

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MARIANO BELTRAN ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 7103. September 26, 1912

Ponente: JOHNSON, J.

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JOHNSON, J.:

These defendants were charged with the crime of brigandage, alleged to have been committed as follows:

"That the said accused, Mariano Beltran, Enrique Tapiru, Simeon Taccuray, Froilan Gabbauan, Florentino Mappala, Macario Talusig, Narciso Tagalan, Juan Deza and Quirino Deza, in, between and during the month of September and a part of the month of October, 1910, in the municipality of Abulug, Province of Cagayan, P. I., did willfully, unlawfully, and criminally conspire together, unite and form a band of ladrones with the object of stealing personal property of all kinds by means of force and violence. They wandered about the highways and committed robberies in the fields and populated portions of said municipality, each and all of them carrying deadly weapons for the purpose stated. Said accused formed a band of ladrones, and on various occasions, within the period before stated, engaged in, executed and carried out various robberies in the houses of Domingo M. Siaceto, Ciriaca Guillermo and Emigdio Mappala, each and all of said accused carrying away some personal property, consisting of various jewels and other articles, the value of which all together is estimated at approximately P372.04, belonging to other persons, against the will of the respective owners thereof. An act committed in violation of the law."

These defendants were duly arrested and arraigned. Upon arraignment the said Mariano Beltran, Juan Deza and Quirino Deza declared that they were guilty of the crime charged. The other defendants, upon arraignment, declared that they were not guilty. The cause proceeded to trial. Before any testimony was adduced, Senor Concepcion, one of the attorneys for the defendants, presented a motion asking that the cause be dismissed, upon the ground that the defendants were irregularly and illegally before the court for the reason that the record did not disclose that the accused were subjected to a preliminary investigation, in accordance with the law. This motion was overruled by the lower court, and the trial proceeded.

After hearing the evidence adduced during the trial of the cause, the Honorable Carter D. Johnston, judge, found each of the defendants guilty of the crime charged in the complaint and sentenced each to be imprisoned for a period of fifteen years and each to pay one-ninth part of the costs.

From that sentence all of the defendants appealed except Quirino Deza.

During the pendency of the appeal in this court, the defendants Juan Deza and Mariano Beltran withdrew their appeal and the sentence of the lower court as to them became final upon the 26th of June, 1911. The defendant Macario Talusig died in Bilibid Prison on the 31st of May, 1912. The action against him is therefore hereby dismissed with costs de oficio. The only appellants, therefore, in the present case are the following: Enrique Tapiru, Simeon Taccuray, Froilan Gabbauan, Florentino Mappala and Narciso Tagalan.

The attorney for the appellants in this court alleges that the lower court committed the following errors:

First. In qualifying the crime proven as brigandage; and

Second. In holding that the evidence adduced during the trial of the cause shows that the defendants and appellants are guilty of the crime charged in the complaint.

The two assignments of error may be discussed together. In effect the two assignments constitute but one, to wit: that the evidence adduced during the trial of the cause fails to show that the defendants are guilty of the crime of brigandage as charged in the complaint.

During the trial of the cause the prosecution presented six witnesses whose names are as follows: Ciriaca Guillerma, Simeon Sagalig, Domingo Siaceto, Emigdio Mappala, Syguatco Guada, and Quirino Deza.

The said Ciriaco Guillerma testified that on the night of the 22d of September and the 2d of October, 1910, certain merchandise, consisting of jewelry and salted fish, amounting in value to P300, had been forcibly taken from her house or store against her will.

The said Simeon Sagalig testified that he had purchased a jar of fish from the defendant, Juan Deza, for which he had paid P8.30; that the fish was identified by the witness, Ciriaco Guillerma, as the fish which had been taken from her possession.

Domingo Siaceto testified that he was a merchant and that some time before the trial of the cause certain merchandise, consisting of wax, empty jars, iron caldrons, and a tub had been taken from his canteen; that the value of said articles was about P160; that some person had entered his house by force and violence and had carried these articles away without his consent.

The said Emigdio Mappala testified that he was a merchant; that some persons took from his store tobacco leaves, vegetables, and other merchandise; that on the night of the 4th of October, 1910, and after the tobacco leaves, vegetables, and other merchandise had been stolen, he was watching to see if the thieves would return to his house and while he was thus watching and waiting, the defendant Juan Deza opened the door of his canteen and with a club in his hand was feeling around inside the canteen; whereupon he (Emigdio Mappala) struck Juan Deza with a bolo and the latter immediately ran away.

Syguatco Guada testified that he was a tienda owner; that he purchased from the defendant Juan Deza a number of pieces of jewelry consisting of combs, hairpins, locketts, rings, chains, and both large and small brillantes, and paid therefor the sum of P68. This jewelry was identified as the jewelry which was present in court during the trial and as the same jewelry that belonged to Ciriaca Guillerma, and which had been taken from her house without her consent or knowledge by force and violence.

The next witness sworn on behalf of the prosecution was Quirino Deza, one of the defendants, who swore positively that he, together with the other defendants, had committed seven different robberies during the month of October, 1910, and the months immediately preceding. He testified that he and the other defendants, Juan Deza, Mariano Beltran, Narciso Tagalan, Florentino Mappala, Macario Talusig, Froilan Gabbauan and Simeon Taccuray, had stolen a jar of fish and other merchandise from one, Simeon Sagalig. At this robbery all of the defendants were present, except Enrique Tapiru.

Quirino Deza further testified that on a certain night, he, together with the defendants, Mariano Beltran, Juan Deza, Simeon Taccuray, Froilan Gabbauan, Macario Talusig, Florentino Mappala, and Narciso Tagalan, entered the house of Ciriaco Guillerma and took and carried away, while the occupants of the house were sleeping, a small box containing jewelry, as well as some other merchandise.

It will be noted that the defendant Enrique Tapiru was not present at the time of this robbery. This jewelry,

Quirino Deza testified, had been sold by Juan Deza to a Chinaman. Later, according to his declaration, he (Quirino Deza) with some of the defendants went to the house of Domingo Siaceto, and robbed his tienda of wax, jars, caldrons and pots; that at the time of the robbery of the house of Domingo, he, Juan Deza, Enrique Tapiru, Froilan Gabbauan, and Mariano Beltran were present; that a portion of the merchandise taken from the tienda of Domingo Siaceto was hidden and a portion of it had been sold to Sanchez Mira. Later, according to the declaration of Quirino Deza, he, together with the defendants, Juan Deza, Froilan Gabbauan, Simeon Taccuray, went to the tienda of Emigdio Mappala; that Juan Deza opened the window of the tienda and put his hand inside and that some person from within struck and wounded him with a bolo; that the next morning he saw the wound upon the hand of Juan Deza.

It is asserted by the appellants that the testimony of Quirino Deza, he being an accomplice with the other defendants, should not be accepted or at least should be accepted with great caution. It is true that courts should be slow to convict persons charged with crime solely upon the declarations of accomplices. In the present case, however, the testimony of Quirino Deza, in every important fact, is to a very great extent supported by the declarations of the other witnesses for the prosecution. It will be noted that his description of the way in which the different robberies were committed, as well as the merchandise and jewelry taken, correspond exactly with the declarations of the different persons who were robbed. In the present case we have no hesitation, by reason of the fact that his testimony is corroborated in almost every detail by the declarations of other witnesses, in accepting the declaration of Quirino Deza.

Juan Deza testified positively that he, together with the other defendants had met on several occasions and agreed upon the commission of the different robberies.

The proof also shows, beyond a reasonable doubt, that the defendants were armed with a bolo, a dagger and clubs. The objection is made upon the part of the appellants that the defendants were not armed with deadly weapons. This court has held in various cases that where a band is armed with bolos, daggers and clubs that they are armed with deadly weapons.

Act No. 518 as amended by Act No. 1121 (see also Act No. 2036) does not require, in order to constitute the crime of brigandage, that each individual of the band shall be armed with a deadly weapon. While we do not now desire to decide that if one member of a band is armed with a deadly weapon, that that would be sufficient to make a band of brigands armed with deadly weapons, we simply desire to decide that when some members of the band are armed with bolos and daggers and others with clubs, that that is sufficient to make a band of brigands armed with deadly weapons.

The question presented by the defendants in the court below, to wit: that the defendants had not been given a preliminary hearing, seems to have been waived by the appellants; we therefore do not discuss that question at present.

After a careful examination of all of the evidence adduced during the trial of the cause, we find no reason to modify the sentence of the lower court; the same is, therefore, hereby affirmed with costs.

It will be noted that the lower court made a recommendation to the Governor-General of the Philippine Islands for clemency in favor of the defendant, Quirino Deza. In view of what was said by the lower court, and in view of the assistance which Quirino Deza gave to the Government in the trial of the present case, we desire to renew that recommendation.

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

Carson, J., concurs in the result.

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