

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. HIGINO VELASQUEZ, DEFENDANT AND APPELLANT.

G. R. No. 3586. August 07, 1907

Ponente: TORRES, J.

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TORRES, J.:

On the 5th of December, 1905, a complaint was filed with the Court of First Instance of Nueva Ecija, reading as follows:

"The undersigned accuses Higino Velasquez of the crime of illegal detention committed as follows:

"That on the night of the 9th of October, 1905, the said accused, in company of three unknown individuals armed with bolos and one of them carrying a revolver, willfully and feloniously sequestered Lucas San Mateo, a youth 14 years of age, taking him from his father's house where he lived, in the barrio of Santo Nino, municipality of Aliaga, Province of Nueva Ecija, and conducting him to a forest which was unknown to said youth although it was situate within the limits of Aliaga, in which place he was held and deprived of liberty during three days."

Proceedings having been instituted by reason of the foregoing complaint, the judge, in view of the facts in the case, rendered judgment on the 1st day of August, 1906, and sentenced the accused to imprisonment for ten years and one day (prision mayor), to the accessories of article 61, and to pay the costs. From this judgment the accused has appealed.

The unlawful detention of young Lucas San Mateo, carried out on the night of the 9th of October, 1905, by four armed individuals, one of whom was the accused, Higino Velasquez, is a fact which has been duly proven. The said youth managed to escape from the hands of his captors on the night of the third day (Wednesday), and on the following morning he reported to the justice of the peace of Aliaga, Province of Nueva Ecija.

The following facts have also been proven:

That on the night in question the accused and his mistress, Isabel San Mateo, sister to the sequestered youth, accompanied by three other individuals, made their appearance in the neighborhood of his house situate in the barrio of Santo Nino, in the said town of Aliaga, and while the accused and his mistress entered the house the three unknown individuals, armed with bolos, proceeded to and entered the adjoining house owned by Hospicio Dajose, who at the time was taking his supper, compelled the latter to get up, and at once started to eat in his place. That as soon as they were through they left said house and went to that where the accused, Velasquez, was, and asked him to come down; that both the accused and the three unknown persons ordered young Lucas San Mateo to come down; that as the latter, with tears in his eyes, refused to do so, he was, under threats, compelled to obey them and was taken to a forest, where he was kept and watched by the accused and the three unknown persons; that he was compelled to watch, from the top of a tree, for the appearance or approach of any force of police; that on the night of the third day, taking advantage of the fact that the accused and his three companions were asleep, he managed to escape, and on the day following he reported to the municipal authorities of Aliaga.

The complaining witness further stated that the accused, Velasquez, carried a bolo. This last statement was confirmed by Hospicio Dajose, who testified to having recognized the accused in company with the three unknown persons, and that they all sequestered young Lucas San Mateo, notwithstanding his objection and tears. Deponent further states that the accused had been working for him.

The act described above constitutes the crime of illegal detention, provided for and punished by article 481, paragraph 1, of the Penal Code, for the reason that the complaining witness was taken from his house at nighttime, detained and deprived of liberty until he was able to make his escape, taking advantage of the opportunity when his captors were asleep, and thereupon reported the matter to the authorities.

Defendant did not plead guilty, and, notwithstanding his exculpatory allegations and the testimony of his mistress, though she is a sister to the plaintiff, and the testimony of the other two witnesses called to corroborate them, his culpability as the author of the crime, assisted by other unknown parties, can not be doubted, since no proof appears in the cause in support of his plea that both he and his mistress had also been detained two hours previously by the same unknown persons on that same night.

The fact that at that time the accused carried a bolo; that he and his mistress separated on arriving near the house of the latter's father, where the complaining witness lived, while the three unknown individuals in whose company they were, entered the adjoining house, which belonged to Hospicio Dajose, and there partook of supper; the fact that his two witnesses were not present at the sequestration alleged by him, having affirmed it merely as hearsay; and the fact that the testimony given by the mistress of the accused, Isabel San Mateo, is markedly partial and favorable to him all these facts, far from destroying the evidence offered by the prosecution, serve to confirm the commission of the crime. Nor can it be presumed that one of the witnesses testified falsely, because there is no reasonable ground to believe that he has so testified against his sister's lover, out of enmity and spite, and merely for the purpose of injuring him by falsely accusing him.

In the commission of the crime the attendant aggravating circumstance of nocturnity and the fact that the complaining witness was forcibly taken from his home should be considered, as well as that of repeated offense, since it has been proven that the culprit has been previously sentenced to imprisonment for one year and ten months (prison correctional) and a fine, for a similar crime, which sentence he had already served. No mitigating circumstance is present whereby the effects of the three aggravating circumstances state above might be counteracted, for which reason the penalty imposed by paragraph 1 of article 481 of the Penal Code, in its maximum degree, should be applied.

For the foregoing reasons in our opinion the judgment of the court below should be affirmed, and we do hereby affirm it with the costs of this instance. So ordered.

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

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