

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. VICENTE ALVAREZ, DEFENDANT AND APPELLANT.

G.R. No. 28447. September 13, 1928

Ponente: AVANCEÑA, C.J.

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AVANCEÑA, C.J.:

The appellant is the stepfather of the offended party, Carlos Caponong, and both lived in the same house. On the night of May 19, 1927, on account of certain differences, the appellant took the offended party's suit case, containing the latter's clothes, and carried it to the orchard near a well. According to the offended party, when the accused arrived at that place he opened the suit case, took out the contents and set fire to them. Most of the clothing was burned, but the suitcase was entirely unharmed. The trial court found the only damage to be the value of the clothing which it set at P110. Moreover it appears that the appellant did not intend to burn the suit case also, as shown by the fact that he first took out the clothing in order to burn it.

An information having been filed against the appellant for the crime of arson, he was found guilty and sentenced, in accordance with article 557 of the Penal Code, to four months and one day arresto mayor, with the accessories of law, to indemnify the offended party Carlos Caponong in the sum of P110, with subsidiary imprisonment in case of insolvency, and to pay the costs of the action.

In accordance with article 558 of the Penal Code, as the value of the clothing burned does not exceed 625 pesetas, and as the burning was done under circumstances which excluded all danger of the fire spreading, since it was done in the orchard by the side of a well, the act merely constitutes the crime of malicious mischief. And, moreover, as the accused is the stepfather of the offended party, and hence, an ascendant by affinity, he is exempt from criminal liability, in accordance with article 567 of the Penal Code, and is only civilly liable.

Wherefore, without prejudice to a civil action against him, the defendant is acquitted, with the costs of the action. So ordered.

Johnson, Street, Malcolm, Villamor, Ostrand, Romualdez, and Villa-Real, JJ., concur.

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