

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CARLOS CASTAÑARES, DEFENDANT AND APPELLANT.

G.R. No. 3744. October 05, 1907

Ponente: TRACEY, J.

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TRACEY, J.:

The accused, prosecuted for an attempt to commit murder, was convicted in the Court of First Instance of the crime of threats (amenazas) under article 494 of the Penal Code and was sentenced to three months of imprisonment with hard labor and a fine of 1,500 pesetas.

He was the captain of a steamer, and, landing at Pintuyan, he went to the house of his uncle, the lower floor of which was occupied by a Chinaman named Yap Gea. Invited by the latter, the accused entered his shop. There was some talk, in the course of which the accused took offense at the comments and laughter of the Chinamen present, and standing up reproved them. It is related by the witnesses for the prosecution that he drew a revolver and threatened to kill Yap Gea, who thereupon fled through the back door while Castañares was being held by his two cousins, who accompanied him. These cousins, as well as the accused, deny that he drew a revolver or had one in his possession, and the fact is not established by a preponderance of the evidence beyond a reasonable doubt. There is no proof whatever that the revolver, if there was one, was loaded.

We can not agree with the trial court in regard to the crime committed, but rather accept the suggestion of the Attorney-General that it should be classified as a threat with arms, under paragraph 2 of article 589 of the Penal Code.

The sentence of the lower court is reversed, and the accused is condemned to pay a fine of 100 pesetas, without arrest, with the costs of this instance. So ordered.

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

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