

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JULIAN SAN-TIAGO, DEFENDANT AND APPELLANT.

G. R. No. 11374. March 14, 1917

Ponente: ARAULLO, J.

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ARAULLO, J.:

This case was instituted in the Court of First Instance of Bataan against the accused Julian Santiago for the crime of seduction, by virtue of a complaint filed by Mariano Siasat. The complaint as amended is as follows:

"The undersigned accuses Julian Santiago of the crime of seduction committed as follows:

"That from the month of July till November, 1914, in the municipality of Samal, Province of Bataan, P. I., and with-in the jurisdiction of this court, the said accused, as Roman apostolic priest and parish priest of Samal, Bataan, and the confessor of Eufrasia Siasat, did, then and there, wilfully, unlawfully, and criminally, by means of deceit and promise of marriage, seduce, and succeed in lying several times with my daughter named Eufrasia Siasat, a virgin 16 years old. Committed in violation of law."

The defendant pleaded not guilty. The trial was had and the evidence on the part of the prosecution and that of the defense having been adduced, judgment was rendered by said trial court on August 3, 1915, finding the accused guilty of the crime of seduction provided for and penalized in paragraph 1 of article 443 of the Penal Code, without the concurrence of any circumstance which may modify the liability incurred, and sentencing the said accused to the penalty of one year, eight months, and twenty-one days of prison correccional and its accessories, to indemnify the offended party in the amount of P500, or to suffer, in case of insolvency, the corresponding subsidiary imprisonment, and to pay the costs. From this judgment, the defendant appealed to this court and assigned as the first error the fact that the trial court overruled the second ground for the demurrer interposed by his counsel to the complaint.

The said second ground for the demurrer consisted, according to the counsel for the defense, in that the complaint alleged two distinct crimes or imputed to the accused more than one offense.

A reading of the complaint is sufficient to convince us that said ground for the demurrer is unfounded. It was alleged in the complaint that the accused, as Roman apostolic priest and the confessor of Eufrasia Siasat, a virgin, 16 years old, wilfully, unlawfully, and criminally seduced the said girl and succeeded in lying with her several times during the period covering the months of July to November, 1914, that is, the complaint charged the accused with the crime of qualified seduction which is defined and punished in paragraph 1 of article 443 of the Penal Code.

It is true that in the same complaint, before the words "seduce and succeed in lying," there appears the phrase "by means of deceit and promise of marriage," and from this fact, counsel for the defense concluded that in the complaint Julian Santiago was also accused of the crime of simple seduction, as defined and penalized in the penultimate paragraph of article 443 above-cited.

It is to be taken into account, however, that deceit or fraud, as expressed by Viada in his commentaries on the Penal Code, is what characterizes, seduction, as a general rule, and the supreme court of Spain in various decisions has held that the characteristic circumstance of the offense of estupro is the seduction or deceit. Hence, in using the phrase "by means of deceit and promise of marriage" in the complaint, no other thing is made than to mention in it said characteristic circumstance and one of the means which the accused employed in effecting the deceit, and the complainant did not intend to accuse Julian Santiago of a crime different from that which appears to have been really mentioned in the complaint, that is, that of qualified seduction, because, in said complaint it is clearly stated that Julian Santiago, when he succeeded in lying with Eufrasia Siasat, was a Roman Catholic priest and the confessor of the said girl. Precisely, the express mention made in the complaint of such a condition which concurred in the accused, although in such complaint the words "by means of deceit and promise of marriage" were used, does not make one understand that the complaint also accused Julian Santiago of the crime of simple seduction to which the penultimate paragraph of the said article 443 refers, because this crime is committed by any other person in whom does not concur any of the conditions enumerated in paragraph 1 of the same article.

It is likewise true that the carnal knowledge of any of the persons in whom concurs any of the conditions enumerated in paragraph 1 of the said article 443 with a virgin over 12 and less than 18 years of age, according to Act No. 2298 of the Philippine Legislature which amends the said legal provision, is constitutive of the crime of qualified seduction, penalized by the said paragraph of the said article, even though no deceit intervenes or even when such carnal knowledge were voluntary on the part of the virgin, because in such a case, the law takes for granted the existence of the deceit as an integral element of the said crime and punishes it with greater severity than it does the, simple seduction referred to in the penultimate paragraph of the same article, taking into account the abuse of confidence on the part of the agent, an abuse of confidence which implies deceit or fraud.

The words "by means of deceit and promise of marriage" used in the complaint in question can not have the effect of varying the qualification of the crime charged, inasmuch as in the complaint it was expressly stated that the carnal knowledge was had between Julian Santiago, Roman apostolic priest, and the girl Eufrasia Siasat, a virgin 16 years old, and much less can those words have the effect of accusing the same Julian Santiago of the crime of simple seduction, that is, of two crimes punished with different penalties.

Said words can be considered as a redundancy in the complaint, or in other words as mere surplusage, for the reason, as has been stated in speaking of the crime of qualified seduction, that the law does not require that there should be deceit on the part of the agent in order that he may be punished as guilty of the said crime.

"Mere surplusage will not vitiate an indictment which contains sufficient matter to charge a crime. An unnecessary averment may be considered surplusage and rejected, as may a defective but immaterial averment, and a fact stated may be rejected as surplusage if it be merely in aggravation, so that it may be stricken out and yet leave the offense fully described." * * * (Ruling Case Law, volume 14, par. 37, page 191 and the cases therein cited.)

* * * * *

"Mere surplusage does not amount to duplicity, and where a count charges one offense, and defectively charges another, the latter charge may be rejected as surplusage." * * * (Ruling Case Law, volume 14, par. 40, page 196, and the cases therein cited.)

It can not therefore be held, that in the complaint in question two crimes are charged and that the phrase used in the said complaint, "by means of deceit and promise of marriage," which can be considered as superfluous because in the complaint Julian Santiago is accused of the crime of qualified seduction, has vitiated the complaint with a nullity, and that the lower court has committed an error in overruling the second ground of the demurrer

interposed to the said complaint by the counsel for the defense.

The other errors assigned by the counsel for the defense in his brief, and which errors he claims to have been committed by the lower court, refer to the admission of certain evidence, the finding of facts, and the penalty imposed upon the accused as author of the crime of qualified seduction, denned and penalized in the above-cited paragraph 1 of article 443 of the Penal Code, in accordance with evidence adduced at the trial.

Upon a careful examination of the said evidence, we find it, in the first place, to have been proven in a manner beyond peradventure of a doubt, as the accused himself has so declared and the documents exhibited at the trial so show, that the said accused was a priest of the Roman Catholic Apostolic Church from March 15, 1913, when he received the priesthood order from the authority of the Most Illustrious Archbishop of Manila, Metropolitan of the Philippine Islands, and that having been appointed parish priest of Samal, Province of Bataan, on September 27, 1913, he took possession of the ministry on the first day of October of the same year, and remained as such resident parish priest in said town till January 22, 1915.

The following facts have also been proven beyond all doubt: That Mariano Siasat, a resident of the town of Samal professed the Roman Catholic Apostolic religion as also his daughters one of whom is Eufrazia, a virgin 16 years of age; that the latter who occasionally devoted her-self to the practices of the said religion, among which was that of the confession, went to the Catholic church of the town one afternoon in June, 1914, to confess to the accused parish priest Julian Santiago, and as the priest could not be found in the church, as was usually the case, she was obliged to go up to the convent to ask for the priest. While the girl was thus in the presence of said priest, the latter tried to ingratiate himself to her, saying that he loved her very much, because she was beautiful; embraced and kissed her, saying that he was just as much a man as the others and that he could strip himself of his ecclesiastical robe and marry her. These acts and words of the parish priest, producing in the girl the natural surprise and confusion, did not permit her to say a word; instead, she was obliged to return home immediately. Some days later, she went again to the church to confess, and while she was there alone the accused arrived. The accused then took her hand, embraced and kissed her, and, in spite of her resistance, took her to a room called a storeroom under the convent, at a certain distance from the confessional. The girl did not persist in her resistance in a more energetic manner than she had done, because she feared the scandal and the shame which would befall them, as the accused so warned her, should they be caught in that place; and while they were thus in the storeroom, the said accused, swearing that he never would forget her and promising to marry her, made her lie on a board on the floor and had sexual intercourse with her. Since then, there had existed intimate relations between the accused and the girl, Eufrazia Siasat, the two having had on various occasions carnal knowledge, once in the same convent and thrice, in the very room of the girl in the house of her parents in the said town of Samal, and during the night while the inmates of the house were sleeping, into which house the accused climbed through the window of the girl's apartment. These relations lasted till the last days of November of the same year, 1914, because, Eufrazia's father having observed a change in his daughter's manner of being (as he so put it), succeeded in discovering in her possession certain letters of the accused addressed to her, the reading of which convinced him of the existence of said relations. Among said letters, one which was presented at the trial as Exhibit B was written by Leon Lopez, the parish priest of Dinalupihan, a town near Samal, in which letter the writer called the girl, Eufrazia Siasat, "comadre" and, referring to the accused, called him the husband of the girl, and offered himself to be the godfather of the child which the accused and the girl would have. In view of these facts, Mariano Siasat presented, some days later or on December 8th of the same year, a complaint in the justice of the peace court of Samal, charging the accused with the crime of seduction, which complaint was reiterated in the Court of First Instance after the preliminary investigation was held, and amended later in the manner shown at the beginning of this decision.

The testimony of the girl, Eufrasia Siasat, is clear and conclusive. In it are related all the details of the occurrence, although with the natural repugnance of one who has to confess her own acts which constitute the subject-matter of the investigations made at the trial. She related the nature of the relations which existed between her and the accused parish priest of Samal; how such relations began to exist on an occasion when she went to confess to the said parish priest; how the latter succeeded in gratifying his carnal desire for her in an apartment called a storeroom near the confessional in the same church; how such relations continued to exist during the time that intervened between the months of July and the last part of November, 1914, while the accused, as such parish priest of the town and friend of the family of the said girl, had intimate social relations with the family and other relatives of the same; and lastly, she stated how many times during all that period the accused had carnal knowledge with her, to wit, once in the convent, and thrice in the room in which the said girl was wont to sleep, that is, in the house of her father, Mariano Siasat, into which room the accused climbed at midnight thru the window and remained there with her until dawn.

The testimony of the other witnesses which tended to corroborate all that has been narrated by the offended party, Eufrasia Siasat, is also explicit and conclusive.

In fact, Juana Ramos testified that she accompanied Eufrasia Siasat from Samal, the latter's residence, to Orani, one afternoon in the month of October, 1914; that Eufrasia went to the convent to get, as she herself said, the signature of the justice of peace, and remained in said convent for a sufficiently long time; and that her acts showed that something extraordinary had happened to her while she was in the convent, because she had her dress out of order, she confessing the fact later on that she then had sexual intercourse with the accused, and this is the occasion referred to by the offended girl when she had carnal knowledge with the accused in the convent.

Tranquilino Adraneda, the husband of Isabel Magtanong, washerwoman of Mariano Siasat, testified that the accused, requested the witness to accompany him to the house of Eufrasia Siasat on occasions during the month of November referred to by the latter, on which occasion the accused went up to the house through the window in the manner in which the same witness explained. Witness further said that the accused placed his feet over a projecting part of the house, and that witness remained in the street, waiting for him until almost dawn when he returned to the convent.

Isabel Magtanong, wife of the preceding witness, likewise declared that she was the carrier of Eufrasia Siasat's letters to the accused and of those of the latter to the former.

Florencia Siasat, sister of the offended girl, was also one of the persons whose services were availed of by the accused in communicating, by means of letters, with the girl during the time that those relations existed between the two. The witness stated that the accused and Eufrasia had occasion to meet each other sometimes in the house of the latter, and that she (witness) was the carrier of a necklace with its medal and also a number of small bottles of perfume given by the parish priest Julian, the accused, to be delivered to witness' sister, Eufrasia, which objects were presented at the trial and marked as Exhibits K, L, M, and N.

Lastly, the letters addressed by the accused to the said girl, which were discovered in her possession by her father Mariano Siasat and from which the latter learned of the existence of the illicit relations between his daughter and the accused, which letters were presented at the trial by the prosecution, are the best and the most conclusive proof of the existence of said relations, as well as of the fact that the accused had carnal knowledge several times with said girl.

The authenticity of said letters has been proven at the trial and there can be no doubt about it. Moreover, the declaration of Marcos Buensuceso, the supervising teacher of the town of Balanga, province of Bataan, and for more than 14 years a teacher, among other things, of penmanship, relative to the similarity between the

indubitable letters of the accused, written in his own handwriting in the books of the church under his charge, which were exhibited at the trial, and those of the above-mentioned letters, proves the authenticity of said letters and can not be rejected as contended by the appellant in his brief, since there is no reason whatsoever for doing so. The witness made a careful comparison of the characters of the same letters with those appearing in a card of the accused, also presented by the prosecution as Exhibit D, and those of the indubitable signature of the accused on a petition appearing on page 5 of the record of the case, which petition was addressed by said accused on December 16, 1914, to the justice of the peace of Samal asking for the postponement to another day of the preliminary investigation of the accusation presented against him before the said justice of the peace by Mariano Siasat, as well as with the signatures in the accused's notice of appeal from the judgment and in the proceeding of the publication of the same, appearing respectively on pages 32 and 34 of the same cause. From this comparison, it is seen that there is such a similarity and such a likeness between the strokes and characters of some letters and those of the others and such likeness in the upstrokes and the inclination of all the letters as well as in the position of the periods, respectively, that there can be no room for doubt whatsoever that the said letters have been written by the accused.

The offended party, Eufrosia Siasat, has declared that she received said letters and many others from the accused; that she burned them before they could be discovered by her father; that some of the letters were delivered to her by her sister, Florencia, and others by the washerwoman, Isabel Magtanong, the wife of Tranquilino Adraneda. Those received by her through her sister are designated as Exhibits H and I, and those, through Isabel Magtanong, as Exhibits N and P. She could not recall through whom she had received the other two letters, Exhibits J and R. She added, as a reason to assure that such letters were from the accused, that when they two met, the accused asked her if she had received them.

On the other hand, the contents of the same letters prove in an evident manner that such letters were of the accused and demonstrate with even greater clearness the existence of the illicit relations between the girl and the accused and the concrete fact of the accused's having had carnal knowledge with her.

In fact, in the letter Exhibit P the accused, in speaking of Eufrosia's love, reminds her of the first sexual intercourse he had with her in the storeroom and the protests and promises of love which she made to him, while they were then both lying. He also makes an allusion in that letter to what she told him when on another occasion they were lying together in the accused's bed in the convent.

The envelope containing said letter was also presented at the trial as Exhibit P and was moreover marked with No. 1. But said envelope was written with signs and ciphers. In order to understand what has been written in it, a key (Exhibit S) to the said signs and ciphers was likewise presented, which key, according to the said Eufrosia Siasat, was prepared by her and was usually availed of by the accused in communicating with her. Deciphering what has been written in the said envelope by means of the said key, it appears that in it the accused gives notice to the girl that on the night of the following day, at the usual hour or a little bit later, he would go up to her room, and that she should not close the window, charging her, moreover, with making the necessary arrangements in order that, in case her father should enter the room, he (the accused) would have a place to hide himself in, and adding that, at all events, she should answer him through the washer-woman (referring to Isabel Magtanong) whether or not such an engagement was possible.

In the letter, Exhibit J, the accused speaks of his, endeavoring to have the girl elope from her parents' house, although he expresses his fears in view of the fact that the girl was below 18 years of age. In the said letter, he makes reference to a certain Ate, who, according to what has been proved at the trial, was Florencia Siasat, the elder sister of the offended girl, and from whom, the accused said, he received a letter addressed to him by Eufrosia and to whom, in turn, he delivered a letter in reply thereto.

In the letter, Exhibit R, the accused tells Eufrasia that the night before was the happiest in his life and that he has written a memorandum of this event in his book in letters of gold and blood. In it, he reminds her of what occurred that night and relates how he reached her house, walking behind his companion (referring undoubtedly to Tranquilino Adraneda) who, as has been seen, stated that he had accompanied the accused on occasion that the latter went at night to the house of the girl. On the envelope containing the same letter (record, p. 177) which was also written with signs and ciphers that were translated by means of the key, Exhibit S, the accused makes an allusion to the washerwoman, that is, Isabel Magtanong, advising Eufrasia to see to it that the said washerwoman did not talk with a friend of theirs, named Carmen, in order that she might exclusively be in their service, and in order there may be no cause for their destruction or, in other words, in order that other persons may not know the relations existing between the accused and said Eufrasia.

In the letter Exhibit Ñ, the accused again tells the offended girl of the proposed elopement, saying that he is unable to determine just when such an elopement can take place, because as yet he has not found a person who is able to help him in carrying it out. He also makes mention of the washerwoman, by referring to a certain message he gave her; asks Eufrasia the hours when her father sleeps most soundly so that he may climb into the house while the night is dark; tells her, moreover, not to worry, because nothing can happen to them; makes her understand that he will await her answer and that he can not climb into the house unless he receives such an answer.

In the same letter it is stated that with it was a letter addressed to the offended girl by the parish priest Leon Lopez. This letter is the same Exhibit B previously mentioned in this decision wherein, as has been seen, said parish priest of Dinalupihan, referring to the accused, called him the husband of Eufrasia Siasat; called the latter "comadre Cita," and offered, moreover, to become the sponsor at the baptism of the first fruit of their love, requesting at the same time that she answer him at Dinalupihan.

In the letter Exhibit I, dated November 2, 1914, one of those letters received by Eufrasia through her sister Florencia the accused reminds the former of the words she uttered at the beginning of their amorous relations; speaks repeatedly of his affection and love; and expresses what would become of himself if he ever could gaze at the fruit of their love. He informs her that on the following day he will be absent for some days from the town and requests that when he returns she should write to him to the end that they may see each other and have a good time in the house of Ate, that is of Florencia.

Lastly, in the letter, Exhibit H, also one of those received by Eufrasia Siasat through her sister, Florencia, the accused says that the said letter was written in Manila and at the conclusion he adds that it was finished at Samal. In it he acknowledges receipt of the letter of the offended girl, on the night before his departure from the said town. In reminding her of his love and of the carnal conversations had with her he says the following: "Frasita: Since the time we united ourselves into one and mixed our blood, you are now a part of myself." He also expresses his great desire to find means whereby the free union of the two may be realized; reiterates his intention of having her escape from her parents' house, but advises her to be patient because he can not as yet realize such a plan; and promises to live with her during all his life. In the same letter, he also says that he has bought for her in Manila, where he then was, a medal with a necklace and the bottles of perfume, Ironia, Divinia, and Rosas de Francia, that is, the same objects which were delivered together with the letter to the said girl by her sister Florencia according to the testimony of the latter and all of which were presented at the trial as Exhibits K, L, M, and N; and in the same letter he also says that the objects above-mentioned would be delivered to Eufrasia on Friday in the house of Florencia, to which house he also would go and for this reason he proposed an appointment to meet her there.

Furthermore, in the same letter, the accused tells Eufra-sia to find means whereby he can climb into her house at

nightfall, in order that they can enjoy for a longer time, adding that she should not fear anything at all, because he could hide himself under Eufrasia's bed, should her father happen to visit her in her room. In the said letter, he also says the following: "How nice it is to love a Frasita. Do you know why? Because, everything goes well, as for example, in the examination, I did not expect that I could answer so well as I did, and I said to myself: 'All this is for Frasita.' " And, in truth, the accused, testifying at the trial, said that on that occasion he came to Manila to take a synodal examination, and after his examination he returned to Samal on November 6th, or two days after the date of the letter in question, Exhibit H.

In all the said letters the accused calls the offended girl "Frasita," "My dear wife." It also appears at the trial that he gave the same girl his picture which was presented as Exhibit Q, and also several gifts consisting of hand-kerchiefs and other objects.

No better and more complete exposition of the truth can be given than that testified to by the offended girl, Eufrasia Siasat, and the government witnesses above-mentioned.

In the face of such an evidence, that adduced by the defense was rendered useless and even fatal to the purposes for which it was introduced.

The accused has absolutely denied, as is natural, the acts imputed to him and attempted to prove, by the persons serving under him in the convent and two sextons of the church of which he was the parish priest in the said town, that it was impossible for him to commit sexual intercourse with Eufrasia Siasat in the confessional or in the convent on the occasions referred to by the girl; in her testimony, without the witnesses' learning such fact; that the accused had not at any time absented himself from the convent during the night, for if he had, one of said sextons would have become aware of it. But, besides the fact that the testimony of these witnesses was necessarily partial in favor of the accused, it can readily be seen that neither of them was always with the accused in the convent or in the church, so that it can not be held that the latter could not execute any act whatsoever, especially of the nature of the act perpetrated by him upon the person of the girl Eufrasia, without the said witnesses seeing or knowing such an act.

On the other hand, one of said sextons, Macario Dacotan, testified that in the church there was a division called store-room which had only one compartment; that the said storeroom had a small door in the same church and some lumber inside. This testimony shows that the accused could utilize the said storeroom and one of the pieces of lumber therein in carrying out the repugnant and criminal intent which he had conceived when he found Eufrasia alone in the church.

According to the other sexton, Macario Mafiasca, who affirmed that he was wont to sleep at the main door of the room of the accused priest said room had other accessory doors which communicated with the other rooms of the convent, and in going out of said room it was not necessary to pass through the main door. Hence, the accused could have absented himself from the convent during all the time he wanted to without being noticed by the witness.

With respect to the two other witnesses who were in the service of the accused, Margarita Saldana and Tecla Bugay, old women of 65 and 60 years of age, respectively, it is clearly understood how easy it was for the accused to evade the presence of these witnesses and even to free himself from their curiosity whenever he wanted to, and it was even easier for him to do these things in his own room or bed room in the convent.

Aside from this, the offended girl, in referring to what occurred between her and the accused on the afternoon that she went to the convent to find the priest to whom she intended to confess, because the latter was not then in the church, explained how, in spite of the presence of the said two old women in the convent, the accused succeeded

in ingratiating himself to her and executing the unchaste acts previously mentioned, out of the presence of the said old women. She said that, whenever the priest or any other person could not be found in the church, it was the custom in Samal for anyone looking for the priest to go to the con-vent and find him there, and this was what she did; that when she arrived at the convent she found the two old women one of whom was on her side and the other, after learning that said girl came to confess, went to find the priest, Julian; that a few moments later the priest appeared and when he stated to the witness that she could make her confession in the same convent, the other old woman who was by her side went out to the kitchen, and as the witness was left alone with the priest, Julian, the latter told her and did to her what has already been said.

It was also attempted to be proven by the defense that Eufrasia Siasat had illicit relations not with the accused but with the brother of the latter, named Domingo Santiago who affirmed that he had sexual intercourse once with the said girl in the said storeroom of the church and that he had communication with the same girl by means of letters. But, aside from the fact that, according to the testimony of this witness, the occasions when he could speak with Eu-frasia Siasat were rare because he very seldom went to visit his brothers in Samal and remained in the town for a few days, which fact renders his testimony absurd, it is perfectly explained that the Witness is interested on behalf of his brother to such an extent that he is even willing to incriminate himself by means of such statements which have not been corroborated at all at the trial. Moreover, the falsity of such a testimony has been demonstrated by the fact that the three letters, Exhibits 3, 4 and 9, alleged to have been written by the witness to the girl and presented by the defense to prove the existence of the relations between the witness and the offended girl, show that the upper parts of the first two letters, where the addressee's name should be placed, appear to have been cut or suppressed, a fact which shows that there was an attempt to hide the name of the person to whom the said letters were addressed respectively. Moreover, in the third letter the addressee's name, the date, and the word "Maynila" which is seen in the eighth line, have been superposed in the place of other words which must have been previously erased. And, on the other hand, from the testimony of the offended girl herself who assured that the letter, Exhibit 4, was hers and one of those written by her to the accused, in view of the similarity between the character of the said letter and those of the other two, Exhibits 3 and 9, it is clearly deduced that the said letters must be some of those, which, according to the girl, were written by her to the accused during the existence of the relations between them and that the said letters have been presented by the defense as having been written by the offended girl to the accused's brother, Domingo Santiago, to make it appear, as pointed out by the Attorney-General in his brief, that it was Domingo and not his brother, the priest Julian, that had those relations with the said girl, in order that Domingo Santiago may assume the responsibility for the act perpetrated to save his said brother, the priest Julian. And this is really what is reasonably and logically inferred from the presentation of said evidence and from the fact that the upper parts of two of the said letters where the addressee's name should be placed appear to have been cut and from the fact that there exist some changes in the third letter among which is that of the name of the person to whom it had been addressed.

There were also presented by the defense at the trial, several letters signed by different persons, which appear to have been addressed to the same Eufrasia Siasat, to make the court believe that the latter had amorous relations with the writers of the said letters. However, such an evidence has no importance at all, in view of the fact that it has not been explained how said letters, addressed as they were to Eufrasia, had come into the possession of the accused to be presented by him as defense at the trial, and in view of the further fact that the best proof should have been to present the authors of the said letters instead of hiding them, a circumstance which renders very doubtful the authenticity of the same letters, the truth of the same, and of the object sought by the defense in presenting such an evidence.

Besides, even if it were true that the girl Eufrasia Siasat had had amorous relations with any other person before she had fallen a victim of the accused, there being no proof that such relations had been unchaste and that the

name and reputation of the said girl as a virgin and an honor-able woman had suffered any injury, the existence of such prior relations can not be used by the accused for his defense.

The acts proven at the trial constitute the crime of qualified seduction prescribed and punished by Article 443, par. 1 of the Penal Code. The guilt of the accused as the author of the said crime having been proven without the concurrence of any modifying circumstance, the penalty imposed upon said accused in its medium degree, such as has been imposed upon him by the trial court in the judgment appealed from, is proper, although the accused should also be condemned to recognize and maintain the offspring which his illicit relations with the said girl would produce.

The penalty imposed upon the accused, modified in the manner shown above, is hereby affirmed in all its parts, with the costs against the appellant. So ordered.

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

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