

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. BENITO MENESES, DEFENDANT AND APPELLANT.

G.R. No. 5185. September 15, 1909

Ponente: JOHNSON, J.

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JOHNSON, J.:

The defendant was charged with the crime of abduction as follows:

"That on or about the 5th day of September, 1908, in the city of Manila, Philippine Islands, the said Meneses did willfully, unlawfully, and feloniously, and with unchaste designs, abduct from her home Leoncia Geronimo, a maiden 17 years of age, for the purpose of having carnal intercourse with her, and with whom he did at the said time and place actually have such carnal connection."

After hearing the evidence adduced during the trial of the cause, the lower court found the defendant guilty of the crime charged, and sentenced him to be imprisoned for a period of one year, eight months, and twenty-one days of presidio correccional and to pay the costs. From this sentence the defendant appealed and made the following assignments of error:

"I. The court below erred in holding in its decision that on the night in question the accused induced the girl Leoncia Geronimo to leave the house of her parents by promising to marry her.

"II. The court below erred in holding in its decision that on the night in question the accused had carnal intercourse with the offended party.

"III. The court below erred in holding in its decision that the accused is guilty, beyond all reasonable doubt, of the crime of abduction."

The above assignments of error all relate to a sufficiency of the proof upon which the defendant was convicted by the lower court. From an examination of the evidence adduced during the trial of the case, the following facts are proven beyond question of doubt:

First. That the person abducted, Leoncia Geronimo, was a single girl of 18 years of age, and lived with her parents in the city of Manila; that for nearly a year prior to the time mentioned in said complaint she had received attention from the defendant to the extent of becoming engaged to marry him.

Second. That on or about the evening of the 5th of September, 1908, the defendant, under a promise to marry the said Leoncia Geronimo, induced her to leave her home surreptitiously, and to accompany him in a carromata, under the pretense that he was taking her to some officer who would perform the marriage ceremony; that the defendant, instead of going to some person or officer who had authority to perform the marriage ceremony, carried the said Leoncia Geronimo about the city of Manila for three or four hours, and then made the excuse that it was Saturday afternoon and it would be impossible to find any person or officer who would be able to perform said marriage ceremony. He continued to drive about the city of Manila until about 9 o'clock at night, when he took the said Leoncia to the rooms of a cochero, where he remained with her, and where he had illicit relations

with her, and remained in said room until about 11 or 12 o'clock at night. Later, in the same night, the defendant took the said, Leoncia to other places or homes of relatives and friends, and finally to the house of one of his acquaintances and there remained with the said Leoncia and slept in the same bed until the next morning.

Third. That the next morning (the 6th of September) the defendant took the said Leoncia to the house of one of his relatives and left her there and, without giving her any explanation, went away. She remained in this house for a period of ten or fifteen days before she returned to the home of her parents. During these fifteen days the defendant did not return to see Leoncia.

Fourth. So far as the record shows, Leoncia Geronimo had always borne a good reputation as an honest, virtuous, respectable girl, and her submission to the defendant in the room of the said cochoero, as above indicated, was clearly by reason of the promise of the defendant to marry her then and there. We are satisfied, from the evidence, that the defendant accomplished his illegal purpose through fraud and deceit and that he had no intention, when he induced Leoncia to leave her home and parents, of marrying her.

The defendant denies that he had any illicit relations with the said Leoncia, and that therefore he is not guilty of the crime charged. The supreme court of Spain, in discussing this question in a decision rendered the 19th of June, 1891, said:

"Whereas, with regard to the first and second assignment of errors that it appears both in the charge filed by the prosecuting attorney and in the first paragraph of the judgment appealed from, that Doña Isolina Procura was under 23 but more than 12 years of age, and that the facts held to be proven in the case constitute the crime of abduction, defined and punished by article 465 of the Penal Code of Cuba and Porto Rico (461 of that of the Peninsula), the fact that the accused stated that the carnal intercourse, attributed to him by the injured party, had not taken place is not a bar thereto, inasmuch as it is not the deed that the said article punishes, but the intent which prompted the perpetration of this crime which in the present case exists beyond all doubt by reason of the amorous relations between the accused and Doña Isolina, and the punishment of the offense to public morals and to the family by removing from the direction and vigilance of the latter a maiden under age."

The evidence clearly shows that the defendant induced the said Leoncia to leave the house of her parents under the promise of marriage, without any intention of fulfilling said promise, and that he had, under said promise, induced her to have illicit relations with him, and that therefore he should be punished in accordance with the provisions of article 446 of the Penal Code, The lower court imposed the penalty of presidio correccional. The penalty provided for by said article 446 is prision correccional. The sentence of the lower court, therefore, should be changed from presidio correccional to prision correccional.

The lower court failed also to make any provision for the recognition and maintenance of a child, should one be born from said illicit relations which took place between the defendant and the said Leoncia. The sentence of the lower court should have made provisions for the recognition and maintenance of such child.

Therefore, for the foregoing reasons, the sentence of the lower court is modified and the defendant is hereby sentenced to be imprisoned for a period of one year, eight months, and twenty-one days of prision correccional, with the accessory penalties, to pay to the offended party the sum of P500, and to recognize and maintain the offspring should there be any, and to pay the costs. So ordered.

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

Sentenced modified.

[Extract from the minutes of the proceedings of the Supreme Court.]

"OCTOBER 7, 1909.

"After having considered the petition filed by attorney Mercado, counsel for the defendant Benito Meneses in case No. 5185 for the crime of abduction, finally sentenced by this court on the 27th of September last, stating that for the corresponding legal purposes he offered the annexed certificate of marriage celebrated between the aggrieved person, Leoncia Geronimo, and the said Benito Meneses, the court held that: Inasmuch as the defendant has furnished satisfactory proof of his marriage with the aggrieved party, and, considering section 2 of Act No. 1773 of the Philippine Commission, his liability is now extinguished together with the penalty imposed; should he be in custody, he shall forthwith be released, and if now out on bail, his bond shall be cancelled. The record to be remanded to the trial court with a copy of this finding for proper action."

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