

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SIXTO GALURAN ET AL., DEFENDANTS. SY-YOC, APPELLANT.*G.R. No. 4429. December 24, 1908*

Ponente: MAPA, J.

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The crime herein charged is that of robbery by the taking of property to the value of P37, perpetrated in an uninhabited building and by the use of false keys. Two of the accused, Galuran and Dizon, pleaded guilty and were sentenced to the penalty of one year and one day's imprisonment, and the third, Sy-Yoc, to the penalty of one year and six months' imprisonment. The two first named assented to the judgment, from which Sy-Yoc alone appealed.

The latter was declared by the trial judge to be a principal, by instigation, of the crime at bar, and Dizon and Galuran principals by direct participation. This holding is certainly in accordance with the evidence. Galuran was a porter in the warehouse of the firm of Smith, Bell & Co.; he had been two years in the service of the said firm without apparently ever having given cause for complaint. The appellant, Sy-Yoc, quite frequently went to the said firm in order to arrange for the sale of certain boxes that he manufactured. On one of these visits he proposed to Galuran that he, Galuran, should get some of the cases of whisky that were stored in the warehouse and take them over to the appellant's house, and that he would pay P16 for each case. Galuran replied that he did not know how to get them out, so Sy-Yoc suggested that he take an impression of the key of the warehouse in soap paste and have another key made by a locksmith, and further told Galuran to call on him if he had no money to pay the locksmith. Galuran duly obtained an impression of the key and took it to Sy-Yoc; the latter sent for a locksmith, whom he paid for a key as soon as it was made according to the mold. The warehouse could not be opened with this key, and Galuran had to have another made by a second locksmith. With the latter key Galuran was able to open the warehouse, from which, assisted by Dizon, he took two cases of whisky. These cases they at once took in a carromata to the store or establishment of Sy-Yoc, where they were surprised, while in the act of depositing the cases in question inside, and arrested by a secret-service agent who had been watching them from the street and had followed them.

These facts, which we hold to have been proven, clearly show the guilt of the appellant, Sy-Yoc, as the instigator of the crime herein prosecuted. From him came the initiative in the robbery; he was the first to conceive the idea of its commission, and, being unable or unwilling to carry it out himself, he employed Galuran, impelling him to the material execution of the crime by a promise to pay him P16 for each case of whisky that he was able to steal. The better to induce him to commit the offense, he cleverly demonstrated how easily it could be accomplished, instructed him as to the best means of carrying it out, and offered him money to pay for the false key. He thus removed all the difficulties in the way of the determination to execute, and the actual execution of the robbery in question. These acts constitute a real inducement made directly for the commission of the said robbery, and place the appellant, Sy-Yoc, in the position of principal in accordance with paragraph 2 of article 13 of the Penal Code.

In the court below the appellant moved for a new trial, alleging the discovery of new evidence. His motion was

overruled by the court on the ground that such evidence was not of such consequence as to cause a change in the merits of the case in favor of said appellant. We agree with this finding and therefore hold that the motion for a new trial was properly overruled.

The judgment of the lower court is hereby affirmed with the costs of this instance against the appellant. So ordered.

Arellano, C. J., Torres, Carson, Willard, and Tracey, JJ., concur.

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