

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MANUEL ZABALA, DEFENDANT AND APPELLANT.

G.R. No. 7225. August 31, 1912

Ponente: JOHNSON, J.

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JOHNSON, J.:

This defendant was charged with the crime of lesiones graves. He was found guilty. He was given the benefit of article 11 of the Penal Code on account of his age, and sentenced by the Honorable P. M. Moir, judge, to be imprisoned for a period of two years four months and one day of prision correccional, to indemnify Santiago España, the person injured, in the sum of P200, in case of insolvency to suffer subsidiary imprisonment, and to pay the costs.

From that sentence the defendant appealed.

The only assignments of error made by the appellant in this case relate to the sufficiency of the evidence. The appellant undertakes to show that what the defendant did was done in self-defense, by reason of a provocation offered by the injured person.

The Attorney-General, in a carefully prepared brief, concludes that the evidence is sufficient to show that the defendant is guilty of the crime charged and recommends that the sentence of the lower court be affirmed, with costs.

The defendant and the injured person, Santiago España, were collaborators in the mine "San Mauricio," in the pueblo of Mambulao, on the 21st of October, 1909. Santiago España declared as a witness and said that he, the defendant and one Andres Quebral, were in the mine on the day in question; that an American (whose name does not appear) ordered him to place certain supports in the mine and to obtain timbers for that purpose; that he secured the timbers and requested the defendant to assist him in putting the said timbers in place; that the defendant refused to render such assistance; that he continued with his work and was attacked and injured in the manner alleged in the complaint by the defendant. These general facts are supported by the declaration of Andres Quebral, the only other person present besides the defendant.

The defendant, in effect, admits most of the fact alleged by Santiago España. The defendant testified that he had been assigned certain work in the mine on the day in question; that Santiago España had requested him to assist him in certain other work; that he refused to render such assistance for the reason that he had his own work to perform; that Santiago España had insulted him by the use of certain indecent language and had struck him with a club; that a fight ensued between them, during which, while Santiago España had hold of his throat, the fingers of Santiago España were thrust into his mouth and that he, in order to protect himself, bit the fingers of Santiago España; that during the fight the said American arrived and separated them. The fact that the fingers of Santiago España had been bitten by the defendant is, therefore, an admitted fact. As a result of the injury thus received, certain of the fingers on the hand of Santiago España were rendered useless.

The appellant attempts to show that the fingers of Santiago España were rendered useless by reason of the fact that he failed to promptly secure medical assistance; that the permanent injury was due to the negligence or lack of proper care on the part of Santiago España, and that the injuries in the first instance were not sufficient of themselves to have produced the permanent injury. The evidence does show that Santiago España delayed for a few days to secure medical assistance. There is, however, nothing in the record which shows, more than a mere presumption, that prompt medical attendance would have avoided the result from which Santiago España is now suffering. It certainly was the duty of Santiago España to have taken all the precaution possible to have avoided any result from the injuries which did not necessarily and directly flow from the original cause.

The defendant testified that Andres Quebral was not present at the time of the fight between him and Santiago España. Andres Quebral testified that he was present and that he saw all that took place. His statement of the fight and the cause leading thereto is substantiated practically by the declaration of both the defendant and the injured person. The lower court found that Andres Quebral was present and that he was an intelligent and credible witness. There seems to have been no reason why Andres Quebral should have testified to other than the truth.

It appears that at the time of the trial the defendant was 19 years of age. The trial took place eleven months after the facts occurred. The court found that he was eighteen years of age at the time the facts complained of occurred. No point is made in the record that he was under 18 years of age at the time he committed the alleged crime.

The record shows that Santiago España was disabled for a period of about eight months as a result of the injuries and that the fingers of his hand have been rendered more or less useless.

The lower court, within his discretion, gave the defendant the benefit of article 11 of the Penal Code, on account of his age, and thereby reduced the penalty to the minimum of the medium degree of prision correccional, which is two years four months and one day. There were neither aggravating nor extenuating circumstances proved. The lower court required the defendant to indemnify Santiago España in the sum of P200. There seems to be little proof in the record to support that conclusion, except the fact that the defendant was receiving a daily wage while working in the mine, and that he was rendered unable to pursue his usual occupation for a period of about eight months. There is nothing in the record which shows that he had been working each day or that he might have had employment had he not been injured. However the appellant makes no objection to that part of the sentence of the lower court.

Taking into consideration the proof as we find it in the record and the findings of the lower court from such record, and the fact that the lower court saw and heard the witnesses, we are of the opinion that the sentence of the lower court should be affirmed, with costs.

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

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