

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. GREGORIO EUGENIO, DEFENDANT AND APPELLANT.*G.R. No. 12146. August 27, 1917*

Ponente: STREET, J.

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The defendant and appellant in this case, Gregorio Eugenio, was convicted in the Court of First Instance of the Province of Nueva Ecija of the abduction of Esperanza de la Cruz in the municipality of Cabanatuan. The acts giving rise to the prosecution are alleged to have taken place on the 23d, 24th, and 25th of March, 1916. The accused, an unmarried man, was at the time of the alleged offense about 23 years of age and a member of the municipal police in said municipality, while the offended girl was about 16 years of age, living with her sister Encarnacion de la Cruz, a married woman. The mother of these women is dead, and the complaining witness had been living with her father until about two months prior to the date of the alleged abduction, when she had come to live with her sister.

According to the testimony of these two witnesses (and none others were introduced by the prosecution) Esperanza disappeared from the house of her sister during the night of March 23 and stayed away about two days. The account given by Esperanza of her absence is that she and the defendant had agreed to marry and that at about midnight of the date mentioned he took her to the municipal building where he was on duty as a member of the police and that after staying there about an hour he carried her to the home of an uncle of his who lived in the adjoining barrio of Bantug. Here she remained with the defendant for two days, during which time they cohabited together.

The accused admits having had a relation of friendly intimacy with the complaining witness and says that he had visited her from time to time. He also states that she had become enamoured of him and wished him to marry her, but that he did not wish to do so. He denies that he took her from the house of her sister or detained her during the time mentioned in the home of his uncle or elsewhere.

Proof was introduced showing that the accused was on active duty as guard from 8 a. m. to 8 p. m. on March 23, and from 4 a. m. to 8 a. m. on the 24th; and two of his associates testified that from 8 p. m. on the 23d until 4 a. m. on the 24th he was sleeping in the municipal building. On this point, however, the evidence is unconvincing; and it is clear that the accused could have abducted the girl during the four hours which elapsed between midnight and 4 a. m. of the 24th.

The real weakness of the proof for the prosecution is found in the irreconcilable conflicting between the testimony of Esperanza and her sister Encarnacion upon the very material point of the location of the house where the detention occurred; for while Esperanza testifies that the accused carried her to the home of his uncle Ramon Pineda, in Bantug, Encarnacion testifies that the girl was detained in the home of another uncle of the accused, named Quirino Pineda, who lives in the poblacion of Cabanatuan. The elder sister mentions circumstances enough to show clearly an intention on her part to fix upon the residence of Quirino Pineda as the place of detention; but

as against this Esperanza declares that the detention was at the house of Ramon Pineda. We find nothing in the record that would enable us to reconcile these declarations, or to determine which witness spoke the truth. We are accordingly compelled to recognize in this discrepancy a vital contradiction between these witnesses on a most important point. This has the effect of impeaching the veracity of both, for we can not safely speculate as to whether the one or the other spoke truly.

This court, in discussing the value of the testimony of witnesses for the prosecution in cases of rape and analogous crimes, has said, in *United States vs. Ramos* (35 Phil. Rep., 671):

"Convictions cannot and should not be sustained when it appears that these witnesses have willfully and knowingly testified falsely as to any matter developed at the trial; or where they are in direct conflict as to any of the circumstances to which they testify, when the conflict arises in regard to a matter about which there could not well be a mistake."

The principal question in the case of course is whether the accused induced the offended girl to go to stay with him for purposes of debauchery, and the place of detention is of no importance in the legal elements of the crime. But the place where the girl stayed was the most conspicuous external fact connected with the offense; and if the offense had been committed and these two witnesses had intended to speak the truth, the contradiction which we find in their testimony could not have arisen.

For the reasons stated, we are of the opinion that the defendant should be acquitted. The judgment of the lower court is therefore reversed, with costs of both instances de officio. So ordered.

Arellano, C. J., Johnson, Carson, Araullo, and Malcolm, JJ., concur.

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