

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS.
BUENAVENTURA SARMIENTO, DEFENDANT AND APPELLANT.***G.R. No. 9059. March 14, 1914*

Ponente: CARSON, J.

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The defendant and appellant in this case was convicted in the court below of the crime of seduction (estupro) and sentenced to imprisonment for a period of four months, to pay the sum of P500 to the complaining witness Petronila Silverio by way of civil indemnification for the injury done her, to support the offspring of the illicit relations between the parties, if any there be, and to pay the costs of the trial.

The evidence of record conclusively establishes that the accused and the young woman whom it is alleged he seduced were both employees of the Alhambra tobacco factory, and that friendly if not intimate relations had been established between them while at work in the factory; that at an early hour on the morning of April 29, 1913, and long before the factory opened, they met in the street at a point some little distance from the factory, and almost immediately thereafter entered a street vehicle, which was called and hired by the accused; that they drove to the house of one Jacinto Rodriguez, a friend of the accused, who provided him with a room in which the couple stayed for about an hour; that during that period they had carnal relations with each other; that thereafter they had breakfast with the family of Rodriguez and later went to the factory, arriving there about 8 o'clock; that the young woman went to her home about 1 o'clock, and returned to the factory that afternoon, accompanied by her aunt and some ten or twelve other relatives and friends; that finding the accused the party demanded that he go at once to a minister and marry the girl; that despite some protests, the party compelled him to go with them; that the minister declined to marry the couple, it appearing from the cedula of the accused that he was a married man; and that thereafter these criminal proceedings were instituted at the instance of the young woman and her aunt.

The information charges that the accused induced the young woman to have sexual intercourse with him "by means of deceit, to wit, under promise of marriage." The only evidence of record in support of this allegation is the testimony of the young woman herself. In her first account of the incident she stated that the promises of marriage were made "while he was having intercourse with me," but later on in the course of her testimony, and in reply to a question as to whether the accused had made any such promises on any other occasion, she said that he had also promised to marry her while they were in the street vehicle, on the way to the house of Jacinto Rodriguez.

We do not think that a conviction of the crime of estupro (seduction) can be sustained on this evidence. To constitute seduction there must in all cases be some sufficient promise or inducement, and the woman must yield because of the promise or other inducement. If she consents merely from carnal lust, and the intercourse is from mutual desire, there is no seduction. (43 Cent. Digest, tit. Seduction, par. 56.) She must be induced to depart from the path of virtue by the use of some species of arts, persuasions, or wiles, which are calculated to have, and do have that effect, and which result in her ultimately submitting her person to the sexual embraces of her seducer. (People vs. Smith, 132 Mich., 58.) The penalty prescribed in the third paragraph of article 443 of the Penal Code,

which defines and penalizes this offense, cannot be imposed unless it appears that the alleged seduction was accomplished "by means of deceit." That is to say, of course, that the penalty cannot be imposed unless it appears that the woman was induced to yield her body to the seducer by means of some deceit. Hence, where the deceit alleged is a promise of marriage, it must appear that the woman was induced to yield her body to the seducer by means of such promise, and that she surrendered her virtue in reliance upon its fulfillment. Manifestly a promise of marriage made after sexual intercourse has taken place, or after the woman has yielded her body to the man's illicit embraces, cannot be held to have induced the woman to surrender her virtue. Nor can a promise of marriage made by a married man, where the woman knows that he is married before she surrenders herself, be said to have induced her so to do; for in such a case it is clear that there was no reliance on the promise. And, indeed, it has frequently been held that in any case wherein it appears that the surrender of the woman was not made in reliance upon a promise of marriage, a conviction of the crime of seduction cannot be sustained on the ground that such a promise had been made, though proof of a promise of marriage followed by carnal relations will generally be sufficient to sustain the inference that they were induced by such promise, in the absence of affirmative evidence to the contrary. See many cases cited under Note 80, 35 Cyc., 1335.

In the case at bar the evidence in support of the alleged promises of marriage is neither satisfactory nor convincing; and even if the testimony of the woman in this regard be accepted as true, it raises a grave doubt as to whether she was in fact induced to yield her body by means of the promises to which she testified. Upon her own testimony, the first promises of this nature were made after she had voluntarily, and of her own free will, gotten into the street vehicle. No satisfactory explanation of the conduct of the young woman, in accompanying the accused in the street vehicle, was offered at the trial, nor does one suggest itself at this time, other than that she had already made up her mind to enter into illicit relations with the accused when she entered the vehicle. Having in mind the friendly if not amorous relations already existing between the couple; the early hour at which they met, long before the opening of the factory in which they were employed; the short discussion, promptly followed by the calling of a street vehicle; the ready acquiescence of the young woman in getting into the vehicle and driving to the house of a friend of the accused, where they were evidently expected; and all that occurred thereafter; we are strongly inclined to believe that everything had been planned the night before, the early hour and the place of meeting having been selected and agreed upon so that the couple might consummate their amorous relations without fear of discovery by the young woman's family. But however this may have been, we think that the weight of the evidence sustains a finding that the intercourse between the couple was induced by mutual desire, and that she had made up her mind to surrender herself to her lover before she got into the vehicle, and before the alleged promises were made by him, if indeed it be a fact that he made any such promises.

There is evidence in the record to the effect that she knew the accused was a married man, long before they had their illicit relations, and this evidence, though hardly sufficient to sustain an affirmative finding on this point, tends to confirm us in our doubt of the truth of her statement that she was induced to yield her virtue to the accused by the alleged promises of marriage.

Let judgment be entered reversing the judgment entered in the court below, and acquitting the defendant and appellant of the offense with which he is charged in the information, with the costs in both instances de officio.

Arellano, C. J., Moreland, Trent, and Araullo, JJ., concur.

Judgment reversed; defendant acquitted.

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