

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. FELIPE CRUZ ET AL., DEFENDANTS; VENANCIO GALANG, APPELLANT.

G. R. No. 25350. July 26, 1926

Ponente: OSTRAND, J.

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OSTRAND, J.:

Felipe Cruz, Eustaquio Santos, Eugenio Capili, and the herein appellant, Venancio Galang, were charged before the Court of First Instance of the Province of Bulacan with the crime of abduction by violence and with attempted rape.

It appears from the evidence that about 7 o'clock in the morning of October 29, 1923, Iluminada Caparas, a girl, 25 years of age, while on her way to the public market in the town of Malolos, was seized by the accused Venancio Galang and carried to an automobile parked in front of the market. The accused Felipe Cruz, who was standing beside the automobile, assisted Galang in overcoming the resistance of the woman and dragging her into the car, ordered the chauffeur, Eustaquio Santos, to drive in the direction of the Calanate bridge. On the way to the bridge Cruz embraced the offended party, kissing her repeatedly and taking various other liberties with her person. Upon their arrival at the bridge the accused, co-operating with each other, carried the offended party from the car to a banca belonging to Eugenio Capili. The offended party offered vigorous resistance, but was again held and embraced by Felipe Cruz while Capili and Galang rowed the banca across the Calanate River. Arriving at the other side of the river, the offended party was carried into a hut, where Felipe Cruz threw her down on the floor and attempted to have intercourse with her while Galang was standing guard outside. Before Cruz could accomplish his purpose he was warned by Galang that two policemen were approaching and was compelled to desist. The policemen immediately arrested Cruz and Galang, the other two defendants being apprehended subsequently.

An information was filed against all of the accused and upon arraignment Felipe Cruz pleaded guilty and was sentenced to suffer fourteen years, eight months, and one day of reclusion temporal. The defendant Eustaquio Santos was acquitted and the other two defendants, Galang and Eugenio Capili, were found guilty, the former being sentenced to suffer twelve years and one day of reclusion temporal, and the latter to eight years and one day of prision mayor. From this judgment only Galang appealed.

The appellant's counsel urges as a defense that his client was intoxicated at the time of the commission of the crime and that he did not know what he was doing. Considering his activity on the occasion of the commission of the crime it may well be doubted that he was intoxicated to such an extent as to impair his mental faculties, but giving him the benefit of the doubt, the intoxication may be taken as an extenuating circumstance and offset against the aggravating circumstance of abuse of superiority. The penalty will therefore be imposed in its medium degree.

The judgment appealed from is modified by increasing the penalty imposed upon the appellant to fourteen years,

eight months and one day of reclusion temporal. In all other respects said judgment is affirmed, with the costs of this instance against the appellant. So ordered.

Avanceña, C. J., Street, Villamor, Johns, Romualdez, and Villa-Real, JJ., concur.

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