

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. DONATO DAZO AND FILOMENO TIANGZON, DEFENDANTS AND APPELLANTS.

G.R. No. 37310. September 19, 1933

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

Appellants were prosecuted in the Court of First Instance of Leyte for rape. They were tried, found guilty and each sentenced to fourteen years, eight months and one day of reclusion temporal, with the accessory penalties provided by law, but with credit for one-half of the period of his preventive imprisonment, and to pay one-half of the costs. They were also sentenced to indemnify the offended party in the sum of P500, and to support the offspring should there be any.

In support of this appeal, the appellants contend that the trial court erred in accepting the testimony of the complaining witness and in disregarding the testimony of the witnesses for the defense. While it is true that, aside from the complaining witness, there were no other witnesses to the commission of the crime, yet the circumstances of the case fully corroborate the testimony of the complaining witness, which is clear and free from any serious contradiction. "Where the testimony of the prosecutrix is not inherently improbable or contradictory, it is not essential to a conviction that there be corroboration." (Day vs. State, 232 Pac, 122; see also People vs. Tanilloso, G. R. No. 33514, not reported, promulgated February 4, 1931; People vs. King, 205 Pac., 703; State vs. Jones, 245 Pac., 101.)

The crime committed falls under article 438 of the Penal Code, and the penalty prescribed is reclusion temporal. We are unable to agree with the Attorney-General that the aggravating circumstances of ignominy and of nocturnity were present in the commission of the crime. It does not appear that the defendants took advantage of the night-time to commit the offense; and as to the aggravating circumstance of ignominy, the facts of the present case are not so aggravated as those in United States vs. Iglesia and Valdez (21 Phil., 55), cited by the Attorney-General in his brief. In that case the crime was committed against a married woman after separating her from her husband.

The judgment appealed from is, therefore, within the limits prescribed by law and must be affirmed with costs against the appellants. So ordered.

Avanceña, C. J., Street, Vickers, and Imperial, JJ., concur.

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