

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ARCADIO BERNALES, DEFENDANT AND APPELLANT.

G.R. No. 6059. March 03, 1911

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal by Arcadio Bernales from a judgment of conviction of the Court of First Instance of the Province of Capiz of the crime of robo en cuadrilla.

On the 18th day of August, 1909, the appellant was sentenced by the Hon. Jose C. Abreu, judge of the Court of First Instance aforesaid, to ten years imprisonment and to restore to the injured parties the sum of P1,359.35, of which they had been robbed.

It appears that the appellant was one of nine persons who were tried for the crime of robo en cuadrilla, six of whom, including the appellant, were convicted, three as authors and three as accomplices. Of the remaining three, two were acquitted for lack of evidence and the third was used as a witness for the prosecution. Arcadio Bernales is the only one who appealed.

It appears that on the night of the 13th day of April, 1909, while four Chinese merchants were proceeding in a baroto from the pueblo of Pontavedra, Province of Capiz, where they lived, to the capital of the province, they were assaulted and robbed of the sum of P2,150 by the three defendants, Anastacio Bernales, Gandelario Budiao, and Guillermo Bula, who acted in concert with the other defendants, Benito Buaron, Eladio Buaron, and Vicente Balida, who accompanied said merchants as boteros. Of the sum stolen P791.15 was recovered.

The prosecution asserts that the appellant, Arcadio Bernales, was the person who induced his coadjutors to commit the crime and that he received the greater part of the booty. In support of its contention the prosecution presented as a witness Guillermo Bula, one of those who took part in the robbery, who related in detail the facts constituting the commission of the crime, including the part taken by the appellant as an inducer, and the subsequent division of the property between the criminals. The testimony of this witness was richly corroborated by many circumstances surrounding the transaction which were drawn from other witnesses and sources during the trial. It was shown that one of the sacks, containing the sum of P308.05, which was a part of the spoils of the robbery, was found buried beneath the house where the appellant was accustomed to go frequently and in the very spot where, after the robbery, he had been seated on his heels engaged in something.

The appellant limited his defense to a simple denial that he had anything whatever to do with the crime or its perpetrators and asserted that he knew nothing whatever of the robbery. His denial is corroborated by two of his coaccused, Anastacio Bernales and Candelario Budiao. The question to be determined is whether or not the denial of the appellant and of these two witnesses, who, it must be remembered, were convicted and sentenced but did not appeal, is overcome by the testimony of Guillermo Bula, corroborated as it is by certain suspicious circumstances, including the fact, above noted, that part of the stolen money was found buried in the place where the appellant was seen seated on his heels engaged in doing something.

Guillermo Bula, 39 years of age, married, and a resident of the barrio of Cogon, municipality of Panitan, testified that on Tuesday, the day of the crime, his coaccused, Anastacio Bernales, came to his house and, under the pretext of obtaining his aid in certain work, induced him to accompany him to his house in Pontevedra, where he found the appellant and the other coaccused, Candelario Budiao. There these individuals revealed to the witness their purpose to rob the Chinese merchants that were about to start from Pontevedra for Capiz. That as witness made objections to the danger which was to be met in such action, they assured him that the boteros who were to accompany the merchants were cognizant of their purposes and would offer no objection or resistance whatever.

Having been finally induced by the appellant and his companions to assist his coaccused to commit the robbery, the witnesses, Anastacio and Candelario, started immediately in a baroto, proceeding to the place where the robbery was committed. There they lay in wait for the Chinamen and, when they arrived, surprised and assaulted them and robbed them of the trunk which contained their money. The crime consummated, they immediately returned to the house where they had left the appellant. Arriving there, they awoke the appellant, who immediately joined the three in the baroto, and the four ascended the river, where they disembarked and, carrying the trunk ashore, it was at once taken possession of by Arcadio, who broke it open and took from it the sacks containing the money. Opening the various sacks the appellant took all of the paper money which they contained and put it in his pocket, saying to his three companions that this kind of money was not proper for them. He then divided the silver money into seven separate portions, corresponding to the seven individuals, including himself, who had taken part in the enterprise. Of these seven portions one was delivered to Anastacio, another to Candelario, and one to the witness. Arcadio took charge of the four remaining portions. The witness received three bundles of 50 pesos each and four of 25 pesos each, making a total of P250. Soon thereafter the witness returned to his own barrio, arriving there about 2 o'clock of the night. Two days later Anastacio came again to the witness's house and the latter accompanied him to Dumarao, leaving his P250 in the care of his wife. In Dumarao Anastacio and the witness separated, the former going to Passi and the witness to Tinay-tan. Before separating, Anastacio gave to the witness P26 to take to his wife, because Anastacio had not given her any part of the booty, the result of the robbery. While he was still in Tinaytan the witness was arrested and the money which had thus been delivered to him by Anastacio fell into the hands of the Constabulary.

Paula Cordenillo, wife of Guillermo Bula and sister-in-law of Anastacio Bernales, corroborated her husband by asserting in her testimony that Anastacio came to her house on a certain day in April and that the following day her husband came home with P250. He buried the money, but it was found later by Guillermo Daynato and Eustaquio Delgado.

Guillermo Daynato testified that on the 19th day of April he went to the barrio of Cogon and recovered P250 which had been buried in a place that was pointed out to him by Paula Cordenillo, wife of Guillermo Bula. The following day the witness found another sum of P150 that had been buried near the place where he found the P250. The place where the P150 was buried was pointed out to him by an old woman called Juana, mother-in-law of Anastacio Bernales.

Pelagio Visnal, presidente of Pontevedra, testified that the wife of Benito Buaron (one of the convicted boteros) told him that a child called Fermin Buaron, brother of Benito Buaron, had asserted that he, the child, had seen Arcadio Bernales burying something one night under his house. Acting upon this information the witness went to the house in question, in company with the child Fermin, who indicated the place where he had seen the appellant, Arcadio Bernales, engaged in burying something. On excavating in the place indicated by the child the witness found a sack of money containing P308.05. The witness further stated that although he had known the appellant a long time he had never known of his having engaged in any kind of trade or occupation, but supposed that he worked in his house.

Ten Lua, one of the Chinese merchants who were the victims of the robbery, testified that P750 of the money stolen belonged to him; that the money was contained in sacks placed in a trunk; that said trunk was taken from him and his companions by violence by the witness Guillermo Bula and the two coaccused, Anastacio Bernales and Candelario Budiao; that the robbery was committed about 8 o'clock of the evening of the 13th day of April while he and his companions were going to Capiz in a baroto. On being shown the sack which had been found under the house where the appellant had been seen burying something, the witness recognized it as one of the sacks, which had contained the stolen money.

Of the total sum of P2,150, two sums, one of P180 and another of P24, making in all P204, consisted of paper money. The rest was silver.

The child Fermin, to whom the presidente of Pontevedra referred in his declaration, testified that he was a brother of the botero Benito Buaron, one of the convicted robbers; that the appellant lived with the brothers of the witness, Benito and Eladio, and the accused Vicente Balida, brother-in-law of Benito; that after the witness learned of the commission of the robbery, he saw the appellant doing something under the house of the latter's mother-in-law, a woman called Aya, where later was found the money which had been buried.

Upon the testimony thus presented the learned trial court found the appellant guilty as one of the authors of the crime charged and sentenced him accordingly. There remains no shadow of doubt that the appellant is guilty of the crime charged. While the testimony of an accomplice, or of a principal against a fellow criminal, is to be taken with caution and weighed with care, it is, nevertheless, true that such testimony may, in a proper case, be used as the basis of a conviction. In this case the testimony of the witness Guillermo Bula is so thoroughly and decisively corroborated and supported by the testimony of other witnesses and by the circumstances surrounding the transaction from its beginning to its close, and even up to and including the arrest of the defendants, that there remains no doubt of the truthfulness of the witness in giving that testimony. The penalty imposed being within the limits prescribed by the law, the judgment of conviction and the sentence imposed thereunder are affirmed, with costs against the appellant.

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

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