

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. VICTORIANO PANALIGAN, DEFENDANT AND APPELLANT.*G.R. No. 4674. August 23, 1909*

Ponente: JOHNSON, J.

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From the record it appears that this defendant was charged with the crime of attempt against an agent of the authorities. At the conclusion of the trial the lower court found the defendant guilty of the crime charged under article 250 of the Penal Code, and, giving him the benefit of article 11 of said code, sentenced him to be imprisoned for the period of one year, eight months, and twenty days of prison correccional and to pay a fine of 375 pesetas, and, in case of insolvency, to suffer the subsidiary imprisonment prescribed by law, and to pay the costs of the prosecution. From this sentence the defendant appealed and made numerous assignments of error, all of which relate to the sufficiency of the facts upon which the said sentence was based.

From an examination of the record it appears that the defendant, with a companion, was attending the public market in the pueblo of Luna in the Province of La Union on or about the 18th day of September, 1907, and was there for the purpose of selling his goods, wares and merchandise of various kinds; that soon after he had entered the market a policeman, Nicomedes R. Nera, offered to buy of the defendant some sinamay, indicating a price which he was willing to pay-which was much less than the price fixed by the defendant. Soon thereafter a certain woman offered to buy some sinamay of the defendant and the price was agreed upon between the said woman and the defendant. Thereafter the defendant, with a pocket knife, cut off of a large piece 3 yards of sinamay for the said woman. After the 3 yards had been cut off the woman refused to accept or to pay for the same, whereupon an altercation and quarrel arose between the defendant and the woman. Nera, the policeman, who had lingered near the place where the defendant was selling his wares, appeared upon the scene, drew near and interfered or took part in the discussion between the defendant and the woman. The defendant requested the policeman not to interfere in his private matters. The policeman says that the defendant drew his knife in a threatening manner, whereupon he, the policeman, by means of his club (according to the policeman) knocked the knife out of the hand of the defendant. The defendant asserts that the policeman took the knife out of his pocket, where he had put it after having cut off the sinamay as above indicated.

From the evidence there seems to have been no reason for the interference of the policeman. There is nothing in the record which justifies us in finding that the defendant did in any way resist the policeman or in any way show him disrespect, or in any way interfere with him in the performance of his duty. It seems to us that the conduct of the policeman was nothing more than that of meddlesome interference in a matter with which he had nothing to do; that the defendant was justified under the circumstances of this case in requesting the policeman not to interfere with his private affairs.

There is nothing in the record, in our opinion, which justifies the penalty imposed by the lower court. Therefore, the judgment of the lower court is reversed, and it is hereby ordered that the case be dismissed and that the defendant be discharged from the custody of the law, with costs de oficio.

Arellano, C. J., Torres, Carson, and Moreland, JJ., concur.

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