

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. RAMON COSCA ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 29487. November 10, 1928

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

The appellants were charged with taking Cristina Biel away through force, violence and intimidation against her will and with lewd designs, prosecuted, tried, and convicted by the Court of First Instance of Manila found guilty of the crime of abduction with violence and each sentenced to fourteen years, eight months and one day reclusion temporal, the accessory penalties, and one-third of the costs.

The three accused appeal from said judgment, each denying, in the memorandum presented by respective counsel, being guilty of the crime charged.

Cristina Biel, the offended party, asserts that in company with her two children of tender age, she was taken to Manila from Cavite by Ramon Cosca in an automobile, by force and with evident lewd designs; that in the car driven by one of the three defendants there were besides the latter and the offended party and her two children, two women, one named Ema and the other Catalina Daño; that upon arriving at Manila they went to Quiapo Church, where Ema alighted, and from there they went to a canteen belonging to David Thomas in the barrio of Sañgandaan, Rizal, where all alighted, the accused taking beer and Cosca wine, offering her some beer which she declined; that from said canteen they returned to Manila, stopping in front of a store on Rizal Avenue, and there Ramon Cosca frightened her with a pistol (which turned out to be a toy), and Vicente Salas with some bullets which he bought at said store, the defendant Santiago Mapalad warning her that if she did not accede to his wishes, everybody would die in the automobile; that she, both there and at other points along the way, started to shout but Ramon Cosca put his hand over her mouth; that from Rizal Avenue, they went and stopped in front of the Savoy Theater, the defendant Mapalad alighting to fetch Ema; that there, because the people were beginning to stare at the automobile on account of the shouts of the offended party, Ramon Cosca let her and her children go; that she went to an office in which there was a Spaniard or an American and asked him to defend her; that Ramon Cosca went up to her offering P50 if she would go back to Cavite, but she refused; that, in running about in her excitement she met a policeman, Dionisio Comendador, to whom she related the occurrence; that on the advice of said policeman, she and her two children went to the Meisic station.

There is no question in the case that the trip was made along that route and by all the persons mentioned by the offended party. What the defense contends is that the offended party, not only went with the defendants willingly, but that it is she who suggested to Ramon Cosca that they all take the ride to Manila on the afternoon in question.

At the outset, it seems rather strange that the defendants in thus abducting the offended party, allowed two other women to accompany them who were not shown to have any connection therewith, and headed for Manila, of all places, and went to the crowded sections of the City.

The offended party's testimony touching the force and violence and other attempts to which she was subjected, is not sufficiently corroborated in the record. While it is true that the witness Catalina Daño, in her declaration before the Constabulary (Exhibit C) in substance confirmed the offended party in her incriminating statements against the accused, yet, during the trial of the case upon being asked to explain her declaration to the Constabulary written in Exhibit C, declared that such statement given by her was untrue, taught to her by the offended party because the latter said her husband would kill her.

David Thomas and Casimira Thomas, the owners of the canteen named "Country Home," state that except for the fact that Cristina Biel seemed vexed or disgusted while in the canteen, and said: "What sort of men are these to make my husband appear as a cuckold!";—aside from this they say they noticed nothing out of the ordinary about her, nor did she ask for any help. Neither of these witnesses corroborates the offended party in her declaration that while there she asked for an auto for rent in which to return to Cavite. If it were true as she says that she was then the victim of the accused, she could have asked for help at that canteen, and remained there in order to separate herself from the defendants instead of again going with them of her own free will, according to the testimony of said owners of that establishment.

Policeman Comendador, indeed, testified that the offended party approached him and told him that she had been brought to Manila against her will by some men who ran away. But in view of the result of the proceeding, the story which she told the policeman must have been an accusation devised by her against the defendants on account of not having been able to obtain from Ramon Cosca the P50 which she had repeatedly asked him for during the trip and which Cosca did not give her promising it to her when they got to Cavite; which, as shown by the evidence of the defense, seems worthier of credence being more probable and partially corroborated by the witnesses for the prosecution. For, Ramon Cosca testifies that at the time of the incident, he was having intimate relations with the offended party; although the latter denies it, she admits that for some time she has been separated from Constantino Teodosis, the man with whom she lived maritally and had children, and that she went to live in the house of Ema, one of her companions on the trip on the afternoon in question, and that the defendant Ramon Cosca used to visit her in that house.

Cosca testified that on the morning of the incident, the offended party asked him to take her for a ride to Manila, and that is why he told the old woman Catalina Daño to look for an automobile in the afternoon and pick up the offended party, passing later for him and Ema, who wished to go with them to Manila, all of which took place as stated. He is substantially corroborated in this not only by his codefendant Santiago Mapalad, but even by the witness for the prosecution Catalina Daño, especially as to the fact that it was the offended party who at that time wanted to come to Manila.

Ramon Cosca also states that upon reaching the Savoy Theater, he and his codefendants left the car to look for Ema; that on returning to it Cristina Biel and her two children were no longer there; that he and his companions got into the car again and drove around the place in search of the offended party and her children returning to the said Savoy Theater, where they were seen and arrested by a policeman. The fact that they returned to that place is corroborated by Policeman Comendador who is the one, upon having learned from Cristina Biel the number of the car, recognized it, stopped it and after having consulted his sergeant by telephone detained the three appellants and the old woman Daño. The fact in itself, thus confirmed, of having driven around from about 6 o'clock, when the offended party went up to Policeman Comendador, until about 8 o'clock, when the same policeman detained the defendants, according to the time fixed by him, tends to confirm the allegation of the defense that the defendants were really looking for the offended party. If it were true that, as she declared, being pursued by Ramon Cosca she entered the office of a Spaniard or American (who, to be sure, did not testify in this case) asking for help and that Ramon Gosca in order to silence her offered her P50 which she rejected, it would seem

highly improbable that in the face of such conduct on the part of the offended party, the defendants should have still remained at the place, driving around there, instead of fleeing from Manila in order to cover up their guilt.

Considering all the circumstances of the case, we deem the defense's allegation worthy of credit, to the effect that during the trip in question she asked Ramon Cosea for P50 which the latter did not give her but promised to do so in Cavite, whereat she became displeased and made up her mind to go to the police and denounce the accused.

In cases like the present one wherein the offended party's story, the greater part of which is improbable, is not corroborated by the other evidence of the case as against the defendants, and wherein the allegations of the defense appear to be more in consonance with the normal and usual course of human events, and are partly confirmed by the evidence in the case, and even by the testimony of some of the witnesses for the prosecution, the best action to take, as justice demands, is to give more credit to the exculpatory testimony of the defendants applying in their favor, as subsisting and intact the presumption that a man is innocent until the contrary is shown.

For the foregoing, the judgment appealed from is reversed, and the appellants are acquitted with the costs de oficio and other pronouncements in their favor, and it is ordered that Santiago Mapalad, one of said appellants, at present detained in this case, be immediately released. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Villamor, Ostrand, and Villa-Real, JJ., concur.

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