

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. JUAN CADAY AND FORTUNATA NAVARRO, DEFENDANTS AND APPELLANTS.

G.R. No. 2170. April 18, 1905

Ponente: MAPA, J.

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MAPA, J.:

The Court of First Instance of La Laguna found the defendants guilty of the crime of adultery with which they are charged. On Juan Caday was imposed the penalty of four years nine months and eight days of prison correccional, and on Fortunata Navarro that of three years six months and twenty-one days of the same imprisonment. The former accepted the judgment and the latter appealed from it.

The evidence shows sufficiently that the crime was committed. The defense in this instance does not, in fact, discuss this point; it confines itself to basing its allegations on the supposed consent of the offended husband to the adultery. This, if true, would be sufficient reason to exempt both the adulterers from punishment, in accordance with the provisions of paragraph 2 of article 434 of the Penal Code.

The judge has decided and treated this aspect of the question in the judgment appealed from, and in conformity with the considerations set forth herein we declare that there is no proof in the trial of the case that the complainant consented to the adultery as urged by the defense without any foundation. Therefore, we affirm the judgment appealed from, with the costs in this instance against the appellant. So ordered.

Arellano, C. J., Torres, Johnson, and Carson, JJ., concur.

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