

THE PEOPLE OP THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. PEDRO MONTANO AND WENCESLAO CABAGSANG, DEFENDANTS AND APPELLANTS.

G. R. No. 36345. November 25, 1932

Ponente: BUTTE, J.

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BUTTE, J.:

This is an appeal from the decision of the Court of First Instance of Cavite, convicting the defendants-appellants of the crime of falsification of public documents. The defendant Wenceslao Cabagsang was the chief of police and the defendant Pedro Montano was the justice of the peace of the municipality of Tanza in the Province of Cavite, in the month of September, 1930, when the crimes for which they were convicted occurred. It appears from the evidence that on September 5, 1930, a criminal complaint against one Arturo A. Soriano for the crime of qualified seduction was filed with the said justice of the peace. The justice, apparently to favor Soriano, delayed the preliminary investigation until the offended woman on September 18, 1930, filed with him a motion demanding immediate action and calling his attention to the fact that his delay was a violation of the circular of instructions of the judge of the Court of First Instance of said province. The case was then set for hearing on September 22, 1930. Thereafter administrative charges against the justice of the peace were filed with the Court of First Instance of Cavite, alleging that the delay in the preliminary investigation was a violation of the circular of the Court of First Instance, dated November 15, 1928, requiring all justices of the peace to dispose of all preliminary investigations within ten days from the date on which the court acquired jurisdiction over the person of the accused.

The evidence shows beyond reasonable doubt that prior to the hearing of said administrative case, the defendants, in order to make it appear that there had been no violation of the said instructions to the justices of the peace, falsified official records in their custody as follows:

The defendant chief of police fraudulently altered and falsified the municipal police blotter and the book of records of arrests and the return of the warrant of arrest and Soriano's bail bond so as to make them show that the said Arturo A. Soriano was arrested and gave bond on the 13th day of September, 1930, whereas, in truth and in fact, as said records showed before said falsification, the said Arturo A. Soriano was arrested and released on bond on the 6th day of September, 1930; that the defendant Pedro Montano conspired and cooperated with his codefendant in making said falsifications in order to meet the administrative charges then pending against him. The court below rejected the defense of the accused that said alterations were made in good faith and corresponded to the true facts of the case. There is no issue of law raised in the assignment of errors. We have made a careful review of the evidence and have come to the conclusion that the judgment of the court below should be affirmed, with costs against the appellants. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Hull, and Vickers, JJ., concur.

STREET, J., concurring: I am unable to resist the conclusion that the two accused in this case are guilty of having

violated the law, but in view of the apparent lack of malice and total absence of injury resulting from the offense, I am of the opinion that the case is one that calls for a recommendation of clemency to the Chief Executive in conformity with the provisions of the second paragraph of article 5 of the Revised Penal Code. It seems to me that imprisonment for six months would be an adequate penalty for the offense here committed.

MALCOLM, OSTRAND, and IMPERIAL, JJ., dissenting: We dissent and are of the opinion that the proof does not justify the conviction of either defendant.

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