

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SIMON K. TEATRO, DEFENDANT AND APPELLANT.*G.R. No. 13461. October 17, 1918*

Ponente: MALCOLM, J.

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On the night of March 22, 1911, the house and camarin of a Chinaman named Go Silam, alias Tiago, located in the municipality of Gingoog, province of Misamis, valued at about P10,000, was set fire to, and consumed. The fire was of incendiary origin. Three persons, Simon K. Teatro, the defendant, Pedro Chaleco, the principal witness for the prosecution, and one Juan Baldo were suspected of the crime. At this time, and throughout the intervening years until the present day, the two political factions in this municipality were headed respectively by Simon K. Teatro and by a Spaniard named Sixto Camara. After the fire, Sixto Camara was very active in an endeavor to fix the crime upon Teatro. Nothing of moment was done, however, until after the lapse of approximately six years, and after the death of Juan Baldo, when Simon K. Teatro and Pedro Chaleco were charged with the crime of arson. Under authority of Act No. 2709, Chaleco became a witness for the prosecution. Judgment was rendered, sentencing the defendant Teatro to sixteen years and one day of cadena temporal, with the accessory penalties provided by law, and to indemnify the Chinaman, Go Silam, alias Tiago, in the sum of P9,418, with interest thereon from August 29, 1917, and to pay the costs.

We are of opinion that the proof is insufficient to convict the defendant of the crime of which he is charged. Our reasons follow:

Counsel for the defendant and the trial judge agree in stating that Teatro cannot be convicted unless the testimony of Pedro Chaleco is believed. The trial court gave credence to this testimony. We do not. We find Chaleco telling divergent stories and contradicting himself on three different occasions. Moreover, to serve its purpose, the testimony of Chaleco, an accomplice, must be substantially corroborated in its material points. (Act No. 2709.) If corroborated at all, it is only by the testimony of the girl Maria de Lara, whose story is inconsistent and who, if we are to believe the testimony of her mother, was not in Teatro's house on the night of the fire. Moreover, the testimony of the disinterested witness, Alfredo Tigon, impeached the statements of Chaleco in some respects.

What, we would ask, was the motive of Teatro in burning the house and destroying the business of a neighbor who attended assiduously to his own affairs? The court admitted that the Chinaman was not mixed up in the political quarrel, that he was shown to have no enemies, and that he and Teatro were on friendly terms. One reason assigned by the trial court was that the defendant was indebted to Go Silam and that he wished to remove all evidence of his debt. This hypothesis, however, does not have any great weight, for it is demonstrated that since the fire Teatro has made no effort to avoid the payment of his debt, that on the contrary he has signed a receipt acknowledging his obligation, and that he and the Chinaman have had many business transactions. Another reason assigned by the trial court was that the defendant deliberately destroyed the property of the Chinaman out of envy and hatred and because he was a Chinaman. This, again, is a mere supposition on the part of the Court not sufficient to supply a reasonable motive.

Add to the foregoing the lapse of such a long period of time before prosecution was begun, and the flimsy character of the damaging proof is self-evident. "Delay in the commencement of a criminal prosecution creates a suspicion unless explained. The motive of the prosecution in suddenly assuming activity after long continued silence when the accused have made no effort to escape and the witnesses are available may be questioned. The lapse of time may also result in the destruction of affirmative evidence tending to establish the innocence of the accused." (U. S. vs. Pagaduan [1917], 37 Phil., 90.)

A case directly in point is that of *United States vs. Daamo* ([1917], 36 Phil., 286). The defendants were here prosecuted for the crime of arson which, by coincidence, was alleged to have been committed in the municipality of Gingoog, Province of Misamis, the same municipality in which the present occurrence transpired. There, likewise, the prosecution's case was weak, no motive was shown for the commission of the crime, and there was delay in its prosecution. This Court held that where the trial court fails to give due consideration to the inherent weaknesses in the testimony of witnesses in its findings of fact, the Supreme Court will reverse such findings and enter a judgment of acquittal. At the end of the decision is found the following:

"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."

Result: Testimony of the principal witness unbelievable and uncorroborated—No motive for the crime found—Long delay in prosecution.

Judgment is reversed and the defendant and appellant is acquitted with the costs of both instances de-officio. So ordered.

Torres, Johnson, Street, Avanceña and Fisher, JJ., concur.

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