

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JUAN PILARES, DEFENDANT AND APPELLANT.

G.R. No. 6070. December 27, 1910

Ponente: MORELAND, J.

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MORELAND, J.:

The defendant in this case was tried under the following information:

"The undersigned accuses Juan Pilares of the crime of lesiones graves committed as follows:

"That on or about the 5th day of June, 1908, in the municipality of Meycauayan, Province of Bulacan, P. I., the said accused, voluntarily, illegally and criminally assaulted, beat and struck Severino Manzano in the breast and in other parts of the body, in his own house, causing injuries to the left knee and contusions in the chest of the said Severino Manzano; furthermore producing injuries to the internal organs, fever and spitting of blood which required more than thirty days to be cured with medical attention during all that time; that by reason of these injuries and sickness, the said Severino Manzano suffered damages in the sum of P481.10. All contrary to the law."

The defendant demurred to the complaint upon the ground that "from the provisions of the Penal Code, articles 414 to 418, which define the crime of lesiones, it is required that for the existence of that crime it is necessary that the lesiones occasion to the injured party mutilation, imbecility, impotency, perpetual inability to work, incapacity for the same for a certain period of time, sickness or necessity of medical attention;" further saying that the complaint does not express any of these effects. The demurrer was overruled and the cause proceeded to trial on the information above quoted.

We are of the opinion that the information was good. It asserts all of the facts required in the allegation of the crime of lesiones graves. Article 416, subdivision 4, of the Penal Code, penalizes lesiones graves as follows:

"With that of arresto mayor in its maximum "degree to prision correccional in its minimum degree, if such injuries should have occasioned the assaulted party illness or disability for work lasting more than thirty days."

It will be observed that to make the information good it is not necessary to allege illness and disability for work.

Matea Lim Icoy, the wife of Severino Manzano, testified that she was awakened from her sleep by the voice of her husband saying "Trining, Trining, they are killing me," and the noise produced by the falling of coins on the floor of the house; that she saw the accused strike her husband with his fist, seize him with both hands and drag him to the store and when there kick him in the chest, felling him to the floor; that afterwards the accused struck her; that, after her husband had regained his feet, the accused struck him again and he was on the point of falling when she supported him, assisting him into the house; that at that moment Lorenzo del Rosario arrived and sought to pacify the accused, but the latter suddenly seized her husband by the hands and sought to pull him forth; that she grasped her husband by the waist, and as the accused was not able to drag him loose from her, he gave her husband a kick in the side which felled him to the floor, and then she ordered the servants to call the police; that a policeman came immediately, followed by the chief of police, who, after inquiring into what had occurred, took

the accused to the presidencies; that afterwards she saw contusions on the right and left side of the body of her husband and on the chest and on the face; that she also saw blood upon the left leg; that two doctors treated her husband; that from the day he was injured he was unable to work up to the time of his death.

The testimony of the wife of the deceased was corroborated by that of her daughter, Trinidad Manzano, and by that of Lorenzo del Pilar. The latter testified that he saw Juan Pilaes in the store of Severino Manzano and heard the latter say to him "you are a teacher, without respect," or "you do not know how to show respect, nor do you show politeness;" that after these expressions the accused turned, facing Manzano, and struck him with his fist in the face; that Manzano fell into the arms of his wife, who finally succeeded in getting him into the house; that thereupon the witness tried to make peace between them; that he spoke first to the accused and advised him to leave; that he then went to the door of the store and advised the Chinaman to keep quiet; that thereafter the accused went up to the railing of the store, seized the Chinaman, and tried to pull him out; that he was unable to do so because the wife of the Chinaman clung to him; that thereupon the accused struck her a blow in the face, whereupon they separated.

It was proved by the testimony of the physicians who attended Manzano that he was injured to such an extent that he required medical attention for more than thirty days.

We are convinced after a careful reading of the testimony adduced on the trial that the learned trial court properly appreciated the situation. The testimony produced by the prosecution is amply sufficient to support the judgment of conviction. We do not believe that the testimony introduced by the accused has cast a doubt upon the righteousness of his conviction.

In imposing sentence upon the accused the learned trial court took into consideration the extenuating circumstances of *arrebato y obcecacion*. We are of the opinion that the facts proved are not sufficient to warrant that finding. Manzano offered no provocation sufficient to justify the accused in the repeated attacks which he made upon him. In order that the extenuating circumstance above-mentioned should exist, there must be facts proved showing provocation sufficient to produce such a condition of mind. No such facts have been proved here, and the finding that such a state of mind existed in the accused is without proof sufficient to support it.

Accordingly the sentence of the court below, imposed under his judgment of conviction, is hereby modified, and the defendant is sentenced to one year and eight months of prison correctional, and, as modified, the judgment is affirmed. So ordered.

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

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