

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MATIAS GRANADOSO ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 5762. August 05, 1910

Ponente: TRENT, J.

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TRENT, J.:

These three defendants, Matias Granadoso, Victoriano Soriano, and Modesto Cabalu, were charged in the Court of First Instance of the Province of Tarlac with the crime of robbery in band. The information alleges that on or about the 29th of May, 1908, the defendants, with Anastasio Granadoso, who escaped, all armed with bolos, maliciously and criminally secreted themselves in an uninhabited place near the road between Tarlac and La Paz, and as Julia Atienza, Adriano Fajardo, Egmidio Mendoza, Eugenia Manuel, Alejandro Valentino, Maximo Gamit, and Aurelia Aliega were passing the said place, attacked these persons, demanding money of them, and as they had no money, these defendants by means of violence and intimidation took from the said persons various effects, worth about 60 centavos.

After hearing the proofs adduced and the arguments of counsel, the lower court found these defendants guilty as charged in the complaint and sentenced each of them to ten years of presidio mayor, with the corresponding accessories, to return the effects to the injured parties and in case of their failure to return the said effects to indemnify the said Julia Atienza in the sum of 14 centavos, Aurelia Aliega in the sum of 35 centavos, and Maximo Gamit in the sum of P1.50. The defendants appealed to this court.

On the afternoon of March 29, 1908, these defendants, in company with another person who was absent at the time this trial took place, all armed with bolos, with their faces blackened with coal, attacked the parties mentioned in the complaint and forced them to lie down with their faces to the ground. The defendants then tied some of the men and by means of force and intimidation robbed Julia Atienza of effects worth 14 centavos, Aurelia Aliega of effects worth 35 centavos, and Maximo Gamit of a bolo worth Pi.50. When this assault was made the defendants demanded money of their victims, but were unable to obtain any, for the reason that they had none in their possession at that time.

This crime was committed in an uninhabited place between the towns of Tarlac and La Paz, and at the time of its commission the faces of the defendants were disguised so that they could not be easily recognized. The defendants selected this uninhabited place to commit this crime in order that the victims could not receive assistance or be heard. They disguised themselves for the purpose of avoiding recognition. The victims could not recognize, at the time the robbery was committed, any of the defendants except Modesto Cabula, who was recognized by Adriano Fajardo.

Jose Guillermo and Epifanio Tacusalme, two witnesses for the prosecution, testified that they were captured by these ladrones and forced to assist in this robbery, and that in fact they were present at the time and place of the robbery and were compelled to assist in the commission of the same by guarding the victims while these defendants robbed them. The court below considered that the testimony of Jose Guillermo and Epifanio

Tacusalme was corroborated by that of Adriano Fajardo, the latter having recognized one of the defendants, and accepted their testimony as being true. We think the court below very properly declined to accept the testimony of the defendants.

It is not questioned that the offended parties were robbed at the time and place mentioned in the complaint. The defendant, Modesto Cabalu, was recognized as one of the robbers. Jose Guillermo and Epifanio Tacusalme were present and took part in this robbery, but they state that they were compelled to do so by the defendants. Considering their testimony as that of accomplices, the guilt of the defendants has been established beyond any question of doubt. The testimony of these two accomplices is corroborated by the positive testimony of Adriano Fajardo, who recognized one of the defendants at the time the crime was committed.

"While the evidence of accomplices or confederates is always subject to grave suspicion, 'coming, as it does, from a polluted source/ and should be received with great caution and doubtfully examined, it is, nevertheless, admissible and competent." (U. S. vs. Ocampo, 4 Phil. Rep., 400.)

"The lack of corroboration of the testimony of confederates or accomplices merely affects the credibility of the witness, and does not affect his competency or the admissibility of his testimony." (U. S. vs. Ocampo, 5 Phil. Rep., 339.)

"If the uncorroborated testimony of a confederate or accomplice satisfies the court as to the guilt of the accused beyond a reasonable doubt, it is sufficient." (Id.)

Counsel for the appellants does not question the guilt of the defendants, but asks the court to modify the judgment of the Court of First Instance by reducing the penalty from ten years to six years ten months and one day, basing his petition on the amount of damage caused and insisting that in view of the fact that the value of the effects taken by the defendants is so small the court should take this fact into consideration and reduce the penalty. Counsel admits that the crime committed by the defendants is that of robbery in band, with the aggravating circumstance of being disguised.

"The greater or less value of the property stolen can have no bearing on the penalty to be imposed." * * * (U. S. vs. De los Santos, 6 Phil. Rep., 411.)

All the elements constituting the crime of robbery in band have been established by the prosecution, inasmuch as it has been shown that more than three of these malefactors were armed at the time of the commission of the crime. The trial court very properly considered the aggravating circumstances of the crime having been committed in an uninhabited place and by these defendants who were disguised. No extenuating circumstances were found to exist.

The sentence and judgment of the lower court being in accordance with the law and the merits of the case, the same is affirmed with costs against the appellants.

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

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