

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JOSE FIGUEROA, DEFENDANT AND APPELLANT.

G.R. No. 7459. August 16, 1912

Ponente: JOHNSON, J.

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JOHNSON, J.:

This defendant was charged in the Court of First Instance of the Province of Cebu with the crime of illegal detention, was found guilty by the lower court and sentenced to pay a fine of 325 pesetas, in case of insolvency to suffer subsidiary imprisonment and to pay the costs.

From that sentence the defendant appealed to this court.

The defendant and appellant alleges that the evidence adduced during the trial of the cause in the lower court was not sufficient to justify the sentence imposed by that court. The facts seem to be as follows:

First. That on the 13th of November, 1910, the defendant was vice-president of the municipality of Taburan in the Province of Cebu.

Second. That Anastacio Bragat was a policeman in the said municipality on said date.

Third. That on said date one Eduardo Mendoza was the president of the municipality of Taburan.

Fourth. That on the said 13th of November, 1910, a complaint was presented to the president of said municipality, signed by Visitacion Esmero, charging the said Anastacio Bragat with the crime of larceny of nine pieces of jewelry. This complainant alleged that she believed that the jewelry was then in the trunk of the said Anastacio Bragat in his house.

Fifth. That by reason of the parentage or relationship which existed between the president of the said municipality and the complainant, Visitacion Esmero, the former referred the complaint to the vice-president, the defendant herein, of said municipality, for action.

Sixth. That immediately upon receiving the order of the president, the vice-president ordered the said Anastacio Bragat, the policeman, detained in the municipal building. The vice-president also ordered the justice of the peace to issue a search warrant for the purpose of searching the house of said policeman.

Seventh. It appears further that upon the morning of the 14th of November, 1910, the said Visitacion Esmero appeared in the office of the president of the said pueblo and withdrew her complaint, upon the ground that she had found the jewelry which she believed Anastacio Bragat had stolen.

Eighth. Upon the presentation of the said written statement of Visitacion Esmero, the defendant herein directed

that further proceedings against Anastacio Bragat be dispensed with.

During the trial of the cause Anastacio Bragat attempted to show that he had been illegally and arbitrarily deprived of his liberty from early in the morning of the 13th of November, 1910, until sometime in the morning of the 14th of November, 1910; that the period of his illegal detention was something less than twenty-four hours. Anastacio Bragat attempted to show that he had been detained in "incomunicado." The defendant, as well as the justice of the peace of said pueblo, declared as witnesses and attempted to show that the detention of the said Anastacio Bragat was not in "incomunicado;" that he was detained in the municipal building simply, until the officials of said pueblo could make an investigation of the charges preferred against him. We think that the evidence shows that he was detained in the municipal building, but that he was not detained in "incomunicado." The evidence shows that his querida slept with him in the municipal building on the night of the 13th of November.

Article 200 of the Penal Code provides that any public officer who arrests a person without authority of law or by virtue of some regulation of a general character in force in the Philippines, except it be for the commission of a crime, shall be punished by a fine of not less than 325 and not more than 3,250 pesetas, if the detention shall not have exceeded three days, etc.

In the present case the complaint presented by Visitacion Esmero charged the said Anastacio Bragat with the crime of larceny. This complaint was referred by the president of the pueblo to the vice-president, the defendant herein, for action. While it may not have been necessary to have ordered the detention of the said Anastacio Bragat, under the circumstances, and while, as a matter of fact, his detention was not authorized at all in the manner in which it was done, and under the circumstances, yet, nevertheless, it does not seem to us that the defendant herein detained the said Anastacio Bragat arbitrarily. Visitacion Esmero alleged that Anastacio Bragat had stolen her jewelry; that the same was in his trunk in his house. It may have been that the vice-president, the defendant herein, believing the charges of the said Visitacion Esmero, ordered the defendant at once to remain in the municipal building for the purpose of preventing his removing the said jewelry from his trunk. At all events, and taking into consideration all of the circumstances surrounding the alleged detention of Anastacio Bragat, we are of the opinion that the evidence does not show that Jose Figueroa, the defendant herein, did maliciously, criminally and without motive, arbitrarily detain Anastacio Bragat in the manner described in the complaint.

This court has held in the case of *U. S. vs. Gonzaga* (4 Phil. Rep., 364) that article 200 of the Penal Code has no application to a case where the person arrested is charged with a crime and is arrested on account thereof. (*U. S. vs. Gonzaga*, 3 Phil. Rep., 135.) Had there been no charges preferred against the said Anastacio Bragat, charging him with a crime, then perhaps his detention would have been arbitrary and illegal. (*U. S. vs. Agravante*, 10 Phil. Rep., 46; *U. S. vs. Braganza*, 10 Phil. Rep., 79; *U. S. vs. Gellada*, 15 Phil. Rep., 120:)

For the foregoing reasons, we are of the opinion that the sentence of the lower court should be reversed, the complaint dismissed and the defendant discharged from the custody of the law. So ordered.

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

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