

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. VICTORINO DE LOS SANTOS, DEFENDANT AND APPELLANT.

G. R. No. 6539. February 02, 1912

Ponente: JOHNSON, J.

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JOHNSON, J.:

This defendant was charged with the crime of seduction, alleged to have been committed as follows:

"In or during the month of May, 1908, the said accused, who was a public official, being president of the municipal board of health, and an inmate or guest in the house of Bernardo Gonzalez, made love to the latter's daughter, an unmarried girl going on eighteen years, who lived in the same house, and by means of perfidious promises of marriage succeeded in deceiving her, making her believe in his false declarations of love, and had carnal intercourse with her many times in the months of October, November, December, 1908, and March, 1909, wherefrom she became pregnant. The act occurred in the municipality of San Isidro, Province of Nueva Ecija, P. I., in violation of law."

The present action was commenced on the 5th of June, 1909, in the court of the justice of the peace of the pueblo of San Isidro, Province of Nueva Ecija. The complaint was presented and signed by the prosecuting attorney of said province. The justice of the peace held a preliminary examination and found that there was probable cause for believing that the defendant was guilty of the crime charged and held him for trial in the Court of First Instance of said province.

On the 27th day of September, 1909, the above complaint was filed in the Court of First Instance of said province by the prosecuting attorney. No complaint was presented either by the aggrieved person or by her parents, grandparents, or guardian, in accordance with the provisions of section 1 of Act No. 1773, neither in the court of the justice of the peace nor in the Court of First Instance.

After hearing the evidence adduced during the trial of the cause, the Honorable Julio Llorente, judge, found the defendant guilty of the crime, with the aggravating circumstance of a grave abuse of confidence, and sentenced him to be imprisoned for a period of two years eleven months and eleven days of prision correccional, with the accessories of the law, to recognize and maintain the child of Virginia Gonzales, and to pay to the said Virginia Gonzales the sum of P500, in case of insolvency to suffer subsidiary imprisonment, and to pay the costs.

From that sentence the defendant appealed and assigned as error in this court that the evidence adduced during the trial of the cause was not sufficient to show that the defendant was guilty of the crime charged.

During the pendency of the cause in this court and probably after the brief of the appellant had been printed, he presented a motion asking that said cause be dismissed for the reason that the complaint presented in the court below had not been presented by the offended party, her parents, grandparents, or guardian. The consideration of this motion was deferred until the cause should be presented upon its merits.

Section 1 of Act No. 1773 provides that the crimes of adulterio, estupro, rapto, violacion, calumnia, and injuria, as

defined by the Penal Code, shall be deemed to be public crimes, and shall be prosecuted in the same manner as all other crimes under said code, with the proviso that the prosecution of the crimes of adulterio, estupro, and injuria, committed against persons other than public officials or employees, shall not be instituted except upon the complaint of the aggrieved person, or of the parents, grandparents or guardian of such person.

This court has held in the following cases: U. S. vs. Narvas (Nov. 9, 1909, seduction, 14 Phil. Rep., 410); U. S. vs. De la Cruz (Sept. 27, 1910, injurias graves, 17 Phil. Rep., 139); U. S. vs. Castañares (Jan. 4, 1911, injurias graves, 18 Phil. Rep., 210); U. S. vs. Ortiz and Regalado (March 23, 1911, adultery, 19 Phil. Rep., 174), that where the complaint is not presented by the offended party, her parents, grandparents or guardian, that the court acquires no jurisdiction over the person of the defendant nor the subject matter of the action.

For the foregoing reasons, the judgment of the lower court convicting the defendant of the crime of seduction is hereby reversed, the information dismissed and the defendant ordered discharged from the custody of the law with costs de oficio.

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

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