

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CANDIDO ESTACIO, DEFENDANT AND APPELLANT.

G.R. No. 5739. February 24, 1911

Ponente: TRENT, J.

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TRENT, J.:

This is an appeal from a judgment of the Court of First Instance of the Seventh Judicial District, Hon. Vicente Nepomuceno presiding, condemning the defendant, Candido Estacio, to two years, four months, and one day of prison correccional, to the accessories provided in article 61, to indemnify the offended party in the sum of five hundred pesos, and in case of insolvency to suffer the corresponding subsidiary imprisonment, and to pay the costs, for the crime of attempted rape.

The prosecution presented three witnesses, Isabel Artillero, Maria Artillero, and Hermenegildo del Castillo. Aside from the testimony of the defendant himself he presented that of Crisela Agoncillo and Cirila Estacio.

Isabel Artillero, the offended party, 22 years of age, single, on being asked what took place between her and the defendant on the 29th of September, 1909, stated:

"I had come from harvesting the rice and had drawn near to a tree to rest myself. On reaching the foot of the tree Candido Estacio also came up and asked me if I accepted his love. I told him that that was no place to talk of the matter and that I had a house where he might come to discuss it. He replied that it was not necessary to go to the house if his love was to be refused, and that he was resolved to kill a person if she did not accept it. At that, as I still refused him, he caught hold of my arm and as a result my clothes were torn and I received several bruises as he tried to lay with me. When I could no longer resist him I commenced to scream whereupon he caught me by the mouth. In spite of this I continued to try to scream, and my sister perceiving me came to the rescue, whereupon the accused ran away."

She further testified that after the accused escaped she went to the shack about 10 brazas away and assisted her sister in dividing the palay; that there were rice harvesters near or in that immediate vicinity when the trouble occurred; that she was not examined by the doctor until seven days after the occurrence, and that the defendant had been making love to her for about two years prior to the month of September, 1909.

The second witness, Maria Artillero, a sister of the offended party, stated:

"My sister, Isabel Artillero, and I were on the top of a hill. I was on the slope and she on the level part, about 10 brazas away, when I heard a voice that sounded as though the mouth of the person calling was covered. I became frightened and went to my sister whom I found lying on the ground; a man was stretched on top of her and appeared to be trying to hold her down."

This witness further testified that this crime was committed by the defendant about 12 o'clock on the 29th of September, 1909; that at that time there were rice harvesters - Crisela Agoncillo and Cirila Estacio - at the foot of the little hill upon the top of which the trouble occurred.

Doctor Castillo, the third witness, testified that he examined the offended party and found two contusions on her right arm. This witness knew nothing as to the cause of these contusions or bruises.

The defendant, 33 years of age, single, testifying in his own behalf, related what occurred between him and the offended party in the following manner:

"On the 29th of September last they went to the barrio of Walangbalahibo to harvest rice and I followed them. On arriving at the rice field I encountered Maria Artillero; at that moment neither Isabel nor Crisela Agoncillo were there. After a while I went to the harvesting and there found Crisela and Isabel, both lying down. After a few moments they both went to the rice field and I accompanied them; on nearing the field Isabel told Crisela to go on ahead; when she had gone on we commenced to talk of Isabel; after our conversation Isabel called to Crisela and said that they would walk on together to the rice field, so I went to the house. About an hour later I followed them to the field where I found Crisela reaping; I went to assist her, and after awhile Isabel came up and called to Crisela; I stood near Isabel talking to her, Crisela meanwhile working at about three brazas away; the ground where we stood was uneven and it happened that as I leaned toward her I fell with her; we got up again and talked for a moment and then we all left, Isabel and Crisela going on ahead to the house. A little later the reapers came up and divided the rice among them.

"Q. Do you remember going to the house of Isabel on the following day?

"A. Yes, sir."

This testimony of the defendant is corroborated in every essential detail by that of Crisela Agoncillo and Cirila Estacio who were in that immediate vicinity at the time of the occurrence complained of.

The offended party was 22 years of age. She and the defendant had been lovers for about two years prior to this alleged attempted rape. According to the testimony of the prosecution the alleged crime took place in broad daylight and at a place where three people were so near that they could have seen and heard all that happened. The sister of the offended girl was only 10 brazas away and the two witnesses for the defense were just at the foot of the little hill. Isabel says that after the defendant made his escape she went to the shack which was only a few yards distant and assisted her sister in dividing the palay and that she was not examined by the doctor until seven days later. The complaint was not presented immediately. The defendant was at Isabel's house the next day and conversed with her. In the forenoon of the 29th of September, Isabel and the defendant were together for some time, walking and talking as lovers. They came together on the hill about 12 o'clock and it appears that while there they became very intimate, so much so that the defendant took hold of Isabel and in a friendly scuffle they fell to the ground. They adopted the old custom of courting, "bundling." All of these facts and circumstances show that no attempt was made to rape the girl. Such crimes are not ordinarily committed in such places, in the daytime, and practically in the presence of other people. The testimony of Isabel and her sister, taken together with their subsequent acts, is so inherently improbable that it can not be believed.

For these reasons the judgment must be reversed and the defendant acquitted. Costs de oficio. So ordered.

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

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