

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SERVANDO BAY, DEFENDANT AND APPELLANT.

G.R. No. 9341. August 14, 1914

Ponente: CARSON, J.

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CARSON, J.:

The information in this case charges the appellant, Servando Bay, with the crime of rape, committed as follows:

"On the night of June 7 of the present year, 1913, in the barrio of San Teodoro of the township of Calapan, Mindoro, in the jurisdiction of this Court of First Instance, the above-named accused accidentally met Florentina Alcones walking along the beach, and, on finding that she was alone, did maliciously and criminally drag her toward a place covered with underbrush, and there by means of force and intimidation did lie with her against her will."

The testimony of the witnesses for the prosecution is substantially as follows: That the complaining witness and the accused are neighbors: that about 7 o'clock in the evening of June 7, 1913, when returning from her rice field she was joined by the accused, and that a short distance from the mouth of the Subaan River he caught hold of her, picked her up, and carried her to the edge of some thickets, where he threw her on the ground and attempted to have carnal intercourse with her; that angered by her resistance he drew his dagger, and forced her under threat of her life to accede to his desires; that, a party who were passing near the place where the crime was committed heard her cries, and put into shore; that one of the party stepped ashore, and seeing the accused get up from the place where the woman claims the crime was committed, asked "What's this?;" that the accused made no explanation of his conduct or his presence there, and left the place forthwith; that immediately thereafter the woman, accompanied by some of the party from the boat, went to the councilman of the barrio and made complaint; that the accused, having been brought before the councilman and asked had he committed the crime of which he was charged, admitted that he had; that thereafter the accused was sent to the justice of the peace, who held him for trial.

Upon this evidence the accused was convicted in the court below of the crime with which he is charged in the information and sentenced to seventeen years four months and one day of reclusion temporal, together with the accessory penalties.

Counsel for appellant lays great stress upon certain apparent contradictions and inconsistencies in the testimony of some of the witnesses for the prosecution, and vigorously contends that the trial court erred in accepting as true the testimony of the complaining witness and of the witnesses called by the prosecution to corroborate her. He emphasizes what he calls the inherent improbability of the story told by the offended woman, and points to the fact that she appears to be much more than twice the age of the accused, and anything but attractive in her personal appearance. His contention is that the charge of rape is a pure fabrication, and that it was brought by the woman for the sole purpose of wreaking her vengeance and spite upon the accused, with whom she had had a quarrel over the trespass of one of his carabaos on her land.

It is true that there are some apparent contradictions and inconsistencies in the testimony of some of the ignorant witnesses called for the prosecution, and that it is somewhat difficult to understand how the accused, a young married man, could have been so lost to all sense of right and decency as to assault a woman so much older than himself, a neighbor, and an old friend of his family. But her evidence, supported by that of the other witnesses for the prosecution, is so convincing and conclusive that we are forced to believe that he did in fact commit the atrocious crime with which he is charged.

We are not forgetful of the fact that convictions for this crime should not be sustained without clear and convincing proof of the guilt of the accused; or that experience has shown that unfounded charges of rape or attempted rape have not infrequently been preferred by women, actuated by some sinister or ulterior and undisclosed motive. We recognize that in cases of this nature it is the duty of the courts to scrutinize with the utmost care the story told by the complaining witness and the witnesses called to corroborate her, especially when it appears either that the offended party did not make immediate outcry or that there was any unexplained delay in instituting criminal proceedings. But in the case at bar it conclusively appears that the offended woman sought assistance and made formal and official complaint immediately after the commission of the crime under such conditions as practically to preclude the possibility of a conspiracy between herself and the other prosecuting witnesses to press a false charge against the accused.

There can be no possible doubt that the party passing in a boat the deserted place where the crime was committed was attracted by her cries and complaints, and that the arrival of those aboard was a fortunate coincidence which she could not well have anticipated, had she planned the filing of false charges against the accused. There can be no question also that she went immediately to the councilman, of her barrio to make complaint against the accused, accompanied by some of the passengers on the boat. And there can be no question also that as a result, these proceedings were instituted forthwith in the court of the justice of the peace.

There is a direct conflict in the testimony as to whether the accused, when the complaint was made to the councilman of the barrio, did or did not admit his guilt, and this evidence is so contradictory that it would be difficult if not impossible to make an express finding on this point. But whatever be the truth as to these alleged admissions of his guilt, the evidence leaves no room for doubt that neither at the moment when the party in the boat came upon him in company with his victim nor when he appeared before the councilman upon her complaint did he claim, as he does now, that her charge that he had assaulted her was a pure fabrication, invented for the purpose of wreaking vengeance upon him.

There can be no possible doubt that he was present when the party on board the boat were attracted to the place where she raised her outcry charging him with the assault, and that he was present later on when she presented her complaint to the councilman of the barrio. Under such circumstances, we are convinced that an innocent man would instantly, and indignantly repudiate such a charge, and attempt there and then to establish his innocence, explaining how he came to be there present with the woman, and the conditions under which she had made the false charge.

The witnesses called both for the prosecution and the defense go into considerable detail as to all that occurred at the time when the party on board the boat responded to the calls of the woman and immediately thereafter, and yet there is not the slightest indication in the evidence that there was on the part of the accused any such indignant denials and protests as would be expected from an innocent man suddenly confronted with such a charge under such circumstances. Indeed, his conduct at that time was, to our minds, wholly at variance with that which might fairly be expected from him, granting the truth of his testimony and that of the other witnesses for the defense.

Having in mind the fact that the trial judge saw and heard the witnesses testify, and upon a full review of all the

evidence, we are of opinion that there is nothing in the record which would justify us in disturbing the findings of the court below as to the degree of credit which should be accorded the various witnesses, or as to the guilt of the accused of the crime of which he was convicted.

We find no error in the proceedings prejudicial to the substantial rights of the accused, and the judgment entered in the court below convicting and sentencing him should, therefore, be affirmed, with the costs of this instance against the appellant. So ordered.

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

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