

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. LEONCIO BALLENA, DEFENDANT AND APPELLANT.*G.R. No. 6294. February 10, 1911*

Ponente: TRENT, J.

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On the 21st of September, 1909, there was tried in the Court of First Instance of the subprovince of Masbate criminal case No. 163, entitled "United States vs. Ana Ramirez," in which the defendant was charged with the crime of perjury. The basis of this prosecution was the false testimony given by the defendant in a certain criminal case tried in that court wherein one Ciriaco Pellejera was defendant, charged with homicide, in that the said Pellejera did, by means of blows, cause the death of the husband of Ana Ramirez. In this homicide case Ana Ramirez was called as a witness, and, after being duly sworn, testified that her husband died of fever and that during his illness, which lasted more than two weeks, she observed no contusions or other injuries on his body. She denied having testified under oath before the provincial fiscal in the town of Dimasalang, contrary to her testimony in this case, and she also denied having been in the house of one Jose Largo for the purpose of testifying with reference to the death of her husband. Whereas, as a matter of fact, she did testify, under oath, before the said fiscal, in that town, that her husband died as a direct result of the blows inflicted by Pellejera and that his death occurred within three days after having received these blows. Ana Ramirez was found guilty as charged and sentenced accordingly.

In the trial of this perjury case one Estefania Barruga, mother of the defendant Ana, was a witness for the defendant, and at the instigation of one Leoncio Ballena she testified that the fiscal, Senor Bailon, at the time he was in Dimasalang making the investigation into the cause of the death of Ana's husband, attempted to rape her daughter Ana, and, asked for the hand of the girl in marriage, but she did not desire to accept this proposition of the fiscal because he was a married man.

Subsequently thereto, and on the 29th of September, 1909, the fiscal filed an information in the Court of First Instance of that province against the said Leoncio Ballena, charging him with the crime of subornation of perjury. Upon this complaint the defendant was duly tried, found guilty, and sentenced to six months' imprisonment, to pay a fine of P500, to the corresponding subsidiary imprisonment in case of insolvency, to the accessory penalties provided for by law, and to pay the costs. From this sentence and judgment the defendant appealed, and now insists that the testimony given by Estefania Barruga in that perjury case was immaterial to the issues involved therein. If this contention be true, the defendant is not guilty.

There are certain well-defined and indispensable requisites which must be established in every case of subornation of perjury before an accused person, charged with the commission of this crime, can be convicted. Every essential element constituting the crime of perjury must be established by competent testimony. The prosecution must show the nature of the proceedings in which the alleged perjury was committed, the court, or officer, in which, or before whom, the false oath was taken; that the witness was duly sworn; that the testimony was material, and false; that the defendant knowingly and willfully procured another to swear falsely, and that the

witness suborned did testify under circumstances rendering him guilty of perjury.

In the case at bar the record shows beyond any question of a doubt that the witness Barruga, after being duly sworn, did knowingly and willfully testify falsely in a criminal case before a duly constituted tribunal; that this witness so testified at the instigation of the defendant Ballena; and that the defendant knew that the testimony given by the witness Barruga was false. The witness so informed the defendant. Notwithstanding this information, the defendant strongly insisted that by the witness Barruga testifying that the fiscal committed those acts would be the only way to save her daughter from imprisonment. The defendant not only knowingly and willfully induced this witness to swear falsely, but he did so maliciously, as it appears from the record that he was an enemy of the fiscal at that time, the fiscal having prosecuted him previous to this trial. So the only question to be determined is, as we have said, Was the testimony of Barruga material to the issues involved in that criminal case against her daughter for perjury? Materiality is an essential element in the crime of perjury. (U. S. vs. Estraña, 16 Phil. Rep., 520.) It, therefore, necessarily follows that materiality is likewise an indispensable requisite in the crime of subornation of perjury, as the latter is derived from the former.

"The term 'material matter' means the main fact which was the subject of the inquiry, or any circumstance which tends to prove that fact, or any fact, or circumstance, which tends to corroborate or strengthen the testimony relative to such inquiry, or which legitimately affects the credit of any witness who testifies," (Quoted with approval in U. S. vs. Estraña, supra.)

In the criminal case in which the witness Barruga gave that false testimony, the main question involved was whether or not Ana Ramirez testified before the provincial fiscal that her husband died as a result of the blows inflicted by Ciriaco Pellejera, as she had testified in the trial of the case against Pellejera that she did not so testify before the fiscal. It is clear that the false testimony of Ana Ramirez against Pellejera was material. In the trial of the case against Ana for perjury there was presented a question of fact as to whether or not Ana testified, under oath, before the fiscal in that investigation that her husband did in fact die as a result of the wounds inflicted by Pellejera. The court found this to be true. It was important to know whether or not the fiscal, at the time Ana testified before him, attempted to rape her or asked her mother for permission to marry her. If the fiscal had committed these acts they would have constituted a strong circumstance showing the innocence of Ana. The fiscal was the moving party in the perjury case and it was upon his sworn complaint that Ana was prosecuted. If he should have attempted to prosecute Ana after having committed these acts the court would not only have disbelieved the fiscal, testifying as a witness, but it would have looked upon the whole prosecution as a fabrication.

The judgment appealed from being in accordance with the law and the merits of the case, same is hereby affirmed, with costs against the defendant. So ordered.

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

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