

EL PUEBLO DE FILIPINAS, QUERELLANTE Y APELADO, CONTRA VICTORINO CRISOSTOMO, ACUSADO Y APELANTE.

G.R. No. 47322. November 25, 1940

Ponente: AVANCEÑA, C.J.

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AVANCEÑA, C.J.:

El apelante viene condenado por el Juzgado de Primera Instancia de Manila por el delito de estafa a un mes y un día de arresto mayor, a indemnizar a la parte ofendida en la cantidad de P7, con prision subsidiaria en caso de insolvencia, y a pagar las costas, y, por ser delincuente habitual, a sufrir, además, una pena adicional de seis años y un día de prision mayor. El apelante, al ser informado de la querella, declaro ser culpable.

Dada la cantidad estafada, el caso cae dentro de la seccion 1 (b) del articulo 315 del Código Penal Revisado, que castiga este delito con la pena de arresto mayor en sus grados medio y maximo. Aunque el acusado declaro ser culpable, esta circunstancia atenuante esta compensada por la agravante de reincidencia. Debe, por tanto, imponerse la pena en su grado medio, que es la de tres meses y once dias a cuatro meses y veinte dias de arresto mayor.

En cuanto a la pena adicional, siendo la presente condena la tercera, la impuesta por el Juzgado en este sentido es correcta.

Entendiendose de tres meses y once dias de arresto mayor la pena principal que se impone al apelante, se confirma en lo demas la sentencia apelada, con las costas. Asi se ordena.

Imperial, Diaz, Laurel, y Horrilleno, MM., estan conformes.

Se modifica la sentencia.

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