

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CANDIDO ‘POBLETE, DEFENDANT AND APPELLANT.*G.R. No. 4354. March 25, 1908*

Ponente: TORRES, J.

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On the morning of Sunday, the 19th of May, 1907, Gliceria Dolac, a young woman 19 years of age was walking in the direction of the church, for the purpose of hearing mass, accompanied by her aunt, Toribia Unson, and another young woman, Gliceria Velgrado. When nearing the parish house she was unexpectedly met by the defend-ant who seized her with his left hand and immediately attacked her with an open penknife, inflicting several wounds in her chest, back, sides, arms, and thigh, and although she fell to the ground senseless upon being cut in the breast with the penknife, the aggressor continued to attack her; as the two1 women who accompanied the latter promptly attempted to render assistance, the accused with the same knife also attacked Toribia Unson who was crying out for help, wounding her in the forehead, which scar she showed to the judge and to other persons present at the time when giving her testimony in the proceedings; the defendant also attacked Gliceria Velgrado, but the weapon only caught the veil that she carried over her head; the torn veil was exhibited at the trial. The cause of the aggression was that the offended party had rejected the proposals of love made by the accused. The sixteen wounds received by Gliceria Dolac healed in about three weeks, through the assistance of a military surgeon in the hospital of the said pueblo of Naic; the doctor's certificate, the penknife, the tapis (apron), and neckerchief which the offended party wore and which showed holes corresponding with her wounds, were exhibited as evidence.

A complaint was filed charging Candido Poblete with the crime of frustrated murder, and the corresponding proceedings were instituted; on the 14th of September, 1907, the judge rendered judgment sentencing the accused as guilty of the crime of frustrated homicide, with one mitigating circumstance, to the penalty of six years and one day of prision mayor, to the accessory penalties of article 61, and to pay the costs.

The above-stated facts, which have been fully proven in this case, constitute the crime of frustrated murder denned and punished by article 403 in relation with article 3, paragraph 2, of the Penal Code, inasmuch as the offended party, a girl 19 years of age, was unexpectedly attacked by the accused who, for the purpose, seized her by the hand and thus held and prevented her from fleeing from her aggressor; neither could she defend herself, because she was unarmed and by reason of her weakness in comparison with the strength of the accused; at the hands of the defendant, and by means of treachery, she was wounded several times, for the sudden appearance of the accused, armed with a penknife, already opened and in readiness, and the instantaneous attack he made on her, must have caused her surprise and fear. All these details prove conclusively that the crime was committed with perfect safety to the aggressor who employed means in its execution which tended directly and particularly to insure the consummation thereof without any risk to himself from any sort of defense which his victim might have made.

Notwithstanding the fact that the offended party had the good fortune to be cured in less than one month "of the

sixteen wounds inflicted on her, thanks to the prompt assistance and to the proper treatment rendered her by a military physician in the hospital of Naic, the crime, however, has the characteristics of frustrated murder; the accused, with the criminal intent to kill the young woman, out of spite because she refused to listen to his pretensions of love, as appears of record, did everything that would usually lead to the consummation of the crime and the death of the assaulted woman, although such death did not occur for reasons independent of the will of the aggressor, because notwithstanding the fact that he saw her fall to the ground senseless after the first blows upon her breast, he still continued to attack her and inflicted on her several other wounds numbering sixteen in all. It is therefore undeniable that the accused, with the decided intention to kill the said young woman, awaited her on the street on the morning in question, and in order to insure the crime which he had premeditated, caught the woman by the hand so that she might not escape, and, after she was lying senseless on the ground, he still continued to attack her, and left her only after inflicting sixteen wounds, and believing her to be dead and that his wicked intention had been consummated.

The accused, Candido Poblete, the proven and fully convicted author of the above-mentioned crime, as already shown by the result of the proceedings, pleaded not guilty; his exculpatory allegations have not, however, been proven; on the contrary, they have been contradicted by the eye-witnesses, one of whom, Toribia Unson, was wounded by him in the forehead, and the other, Gliceria Velgrado, was also pursued by the accused, but the blow aimed at her only reached the veil that she wore over her head.

In the commission of the crime neither an aggravating or mitigating circumstance is present; nor was there loss of reason and self-control, said to have been produced by the fact that the offended party refused to admit proposals of love made by the accused, for the reason that, as he was not pleasing to her, she was under no obligation to meet his wishes, and, furthermore, it does not appear that she gave any provocation, or that she gave any offense which might have caused loss of reason and self-control on the part of the accused. On the contrary, the record shows that, from the time when a correction was imposed on the accused at the court of the justice of the peace in June, 1906, for having gone at midnight to the house where the injured party lived, without the consent of any of the occupants thereof, at which time he was caught in the interior of the house, he being no longer able to call on his sweetheart, he threatened several times that he would kill her with the penknife used in committing the crime, and said threat he repeated one week before the affray. From all of this it appears that, owing to his disappointment in love, and long before the crime, he conceived the criminal idea to kill her; his purpose to kill the object of his amorous persecutions is thus corroborated.

After taking into consideration the circumstances of the deed, and in the present case the trivial nature of the wounds inflicted upon the injured party, which were cured in less than one month, article 407 of the Penal Code authorizes courts to punish, within their rational discretion, the crime of frustrated murder with a penalty lower by one degree, imposing in its medium grade the penalty of presidio coreccional in its maximum degree to presidio mayor in its medium grade, which is the penalty next lower to that imposed by article 65 of the Penal Code.

Therefore it is our opinion that the judgment appealed from should be reversed, and that the accused, Candido Poblete, should be sentenced to the penalty of six years and one day of presidio mayor, to suffer the accessory penalties of article 57 of the code, to indemnify the injured party for her medical expenses without subsidiary imprisonment in case of insolvency, in view of the nature of the main penalty, according to article 51 of the code, and to pay the costs of 130th instances. So ordered.

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

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