

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. DOMINGO CECILIO, DEFENDANT AND APPELLANT.

G.R. No. 3167. March 14, 1907

Ponente: MAPA, J.

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MAPA, J.:

The accused in this case was sentenced by the Court of First Instance to imprisonment for the period of six months and one day (prision correccional) and to pay to the offended party an indemnification of 100 pesos by way of dote or compensation. He was found guilty of the offense of abduction of a girl of less than 23 but more than 12 years of age, such offense having been committed by the accused with the consent of the girl.

The proofs in this cause are complete and demonstrate in reality the material fact of the abduction. But there is no proof that such offense was committed with dishonest intent. The offended party, in her testimony given with respect to the intentions of the accused, stated literally as follows: "He proposed to me that we go to San Mateo for the reason that we could be married in that town in the court of the justice of the peace." During the trial of this case the prosecuting attorney admitted under stipulation with the defense that the accused would testify that he had abducted the girl Concordia de Ocampo for the purpose of marrying her in San Mateo before the justice of the peace (folio 34); and later (see folio 39), the same parties stipulated and agreed that as a matter of fact the accused, when he went to San Mateo with the girl Concordia, went to the justice of the peace, Diamante, for the purpose of marrying said girl.

With respect to this point the accused testified as follows: "I went to the residence of the president of San Mateo and asked him if he had authority to marry us civilly and the president replied that this pertained to the justice of the peace; then I went to the justice's court and asked the justice if he could marry us and the justice stated to me that he had no authority to marry us because she was a minor." As is seen, this last fact has been accepted and admitted by the Government.

On the other hand, it has been proven that the accused took the offended party directly to the house of the president of San Mateo; that on the road to San Mateo he did nothing that could offend, in the least, the honor of the said girl, this in accordance with and supported by the testimony of the offended party; and that one hour later, after their arrival at the residence of the president, the girl was returned to the care of her mother, the latter having followed them immediately after learning of the absence of her daughter, the offended party; that during the short interval or lapse of time the accused committed no act which would tend to show that he took the girl with him with bad intent, or in other words, it is evident that his only purpose was to marry her before the justice of the peace of San Mateo, as is testified by the accused during the trial of this case.

In view of these facts it has not been proven that the girl Concordia de Ocampo was abducted by the accused with dishonest or evil intent; and this being one of the essential elements necessary to constitute the crime of abduction with the consent of the abducted party, in accordance with the many decisions of this court, we can not find the existence of sufficient facts to declare the accused guilty as alleged in the complaint.

The judgment of the court below is reversed and we acquit the accused with the costs in both instances de oficio. After the expiration of ten days from the notification of this decision, let judgment be entered in accordance herewith and ten days thereafter let the case be remanded to the court from whence it came for proper action. So ordered.

Arellano, C. J., Torres, Willard, and Tracey, JJ., concur.

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