THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ANACLETO ABAD, DEFENDANT AND APPELLANT.

G.R. No. 5181. November 13, 1909

Ponente: JOHNSON, J.

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JOHNSON, J.:

This defendant was charged with the crime of injurias graves, was found guilty and sentenced to two years and four months de destierro, to pay a fine of 1,500 pesetas and the costs.

From this sentence the defendant appealed and raises the question here whether or not the proof adduced during the trial of the cause was sufficient to justify the sentence of the lower court.

An examination of the record shows that on or about the 21st day of June, 1907, there were a large number of people assembled about the church of Meycauayan, for the purpose of assisting in a religious procession which was to take place on the evening of that day. While the people were waiting, it appears that the defendant and Toribia Decamora engaged in a quarrel, the cause of which does not appear of record. It is charged in the complaint that the defendant used certain defamatory words of and concerning the said Toribia Decamora, which seriously reflected upon her character and reputation. During the trial of the cause three witnesses were called by the prosecuting attorney, who testified that they heard the words uttered by the defendant. These witnesses did not agree as to the exact words spoken by the defendant of the said Decamora. The defendant presented three witnesses who claimed that they were with the defendant during all of the afternoon of the said day, during the time when the quarrel was alleged to have taken place, and that they neither heard the quarrel nor saw the said Decamora. From all of the proof, however, we are of the opinion, and so hold, that the quarrel did take place and that the defendant did use certain words, directed to the said. Decamora, which, if true, would cause prejudice to her and serious trouble probably in her family.

The lower court found the defendant guilty and sentenced him under article 457 in its relation with paragraph 2 of article 458 of the Penal Code. We are of the opinion, after an examination of all of the facts brought to this court, that the defendant should have been punished under paragraph 1 of article 590, instead of articles 457 and 458 of the Penal Code. Therefore, the sentence of the lower court is hereby modified and the defendant is hereby sentenced to pay a fine of 100 pesetas and to be publicly censured; and in case of insolvency, in accordance with the provisions of article 609 of the Penal Code, to suffer subsidiary imprisonment at the rate of one day for each 15 pesetas of the said fine, and to pay the costs. So ordered.

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

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