

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SIMONA ESCOBANAS, DEFENDANT AND APPELLANT.*G.R. No. 4457. November 18, 1908*

Ponente: MAPA, J.

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This is a libel case in which the accused appellant was sentenced in the first instance to the penalty of four months' imprisonment and to pay a fine of P500 and costs; the defense does not dispute the libelous nature of the letter that gave rise to the complaint, but expressly admits it in its brief. And the said letter is certainly so libelous that the court below has rightly concluded in its judgment that, for the purpose of humiliating and insulting a woman, nothing more base or more vile can be conceived than the letter in question. The only thing that is contested by the defense is the participation imputed to the accused in the preparation thereof.

The letter was written by Francisco Nañez, a lad of 16 years of age who, as the judgment reads, has the appearance of a child and who is a servant of the accused. Nañez says that he wrote it by order of the latter who dictated it and afterwards directed him to let it drop in front of a certain store; this he actually did, in obedience to the orders of his mistress. The latter did not testify at the trial, and for this reason the testimony of Nañez has not been contradicted by her, and in this respect it therefore stands. Endeavors were made to destroy it by means of the statement of a witness offered by the defense for the purpose of demonstrating that Nañez wrote the letter on his own initiative, without any intervention by the accused, and with the sole and express purpose of cautioning a certain Roman de Rama, at the time the sweetheart of the injured party, regarding the conduct of the latter. As a matter of fact the said witness so testified, and added that he became aware of the matter because Nañez himself once told him that he would write such a letter to Roman, and because, on going the next day to the house of the accused where Nañez lived, he found him writing a letter which he himself stated was the one for Roman of which he had previously spoken.

It is however sufficient to observe that the letter in question is not addressed to Roman but, on the contrary, is signed with the name of Roman de Rama, to show that the testimony of the said witness in no way agrees with the facts, especially if it be taken into account that the letter was dropped in the middle of a public street, a fact which evidently shows that the object of the author thereof was not so much to have the letter reach Roman, but that it might be taken up and read by any person in the town who chanced to find it. It is clear that it was not a matter of simply sending word to Roman de Rama personally, but to publicly defame the injured party. Given the place where the letter was dropped, there was no probability whatever that Roman would find it before anyone else, and the outrageous contents of the letter leave no room for doubt of the intent to dishonor and defame on the part of the person who inspired its preparation.

After stating the above facts, no reason appears in the case to prove such a depraved intent on the part of the youth, Francisco Nañez, who, as the judge below states, is almost a child, while the contrary is apparent with regard to the accused, who was jealous of the injured woman because she believed her to be unlawfully intimate with her husband. Overcome by jealousy, she insulted the injured party by calling her puta, or prostitute, on the

street a few days prior to the affair at bar, and for this reason she was summoned by the latter before the court of the justice of the peace. The state of mind of the accused with regard to the person aggrieved fully explains the occurrence, in that it indicates her spite and a desire for revenge upon the woman whom she considered to be her rival. This fact confirms the declaration of Francisco Nañez, which is further corroborated by the assertion of the injured person as to the accused having called at her house immediately after her appearance at the municipal building by reason of this matter in order to ask her pardon for causing the letter in question to be written, thus acknowledging herself guilty of all that had occurred.

One witness for the defense declared that the accused had asked for the pardon, not for herself but for her servant, Nañez. This witness says that he heard the conversation of the two women because the accused begged him to accompany her to the house of the injured woman and told him that "if the matter is settled, we would drink wine, and I would go and buy it" (according to her own words). This account that the witness gives of his presence at the house of the injured woman is so puerile that it does not deserve the least consideration. On the other hand, taking into account the deep hatred that existed between the accused and the woman defamed, as shown by facts above related, we believe that the former would not have made up her mind to go to the house of the latter unless it was for something in which she was seriously and personally concerned, and not simply because it concerned her servant alone. In view of all these circumstances of the case, we are inclined to give more credit to the statements of the injured party than to the testimony of the defendant's witness just alluded to.

The evidence above set forth is sufficient to demonstrate that the letter in question was written and dropped on the street by order of the accused, who has thereby incurred the liability established by section 2 of Act No. 277 which punishes not only every person who publishes a libel but also the one who procures the publication thereof, considering as an act of publication, for the purposes of the law, under the provisions of section 5, the mere fact that the accused knowingly parted with the libel under circumstances which exposed it to be read or seen by a third person. This is what actually occurred when the letter was intentionally dropped in the middle of the street.

Taking into consideration the obfuscation that the suspicion that the injured woman sustained unlawful relations with her husband must naturally have produced on the accused, and which induced her to commit the crime herein prosecuted, we believe that the penalty of four months' imprisonment imposed by the court below should be and is hereby reduced to two months.

With the above sole modification, the judgment appealed from is hereby affirmed with the costs of this instance against the accused. So ordered.

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

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