

THE PEOPLE; OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. JUAN FELEO, DEFENDANT AND APPELLANT.

G. R. No. 36429. November 03, 1932

Ponente: STREET, J.

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STREET, J.:

This appeal has been., brought to reverse a judgment of the Court of First Instance of the Province of Nueva Ecija, finding the appellant, Juan Feleo, guilty of the offense of sedition, or of inciting seditious acts, in violation of section 8 of Act No. 292 of the Philippine Commission, sentencing "him to undergo imprisonment for one year, and requiring him to pay the costs.

It appears that on the evening of December 7, 1930, a public meeting was held by the communists in the barrio of Tambo, municipality of San Leonardo, in the Province of Nueva Ecija. The appellant, Juan Feleo, was a leader of the communists in Nueva Ecija at this time, and on the occasion mentioned he and others delivered speeches before an audience of about one hundred persons. Among the auditors on this occasion were several members of the Philippine Constabulary who attended said meeting under instructions from headquarters; and Lieutenant Arambulo and Sergeant Caba took notes in longhand of what they considered to be the seditious parts of the speech of Juan Feleo. According to the testimony of these witnesses the appellant among other things used words which, when translated into English, are to the following effect:

"So you must imitate the French soldiers who in a battle at * * * instead of pointing the arms at the enemies, instead of pointing the arms at them, what they did was to shoot at their chiefs. What we want to say is for you to use them (the guns) not against the communists but against the American government. We do hope that when the time comes the Constabulary man and the scouts would be deserters in order to side with the reds to defend the Philippines. * * * I likewise hope the Constabulary men do not have bad conscience possessed by the American imperialist as they (the Constabulary) are under military discipline, not to suppress the sucker, the American government, because we consider them oppressed. Imagine the salary of a constabulary private, P15 only, and see what the captains do, General Nathorst, Colonel Bowers and others, how big are their salaries? They receive hundreds and thousands. But their chiefs are the ones far away from the scene of the battle, they are in their offices, and whenever there is promotion they are the captains and the lieutenants. Those who scratch their bellies are the ones who receive big pay. The soldiers starve to death. * * * My companions, if we all unite there will be no more trust (?) Belo, there will be no oppressive American government and they will go away if we all have a rebellious heart. If we all be united, that captain (referring to the Provincial Commander S. F. Cacdac) will fall, and we shall be the owners of those haciendas, the railroad company and others."

On the part of the defendant proof was offered tending to show that the words uttered were of a mild and inoffensive nature. We are of the opinion, however, that the appellant used words of the substantial import indicated in the testimony of the witnesses for the prosecution. These witnesses had no apparent motive to misquote the language used, and their report as to its purport was made in course of duty." Their v minds were therefore attentive to the exact import of the language used by the appellant; and their concurrent report as to the

substance of the words spoken has in its favor a strong probability of truthfulness. We see no reason to doubt their good faith and substantial accuracy in any respect.

Two questions of law are raised in behalf of the appellant. The first is whether the provision, of law under which the appellants were convicted is in contravention of the fundamental principle contained in section 3 of the Jones Law which declares that no law shall be passed abridging the freedom of speech or of the press. The second question is whether the words used by the appellant are in fact of a seditious character. Upon analysis these two questions really resolve themselves into one, which is whether the language used was seditious; for it is well established doctrine that the constitutional guaranty of the freedom of speech and of the press does not give a person an unqualified right to speak or publish, without responsibility, whatever he may choose. That a state in the exercise of its police power may punish those who abuse the freedom conferred by the constitutional provision, and whose language tends to disturb the public peace, is not open to question. (*Gitlow vs. New York*, 268 U. S., 666.)

With respect to the character of the language used we are of the opinion that the trial court committed no error in holding said language to be seditious. The words spoken by the appellant on the occasion mentioned incited the hearers to imitate French soldiers in battle who, instead of pointing arms at their enemies, directed their weapons towards their own chiefs. As an end to be accomplished by this course of action it was said that the provincial commander of the Constabulary would fall and the communists would become owners of the haciendas as well as of the railroad company and other companies. In the same speech the hope was expressed that the Constabulary force and the scouts would desert in order to side with the reds. Words of this kind are properly considered seditious because they tend to incite the people to take up arms against the constituted authorities and to rise against the established government. The reference to the alleged injustices visited upon the Constabulary privates and the urging of said soldiers to cherish a rebellious heart is clearly indicative of a tendency to incite said soldiers to disobey their superior officers and to revolt against them, as well as to commit acts of hate and vengeance upon other persons.

The offense falls under section 8 of Act No. 292 of the Philippine Commission; and if the seditious words had been spoken subsequently to January 1, 1932, they would have constituted a violation of article 142 in relation with article 139 of the Revised Penal Code, The latter Act, however, does, not govern the penalty because the penalty therein fixed is more severe than that imposed by the trial court under section 8 of Act No. 292 of the Philippine Commission.

The penalty imposed by the trial court is within the limits allowed by law, and the judgment appealed from will be affirmed. So ordered, with costs against the appellant

Avanceña, C. J., Malcolm, Villamor, Ostrand, Abad Santos, Vickers, Imperial, and Butte, JJ., concur.

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