

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SIMEON AGRAVANTE ET.AL., DEFENDANTS. SIMEON AGRAVANTE, APPELLANT.

G.R. No. 3947. January 28, 1908

Ponente: TORRES, J.

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TORRES, J.:

At about 10 p. m. on the 13th of January, 1906, Marcelino Acupan and Apolinario Camacho, members of the Constabulary detachment stationed at Bacolod, the capital of Occidental Negros, tried to enter the Rizal Theater, where an acrobatic performance was going on, without the necessary admission ticket; as Vicente Ibañez, the doorkeeper of the theater, refused to let them in, Camacho pulled him by the hand and Acupan struck him a blow and invited him to come out to the street where he would break his bones.

On account of the scandal created, the chief of the municipal police, Fortunato Vadlit, who was standing by, approached to inquire what had taken place; at this moment Simeon Agravante, another member of the Constabulary, carrying a gun, appeared and wanted to take Ibañez to the cuartel, but he did not succeed in doing so because the doorkeeper stated that the performance was not yet over; Agravante then went away, but shortly thereafter another Constabulary private, also carrying a gun, made his appearance and compelled Ibañez to follow him to the cuartel. At the request of Ibañez, Vadlit, the chief of police accompanied him, and when they reached the cuartel Agravante asked Ibanez what complaint he had to make, to which the latter replied that Acupan had struck him with his fist; Agravante then maltreated Ibañez and ordered another private to take the man away and lock him up; Ibañez and Vadlit objected to the order because there was no reason therefor, thereupon Corporal Agravante ordered that the chief of police be locked up also; the order was obeyed by some of the soldiers who pushed Ibañez and Vadlit into the jail, where they remained for about an hour until sergeant Leandro Gargueña was informed of the occurrence, whereupon the latter ordered their release. Ibañez and Vadlit were subsequently taken to the house of Lieutenant Caswell, but the latter, being ill, was unable to investigate the matter. On that night the chief of police, Vadlit, was not in uniform.

A complaint was filed on the 14th of March 1900, charging Sixto Chaves, Simeon Agravante, Apolinario Camacho, and Marcelino Acupan with the crimes of illegal detention, lesiones, and attempt against an agent of the authorities. The corresponding proceedings were instituted, and the judge rendered judgment on the 3d of May, 1906, sentencing Simeon Agravante, for the crime of arbitrary detention, to pay a fine of 500 pesetas and one-fourth of the costs, and to suffer subsidiary imprisonment in case of insolvency in the payment of the fine; Marcelino Acupan was sentenced for maltrato de obra to the penalty of five days of arresto menor and one-fourth of the costs; Sixto Chaves and Apolinario Camacho were acquitted with the remainder of the costs de oficio. From the above judgment the accused Agravante appealed.

From the evidence adduced at the trial of this case it appears that the crime of arbitrary detention, included in case No. 1 of article 200 of the Penal Code, was committed, inasmuch as, from the facts stated, it appears that on the

night of January 13, 1906, Vicente Ibañez, doorkeeper at the Rizal Circus, situated at the capital of Occidental Negros, was maltreated by Marcelino Acupan, a constabulary soldier, for which reason, when Ibañez was conducted to the cuartel by another, Fortunato Vadlit, the chief of the municipal police accompanied him to the door of the cuartel when the latter, together with Ibañez, was locked up in the jail by the accused, Simeon Agravante, a corporal of Constabulary; the detention lasted for about an hour. They were then released by sergeant Leandro Gargueña, when he became aware that there was no legal reason for the detention, because the chief of police, Vadlit, had taken no part in the quarrel at the gate when Ibañez was maltreated by Acupan; he merely approached the place of the incident in order to find out what had occurred, and, at the request of Ibañez, accompanied him to the cuartel for the purpose of assisting in the investigation of the matter.

The accused, Agravante, the only one who appealed from the judgment of the court below, pleaded not guilty, but confessed to having detained both Ibañez and the chief of police, Fortunato Vadlit, because the latter was drunk and wanted to force an entrance to the cuartel to make an investigation. However, in view of the preponderance of evidence offered by the prosecution in favor of the statements made by Vadlit, the allegations of the accused can not be taken as proven; rather to the contrary. It has been shown that by reason of the remarks made by Vadlit to Agravante when Ibañez was detained, Vadlit was arrested ; therefore, it is unquestionable that the conduct of the accused was arbitrary and illegal in ordering the detention of the chief of police, because there was no legal reason for it.

In the commission of the crime of arbitrary detention no mitigating or aggravating circumstance was present, and in view of the fact that the offended parties only remained about an hour in confinement, the penalty to be imposed is that prescribed in case No. 1 of said article 200, a fine, in the application of which the provisions of article 83 of the Penal Code should be taken into account. Therefore, the judgment appealed from should be affirmed as to the appellant, even if circumstance No. 8 of article 9, referred to in the decision of the court below, is not considered, inasmuch as the fact mentioned therein, that Corporal Agravante thought he had authority to detain the chief of the municipal police for trying to investigate what had taken place, does not constitute the circumstance No. 8 of article 9 of the Penal Code alluded to.

It is of record that, on the night in question, Fortunato Vadlit was not in his uniform of chief of police; hence he was not qualified to exercise his office and make himself known as such chief of police, and for this reason the crime of attempt against an agent of the authorities could not have been committed. It should further be considered that without an order from competent authority he could not have made an investigation in the cuartel Constabulary; he should have reported the matter to the municipal president or to the commanding officer, and then what afterwards took place might have been avoided.

For the reasons above set forth it is our opinion that the judgment appealed from, whereby Simeon Agravante is sentenced to pay a fine of 500 pesetas, and to suffer subsidiary imprisonment in case of insolvency, with one-fourth of the costs, should be affirmed, all costs as to this second instance to be also charged against him. So ordered.

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

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