

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FRANCISCO DE LA CRUZ ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 8726. October 17, 1913

Ponente: CARSON, J.

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CARSON, J.:

The trial judge in his opinion sets forth the following statement of the facts proven at the trial in this case, as found by him:

"Between 6 and 7 p. m. of December 5, 1911, the shop of the Chinaman Uy-Tingco was assaulted by some twelve lawbreakers armed with shotguns, revolvers, and bolos. The robbers approached said shop firing shots, and after ordering all who were in the doorway, or near it, including the Chinaman's wife, to fall face downward, four of them went inside, severely maltreated the Chinaman until he became unconscious, and seized P17 in coin, with cloth and effects to the value of over P180, and also took the earrings and a finger ring the Chinaman's wife was wearing. These facts are completely proven by the statements of Uy-Tingco, his wife Maria Jose, Timoteo Cajucom, and Esteban de la Cruz."

Counsel for the appellants vigorously insist that these defendants and appellants were not sufficiently identified as members of the band, which admittedly committed the above described robbery, and that it does not satisfactorily appear from the evidence that the members of the band were armed in the form and manner set forth by the trial judge.

In support of their contention that the proof fails to sustain the judge's finding that the band was armed, counsel point to some apparent contradictions in the statements of the witnesses for the prosecution. But while it is true that the witnesses were not in entire accord as to which of the various members of the band were armed with revolvers, which with rifles, and which with bolos, their testimony, taken as a whole, leaves no possible room for doubt that at least ten members of the band were armed with one or another of these weapons. Under all the circumstances it is not at all surprising that there should be some confusion in the minds of some of the witnesses as to the precise character of weapon which was borne by the different robbers, though there could be no mistake as to the fact that the majority of the members of the band were armed in one way or another.

The contention of counsel as to the failure of proof of the identity of the accused as members of the band rests in large part on their contention that the trial judge erred in accepting as true the statements of the witnesses who identified the accused and in rejecting as false and unworthy of credence the testimony of the witnesses whose statements, if true, would put in doubt the truth and accuracy of the statements of the identifying witnesses. But we find nothing in the record which would justify us in holding that the trial judge, who saw and heard the witnesses testify, had erred in this regard.

As to the alibis which the accused attempted to establish, we agree with the trial judge that in so far as the testimony of the witnesses for the accused in this regard is worthy of belief, it is not necessarily in conflict with the testimony of the identifying witnesses. In so far as the evidence of these witnesses appears to be contradictory,

we do not hesitate to follow the findings of the trial judge, who believed the testimony of the offended party and his wife who had no apparent reason for falsely denouncing these accused, rather than the testimony of the neighbors and townsmen of the accused, whose statements may well have been influenced and colored by sentiments of friendship and good will.

We find no error in the proceedings prejudicial to the rights of the accused, and the judgment of the trial court convicting and sentencing these appellants should be and is hereby affirmed, with his respective share of the costs against each of the appellants.

Arellano, C. J., Torres, Johnson, Moreland, and Trent, JJ., concur.

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