

UNITED STATES VS. EULOGIO FERRER, JUAN MACOY, PABLO IBAÑEZ, IGNACIO AURELIO, FEDERICO JAYME*G.R. No. 3950. March 13, 1908*

Ponente: JOHNSON, J.

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ROBBERY; FALSE KEYS; ACCESSORIES; MINORS.—From the Court of First Instance of Occidental Negros. The defendant, Eulogio Ferrer, was found guilty of breaking and entering a building and stealing jewels therefrom. The other defendants, with the exception of Ignacio Aurelio, were found guilty of concealing the crime and receiving stolen property. Evidence deemed insufficient to show participation by Pablo Ibañez and Federico Jayme. Judgment of conviction against Ferrer and Macoy held to be justified. Sentence imposed on Macoy affirmed. Ibañez and Jayme acquitted.

Per Johnson, J.

For appellants: Vicente Franco.

For appellee: Attorney-General Araneta.

DECISION

These defendants were charged with the crime of robbery in the Court of First Instance of the Province of Negros Occidental, in a complaint in the following language:

"Que el referido Eulogio Ferrer siendo criado de Dormitorio de niñas del Instituto Rizal, en la calle Araneta de esta capital de Negros Occidental, Islas Filipinas, a sabiende maliciosa u criminalmente, sustrajo con animo de lucrarse u haciendo uso de llavos falsas, varias alhajas consistentes en un anillo de oro con un solitario de brillantes; un anillo de oro con brillantes; doce pulseras de oro; seis iden de plata; un par de pendientes de oro, en forma de hoja con tres brillantes cada uno; un par de pendientes tambien de oro en forma de rosa con nueve brillantes cada uno; un anillo de oro con tres brillantes; una cadena de oro con su medalla; un par de pendientes de oro liso; un anillo de oro de los llamados de compromiso; un ahuecador de carey; un par de pendientes de oro con un brillantito cada uno, valorados an junto en mas de 1,250 pesetas, de la propiedad de las Srtas. Angela Torres, Leoniza Villanueva, Praxedes Delgado, Magdelana Locsin y Maria Emilia, que las tenian en sus respectivos baules, cerrados con llave, en la roperia en los bajos de Dormitorio.

"De dichas alhajs, recibio Juan Macoy, dependiente de la Botica de Bacolod, establecido en los bajos del mismo Dormitorio, de manos de Euloqio Ferrer, en pago de la cantidad de seis pesos que le habia ganado al juego de patilic en el sitio de Daus de esta capital, en uno de los dias del mes de Enero ultimo las siguientes; un anillo con un brillante, tres pulseras de oro; una pulsera de plata, un par de pendientes de oro, uno de ellos con un brillante, y una ahuccadora de carey, de las que dicho Maciy vendio a Federico Jayme, que es un plataro establecido en la callo de Rosario de esta poblacion, las 7.30 p.m. del 13 de Febrero ultimo en la cantidad de tres pesos (P3 anillo con un brillante.

"El mismo Eulogio Ferrer, entrego a Ignacio Aurelio, una cadena con su medalla, para que la empeñase como ko hizo, en dos pesos (12) a Ceferino Nolina.

Gran parte de las alhajas consistentes en un par de pendientes de oro con nueve brillantes cada uno; un amillo de oro cuatro brillantes; un cadena antigua de oro, un anilla de oro con tres brillantes; un par de pendientes de oro con un brillante cada uno; uno cadena de oro con su cruz tambien de oro con siete piedras y un imperdible de oro se ocuparon en poder de Pablo Ibañez, que los habia adquirido de Eulogio Ferrer parte comprados en la cantidad de ciento sesenta y seis pesos (P166), parte empeñados en sesenta y aesus pesos (P66) y una de ella presada.

"Y el resto consisto en cinco pulseras de plata, una idem de oro, cuatro anillos de oro y una pulsera de oro convertidas en un par de pendientes, fueron recuperadas en poder de encarnacion Crijaldo, Monica Galeno, y Tomas Maalat. Hechos todos cometidos con infraccion de la ley."

The defendants were duly arrested and arraigned in said court, and each pload "Not Guilty". At the close of the trial the court dismissed the said Ignacio Aurelio, because the evidence was not sufficient to show his complicity in the commission of the crime.

After hearing the evidence adduced during the trial of the cause, the lower courr found that Eulogio Ferrer was guilty of the crime charged in said complaint, as principal, and that the said Juan Macoy, Pablo Ibañez, and Fererico Kayne were quilty as "encubridores", and sentenced the said Eulogio Ferrer to be imprisoned for a period of two years, four months and one day of presidio correccional, with the accesory penalties provided for by law, and to pay one-fifth part of the costs. And sentenced the said Juan Macoy, Pablo Ibañez and Federico Jayme, each to pay a fine of one thousand pesatas, and each to pay one-fifth part of the costs, and in case of insolvency to suffer subsidiary imprisonment at the rate of 12 1/3 pesatas per day, and the costs.

From that sentence each of the said sentenced defendants appealed to this court.

An examination of the record brought to this court fully justifies the findings of the lower court with reference to the said Eulogio Ferrer and Juan Macoy. The evidence clearly shows the participation of Eulogio Ferrer in the commission of the crime as charged in said complaint. The evidence also clearly shows that Juan Macoy, of he was not an actual participant in the commission of the crime, certainly was an "encubridor". Er do not believe, however, that the evidence is sufficient to show that Pablo Ibañez or Federico Jayme had any connection whatever with the crime; therefore as to them the sentence of teh lower court is hereby reversed, and it is hereby ordered that they be immediately discharged from the custody of the law, and that the complaint as to them he dismissed.

The evidence fully justifies the findings of fact and the conclucions of the cpurt with reference to the said Juan macoy. The sentence of the lower court is therefore hereby affirmed as to him.

With reference to Eulogio Ferrer the evidence shows that at the time of the commission of the crime he was less than eighteen years of age; the penalty imposed, therefore, in accordance with paragraph 2 of article 85 of the Penal Code, must be the next lower than that prescribed by law. The penalty prescribed by law for the crime with which the defendant was charged is prision correccional. The Sentence of the lower court, therefore, as to the said Eulogio Ferrer, is hereby modified and he is hereby sentenced to be imprisoned for a period of six months, with accessory penalties provided for by law, and each of the said defendants, Eulogio Ferred and Juan Macoy, to pay one-fifth part of the costs.

It is so ordered.

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