

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MAXIMO LATIDO, DEFENDANT AND APPELLANT.*G.R. No. 13623. October 07, 1918*

Ponente: TORRES, J.

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An information was filed in the Court of First Instance of Batangas, by the provincial fiscal of that province, charging Maximo Latido with the crime of robbery in a band, with serious physical injuries, committed in company with others who had been prosecuted and sentenced in the principal case No. 1948 of the same court. On December 6, 1917, a judgment of conviction was rendered in this case against Maximo Latido, sentencing the said Latido to 6 years, 10 months, and 1 day of presidio mayor, to the accessory penalties, and to pay the costs. From this judgment the defendant appealed.

It was proven at the trial that, at about 8 o'clock on the night of June 16, 1911, thirteen individuals, two of whom had each a revolver, and the rest bolos, under the command of Maximo Mendoza as chief, went up successively to the houses of Mariano Marcuap and his father Lazaro Marcuap, situated in the barrio of Bugtongnapulo of the municipality of Lipa; that, after they had tied the said Mariano and his brother-in-law, Pedro Magcauas, who was then in the house, they began to search the house, and notwithstanding the fact that Mariano's wife had succeeded in throwing out of the window a sock which she took out of the trunk and which contained P42 and a pair of earrings valued at P5, one of the robbers noticed what the said woman had done, and, with the aid of the lamp with which the other robbers were provided, who stayed below and who were opportunely informed of what had been done by her, the said robbers succeeded in finding the sock with its contents. At this juncture, the robbers went down from the house with the two persons whose hands were tied up, and, as the chief of the band saw that there was somebody at the door of the kitchen of a house nearby, that is, the house of Lazaro Marcuap, he fired three shots, one of which wounded the said individual which proved to be Lazaro Marcuap, the father of Mariano. Immediately thereafter, the chief of the band with two others went up to the house of the wounded man, and, with the aid of the lamp which they took from Mariano's house, they entered Lazaro's house, and while they were searching it under threat of death to the inmates, Mariano succeeded in loosening the rope with which he was tied and took hold of a knife which he was carrying in his pocket, and with said knife he inflicted a serious wound upon the male-factor Sergio de los Reyes, who fell dead in the house thus assaulted, and he also inflicted slight wounds to another robber Vicente Enriquez, who was excluded from the charge and used as witness for the government in the principal case, together with Francisco Matundan.

The offended party, Lazaro Marcuap, received a wound with an entrance and exit on the left side behind the level of the tenth rib, but no internal organ was particularly injured, because the bullet which caused the wound simply touched the body slightly. His wound was healed after a period of 15 days which incapacitated him for work, and occasioned him an expenditure of P10 for medicine and P18 for the doctor's bill.

It is a fact established at the trial that the crime of robbery in a band with serious physical injuries was committed on the night of June 16, 1911, in the houses of the said two residents of Lipa, Batangas. In spite of the fact that, in

the complaint, the names of the presumed authors of the said crimes are given, and in spite of the further fact that, according to two of the same, who had been utilized as government witnesses, there were thirteen male-factors, one of whom died in the house of Lazaro Marcuap, it is certain- that in the said complaint no mention whatever of the name of Maximo Latido was made until the present cause was brought by virtue of the separate complaint filed on October 10, 1917, when the accused Latido was apprehended by the governor of the province, notwithstanding the fact that there appeared no ground warranting the arrest of said Latido at the trial of the complex crime attributed to him, which occurred in June, 1911, or more than six years before.

The two offended parties, Mariano Marcuap and Pedro Magcauas, did not recognize Maximo Latido as one of the robbers who went up into the house where the robbery was first committed. If it were true, as the Government witness Francisco Matundan declared, that Maximo Latido was one of the robbers who assaulted the house of Mariano Marcuap, and the one who, threatening Marcuap with a revolver, took hold of him by the head, said Marcuap could have very well recognized Latido, his aggressor, in view of the fact that there was light in the house. Nevertheless, the offended party, Marcuap, made no mention whatsoever of the accused in his testimony in the principal as well as in this present case.

The testimony of the only two witnesses who tried to implicate Maximo Latido in the commission of the crime, do not agree as to the details regarding the participation which the accused Latido had in the robbery in question, for while Francisco Matundan affirms that three of the men were armed with revolvers as was also the accused Maximo Latido, the other witness, Vicente Enriquez, who had known the defendant for a number of years, said that the defendant did not have a revolver with him but that he only had a bolo. These two witnesses affirm that the name of the individual who was with them when they committed the robbery, was Maximo de Luta, although one of them affirms that he is the accused Maximo Latido himself.

The defendant denied that he took part in the said robbery and that he had a revolver, a weapon he never had in his possession; and alleged that since the date of the commission of the crime, that is, June 16, 1911, he has been living in the barrio of Luta, engaged in working in the land of one Eduardo Mayo, near the railway, where all could see him; that he had known the witness Vicente Enriquez for some time and still knows him; that said witness Enriquez knew his surname; that he never had any nickname; and that he was arrested by the governor of the province only towards the close of the year 1917. The defendant's wife testified to the same effect.

Against the assertion made by the accused and corroborated by his wife that, since the date of the robbery in June, 1911, till his detention in October or November, 1917, he was living in his house in the barrio of Luta and did not at any time leave it, the record does not furnish any evidence or circumstance whatsoever to the contrary. In other words, it has not been shown that the accused Latido has absented himself immediately after the perpetration of the robbery in question and has returned to his residence only a few months or days before his detention. Moreover, it does not appear in the proceedings had, that an order was issued for the arrest of the defendant as one of the robbers, who took part in the robbery of which he is now accused.

The mere declarations of two witnesses excluded from the charge, notwithstanding the fact that they took part in the commission of the crime referred to, which declarations are conflicting, if not contradictory, and are not corroborated by other evidence, circumstantial or otherwise, and which, if combined and taken together as a whole, can not satisfy the court as to the guilt of the accused beyond a reasonable doubt, are not sufficient to justify his conviction.

A defendant in a criminal action shall be presumed to be innocent until the contrary is conclusively proven, and in case of a reasonable doubt and his guilt is not satisfactorily shown he shall be entitled to an acquittal.

For the foregoing reasons, the judgment appealed from is reversed, and Maximo Latido should be, as he hereby is,

acquitted, and forthwith set at liberty, with the costs of both instances de officio. So ordered.

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

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