

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JUAN VILIANUEVA, DEFENDANT AND APPELLANT.*G.R. No. 3853. October 19, 1907*

Ponente: TORRES, J.

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It appears from the proceedings in the case that, before sunrise on January 1, 1907, one Juan Villanueva and two other unknown individuals repaired to the neighborhood of a house occupied by Umali and his wife Olan, and with loud voices awakened and called out to the inmates to open the door of the house. Policarpio Umali, the husband, answered the call, opened the door leading to the porch (azotea), stepped out, and inquired of the callers the purpose of their errand. The reply came in the form of a blow on Policarpio's left side from the butt end of a pistol, given by a man on the porch who rushed upon Policarpio and who subsequently was recognized by him as the defendant, Villanueva. Instantly, a second man stood by Policarpio's side threatening his life if he dared to move, while a third stood in the yard below. Then Villanueva entered the house and ordered that a lamp be lit and, by intimidation and force, caused Manuela Olan to give up what money there was in the house. And, as she only gave him P6, she was instantly dragged below and outside by Villanueva, who there by force did lie with her; this is according to the woman's statement.

Then Villanueva returned to and ransacked the house, seizing this time a bolo, a penknife, some dry goods, and other effects which were in the house. Then he went across to Saturnina Arellano's house in quest of money, and returning after some time to the complainant's house, proceeded to tie and bind Policarpio's arms behind him and finally tied him to an upright inside the house. In this position the defendant pulled Policarpio by the legs and scraped his shins with the butt of the pistol he carried and demanded more money. Upon the loosening of the knots of the rope Policarpio fell to the ground face downward, thereby producing on his side and shins bruises and other painful injuries.

The complaining witnesses were able to recognize the defendant, Juan Villanueva, by aid "of the moonlight and the little lamp burning inside the house. Aside from this fact, the defendant is a relative of Manuela Olan, and her husband knew him personally for three years. Saturnina Arellano also knew the defendant, although none of them were able to recognize the second or third man with him.

After the hearing of the cause upon the complaint filed by the said provincial fiscal the trial court, on January 24, 1907, found the defendant guilty as charged and sentenced him to serve a term of four years of presidio correctional, to the restitution to the said Policarpio Umali and his wife of all of the property taken including the P6 and the household articles enumerated, or in default of the articles to pay them the sum of ₱20, and, in case of insolvency, to the subsidiary imprisonment; and further to the accessory penalties and the costs of the suit. From this sentence the defendant appealed.

The facts as brought out in the trial are conclusive evidence of and constitute the crime of the robbery of P6 and several articles of household use found on the premises. They also prove that the robbery was executed with

violence and intimidation of the persons of the injured parties, such acts of violence and intimidation being amenable to articles 502 and 503, No. 5, of the Penal Code; that the inmates of the dwelling, in the perpetration of the robbery, were subjected to maltreatment at the hands of the robbers, and, further, if the statements of Manuela Olan are true, that she was the victim of an attempt upon her honor on the part of the defendant.

Of the three men who perpetrated the crime the defendant, Juan Villanueva, was the only robber who had been recognized and apprehended; the defendant, upon being charged with the commission of the crime, entered a plea of not guilty. But, notwithstanding his denial and the exculpatory allegations he offered at the trial, the evidence adduced is sufficient proof of his guilt. It is clearly proven that Villanueva was the author and principal of the robbery together with two other unknown individuals, albeit he tried his best to prove an alibi through the testimony of witnesses who appeared in his behalf, to wit, that he was supposedly sick in bed at the time and therefore could not leave the house nor yet commit the crime.

With due regard for the weight of the evidence introduced at the trial both by the prosecution and the defense, the mind is perforce bound to heed, in accordance with the principles of sound reasoning and common sense, the preponderance and weight of the evidence produced by the prosecution, inasmuch as the defendant was known to the three complaining witnesses and is in fact related to one of them, Manuela Olan, to whose niece he is married. The defendant himself has admitted the fact that Policarpio Umali had known him for the last three years, and that Saturnina Arellano, a neighbor, also knew him. So that, if on the night in question the moon was shining and there was a light burning inside the house in which the robbery was being committed, and the defendant had crossed over to Saturnina's house, returned and remained in Umali's for about one-half hour, during which he tied and bound with a rope and otherwise maltreated and then suspended Policarpio to an upright or pillar therein contained, it is but just to consider the evidence produced by the prosecution as being of greater value and weight. This evidence remained all throughout unimpaired, markedly consistent with the statement of facts and without discrepancies and contradictions while under the scrutiny of the cross-examination by counsel for the defense.

There is no legal reason, therefore, why the preponderance and weight of such evidence in favor of the prosecution as against the defendant, in the face of his attempt to shirk the responsibility of the crime, should not be acknowledged by this court.

In the commission of this crime the concurrence of two aggravating circumstances, 15 and 20, article 10, of the Penal Code, is to be considered, with no mitigating circumstance present, because the robbery was committed late at night and in the dwelling house of the persons robbed. Accordingly, the proper penalty is that of the maximum degree, and as for the defendant's racial exemption by article 11 of the Penal Code, it is not available since the crime was directed against property.

For the reasons hereinbefore stated, we are of the opinion that the sentence of the court below should be affirmed, and we sentence the defendant, Juan Villanueva, to ten years of presidio mayor, to the accessory penalties as imposed in article 57 of the Penal Code, to restore the articles taken, or, in default thereof, to pay the sum of ₱20, the value of the property, to the complaining witnesses, together with the ₱6 in cash taken by the robbers, without subsidiary imprisonment in case of insolvency, and to pay the costs of this instance. So ordered.

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

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