appealed to this court.

In this court the appellant alleges that the evidence adduced during the trial of the cause was not sufficient to show that he was guilty of the crime charged in the complaint.

The record shows that some time in the month of November, 1914, an order of arrest was issued for the defendant and placed in the hands of the chief of police of the municipality of Gerona. On or about the 15th of November, the chief of police, accompanied by another policeman, went to the house where the defendant was staying for the purpose of making the arrest. Upon arrival at the house, inquiry was made of some of the occupants whether or not the defendant was there. Upon being informed that he was in the house, the policeman who accompanied the chief of police entered the house without permission and attempted to arrest the defendant without explaining to him the cause or nature of his presence there. The defendant, according to the declaration of the chief of police, resisted the arrest, calling to his neighbors for assistance, using the following language: "Come here; there are some bandits here and they are abusing me." Many of his neighbors, hearing his cry, according to the testimony of the chief of police, immediately came to his assistance and surrounded his house.

The policeman, who accompanied the chief, in his declaration said that when he attempted to arrest the defendant, the defendant said to him: "Why do you enter my house, you shameless brigands?" and called to one Basilio, saying: "There are some bandits here!"

The policeman further testified that he then informed the defendant that he came there for the purpose of arresting him, and the defendant asked him if he had an order of arrest, which question was answered by the policeman in the affirmative. Said policeman further testified that immediately after he had notified the defendant that he was a policeman and had an order of arrest, the defendant submitted to the arrest without further resistance or objection.

The whole record shows that the resistance given by the defendant was done under the belief that the persons who had entered his house were tulisanes. The record also shows, by the declaration of the witnesses for the prosecution, that as soon as he had been informed that they were officers of the law, armed with an order of arrest, he peaceably submitted and accompanied them. We do not believe that the law contemplates the punishment of persons for resistance of the authorities under circumstances such as those which are disclosed in the present case.

If the defendant believed that those who had entered his house were, in fact, tulisanes, he was entirely justified in calling his neighbors and in making an attempt to expel them from his premises.

After a careful examination of the evidence, we are of the opinion that the record does not disclose sufficient facts to justify the sentence imposed by the lower court. The defendant is not guilty of the crime described in the complaint. The sentence of the lower court is therefore hereby revoked, the complaint is hereby ordered dismissed, and the defendant is discharged from the custody of the law. So ordered.

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

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