

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. PRIMO SAMONTE, DEFENDANT AND APPELLANT.*G.R. No. 6740. September 01, 1911*

Ponente: MORELAND, J.

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This is an appeal from a judgment of the Court of First Instance of the Province of La Laguna, the Hon. Vicente Jocson presiding, convicting the accused of the crime of rape and sentencing him to fourteen years eight months and one day of reclusion temporal, to the accessories provided by law, to pay to the person violated the sum of P500, to recognize and maintain the child, if any there should be, and to pay the costs of the action.

It is alleged in this case that on the 24th day of August, 1909, while Epifania Abadines, a deaf-mute, was alone in her stepfather's house, the accused entered the same, and, seizing her, threw her upon the floor, and by means of force and violence, and in spite of her efforts and objections, had sexual communication with her.

To establish this charge the prosecution presented several witnesses.

Matea Pacheco testified that on the day in question she lived about 4 meters from the house of the Abadines; that on said day, at about 4 o'clock in the afternoon, she heard an unusual noise in the house occupied by Epifania that, moved by curiosity, she went to see what was going on; that on entering the house she saw the accused consummating the act of sexual intercourse with Epifania; that she observed that Epifania was strenuously objecting to the act and attempting to free herself from the embrace of the accused, but was unable to do so by reason of his superior strength; that she immediately left the house to bring help.

Canuto Aquino testified that on the day in question, at about 4 o'clock in the afternoon, he was awakened from slumber by his wife, who stated to him that something extraordinary was occurring in the house occupied by the Abadines; that on going there he found Epifania crying, with her hair disarranged; that just as he arrived at the steps which led into the house the accused came down the stairs leaving the same.

Fabiana Abadier, mother of Epifania, testified that on the morning of the day in question she left Epifania in the house and went away for the day to attend to some work; that on her return in the afternoon Epifania came to her crying and stated to her that the accused had forcibly violated her while the mother was absent.

Telesforo Ejercito, a physician, testified that he examined Epifania some days after the commission of the crime alleged, and that it was his opinion that she had performed the act of sexual intercourse not long before such examination. The cross examination of this witness, however, left his testimony entirely without value to the prosecution.

The accused testified in his own behalf. He asserted that on the 24th day of August he was, and for some time prior thereto had been, a partner of the stepfather of Epifania in the manufacture and the purchase and sale of bancas; that he was accustomed to visit the house frequently; that on the day in question at about 4 o'clock in the afternoon he went to the house occupied by Epifania, her mother and stepfather, for the purpose of delivering to

the latter some money which he had recently received in the course of their business; that finding there only Epifania he placed the money on the table and by means of signs told her to care for it until her stepfather came; that as he was engaged in the act of counting it to be sure that there was no mistake, Epifania, taking a handkerchief, wiped the sweat from his face; that while thus engaged Epifania pointed to an open window of the house, through which could be seen Matea Pacheco looking at them from the window of her house; that observing this he arose, borrowed a bolo from the girl and went out of the house leaving her there sweeping the floor; that on descending from the house he cut some bamboo which was growing at the side of the house; that while he was cutting the bamboo the witness Canuto Aquino came to the house and, after looking around awhile, inquired of the accused what he was going to do with the bamboo that he was cutting; that he replied that he was going to repair his house; that thereupon Canuto went away; that after cutting the bamboo and returning the bolo to Epifania, he went home.

The accused also testified that Matea Pacheco did not come to the house while he was there. He also swore that Matea Pacheco had had trouble with his mother and that there was bad feeling between the families by reason of the fact that his mother had compelled Matea to pay a debt which she owed her. The accused denied that he had had sexual intercourse with Epifania on the day in question but stated that by mutual consent such an event had occurred between them some months prior.

The testimony of the accused is supported and corroborated by the testimony of Segundo Lagradilla, Anacleto Ladiana and Maria Flores. Lagradilla testified that at the time of the commission of the alleged offense he was and for some time prior thereto had been the owner of a piece of land near the house in which the crime is alleged to have been committed; that on the day in question he was mending the fence surrounding said lot; that he saw the accused near the house where Epifania then lived, cutting bamboo with a bolo; that prior to the time when he observed the accused thus engaged he had not heard or noted anything unusual occurring inside the house; that he had been there for some time before the accused went to the house and was there until very late in the afternoon, long after the accused had left the house; that he saw Epifania sweeping the floor while the accused was there and after he had left; that he saw nothing unusual in her appearance; that she acted naturally; that shortly after the accused left the house, Epifania called to the house a young girl named Gore, a sister of the accused, and the two went to the river to wash clothes; that he saw Epifania plainly while she was sweeping the floor and when she passed by him on her way to the river in company with Gore, and that there was nothing unusual in her appearance; that she was not weeping and gave no evidence of having been weeping recently. On cross-examination this witness testified that although the accused entered the house, he remained there but a very short time when he came forth with a bolo and began to cut bamboo. This witness also testified that the only person who went to the house at the time the accused was there was the witness Canuto Aquino, and that Matea Pacheco did not approach the house during that time.

The witness Anacleto Ladiana testified that he was present in the barbershop of Matea Pacheco's husband when she had a quarrel with the mother of the accused over the fact that the latter had compelled Matea to pay a debt which she owed her, the said Matea threatening her in the following language: "You look out, I will pay you, there are other days coming," at the same time throwing at her a piece of money which he took to be a peseta.

Maria Flores, mother of the accused, testified that Matea Pacheco was an enemy of hers, having been made such by reason of compelling her to pay a debt which she owed her.

While the witness Canuto Aquino testified that when the accused descended the stairs from the house his appearance was somewhat unusual, nevertheless, when confronted with the testimony which he gave before the justice of the peace on the preliminary examination, which showed that he had therein stated that he carefully observed the accused when he descended from the house and that he appeared as usual, he admitted that what he

testified to before the justice of the peace was true. It should also be noticed in connection with the testimony of this witness that although he had been sent to the house by Matea Pacheco, who told him that the accused was forcibly violating Epifania, and that on arriving there he saw her crying and disordered, he yet asked no questions and made no endeavor whatever to investigate the cause of her trouble or to do anything in her behalf.

That the accused went to the house on the afternoon in question to deliver money to the stepfather of Epifania is undisputed. That he delivered the money to Epifania to be given by her to her stepfather is also undisputed. That he was in the house but a very short time is uncontradicted. That on leaving the house he borrowed a bolo from Epifania, that he leisurely and in his own time cut the bamboo which he needed to repair his house, that he then returned the bolo into the hands of Epifania, are facts which are admitted by all. These are events as they usually and naturally occur in the ordinary affairs of life when nothing eventful has happened and when no serious crime has been committed. It is entirely improbable that if the accused had just come from forcibly violating Epifania he would calmly borrow a bolo from her and leisurely cut bamboo at the very threshold of the house where the violation had occurred, and would as calmly and quietly return the bolo into the hands of Epifania after the bamboo had been cut. It is highly improbable that a young lady who had just been criminally violated by brute force would still continue to carry out the ordinary relations of friendship with the very man who had been the cause of her degradation.

The testimony of this witness demonstrates, then, that the relations sustained between Epifania and the accused after the alleged violation were those which would naturally be expected between persons who had nothing between them except friendly relations instead of those of violator and violated, and that the appearance and deportment of Epifania after the alleged violation were entirely different from those which would be naturally expected under the circumstances alleged by the prosecution. She not only swept the house in the ordinary manner and conducted herself as she ordinarily did, but she also called to her company another young lady, with whom she went to the river to wash clothes, exhibiting no unusual symptoms and showing no unusual treatment. It should be observed also that this witness testified that Matea Pacheco did not go to the house on that afternoon during the time when the accused was there. The testimony of this witness strongly corroborates the theory and story of the accused.

It should not be forgotten that there was ill feeling existing between Matea Pacheco and the mother of the accused. That Matea Pacheco was at the time of the trial of this action, and had for some time prior thereto been, an enemy of the mother of the accused is overwhelmingly established by the proofs.

The torn and bloody garments which the prosecution alleged were the result of the forcible violation of Epifania were not presented as evidence on the trial of this action, and the only testimony as to the existence of such garments is that of the mother of the girl alleged to have been violated.

Upon the whole case there is a clear doubt that the evidence establishes the guilt of the accused. We, therefore, reverse the judgment of the trial court and acquit the accused of the crime charged against him. So ordered.

Torres, Mapa, Johnson, and Carson, JJ., concur.

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