

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. JESUS TOLENTINO, DEFENDANT AND APPELLANT.

G.R. No. 38298. December 09, 1933

Ponente: BUTTE, J.

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BUTTE, J.:

This is an appeal from a judgment of the Court of First Instance of Laguna convicting the defendant of the crime of rape and sentencing him to seventeen years, four months and one day of reclusion temporal.

The nine assignments of error presented by counsel de oficio relate only to questions of fact and involved therefore a review of the evidence upon which the defendant must be found guilty beyond a reasonable doubt.

The information charges, in substance, that in the night of the 7th of May, 1932, the defendant raped Tomasa Pili in her house while she was unconscious, while her mother upon the order of the defendant stood at the foot of the stairway on guard. Tomasa testified that she was a member of a religious organization in San Pedro, Laguna, of which the defendant was the head; that at about 10 o'clock in the night of May 7, 1932, she was sick in her house; that the defendant arrived and asked her mother whether she was well. The mother invited the defendant into the house to see her. When told that she was sick, the defendant said: "Let me ask God what will happen to her"; that the defendant put out the light and the three knelt down and recited the "Padre Nuestro"; after the prayer, a cavernous voice which she did not recognize was heard saying: "Tomasa is going to die. Make her well, Jesus." When her mother left the room, she heard the same voice saying: "Jesus, lie by the side of Tomasa," and later, the voice said: "Tomasa, obey Jesus in all his commands otherwise you will die"; that thereupon she became unconscious, and when she recovered consciousness she discovered that she had been raped by the defendant; that she then called her mother and told her what the defendant had done and immediately thereafter the defendant left the house.

Rufina, the mother who signed the complaint, also testified that she heard the mysterious voice.

The defendant, a man aged 50 and recently married to a woman, aged 23, is the cousin-in-law of Tomasa. He and his wife reside in a house but a few meters distance from Tomasa's house, there being also other houses within six meters.

The court below stated that the story of the offended party and her mother would be unbelievable except for the fact that the defendant, as head of a religious society, exercised an influence over the offended party and her mother to such an extent that they believed and trusted him in all that he said and did as if he were divine. We find nothing in the record that warrants the conclusion that the defendant in fact exercised any such influence over Tomasa Pili. She testified that the religious society of which he is the head did not teach or sanction immoral practices. Her letters and her testimony show that she is a girl of more than average intelligence, 18 years of age. The record shows that the defendant has had only a primary education. It does not seem reasonably credible that Tomasa Pili would believe her cousin-in-law, the defendant inspired and that she must obey him in all things. But apart from this consideration, it does not appear from the information nor from her evidence that she yielded to

him because of her belief in his divine power; but on the contrary that the offense was committed while she was unconscious. Her testimony that she lapsed into unconsciousness twice and recovered her consciousness twice during the short time the defendant is alleged to have been in her house seems to us likewise incredible. (Rufina, the mother, testified that the defendant was in the house with Tomasa about the time that it took her, Rufina, to smoke "half a cigarette.")

The offended girl did not submit to any medical examination after the alleged incident. Although the alleged incident occurred on May 7, 1932, no complaint was filed until May 25, 1932.

Early in the morning of May 8, 1932, Rufina sent her daughter to Manila on an ordinary business errand, and she remained in Manila for several days. Neither her conduct nor her correspondence after the alleged incident disclosed the slightest reaction or concern that would naturally result from such an incident, had it actually occurred.

We have reviewed the entire record in this case and cannot bring our minds to the conclusion that the defendant is guilty beyond a reasonable doubt.

The judgment is reversed with costs de oficio.

Street, Abad Santos, Vickers, and Diaz, JJ., concur.

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