

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. AMADO ESMUNDO, DEFENDANT AND APPELLANT.

G.R. No. 9398. August 22, 1914

Ponente: CARSON, J.

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CARSON, J.:

The appellant was convicted in the Court of First Instance of Nueva Ecija of the crime of arson.

The information charges that: "On or about the night of April 30 of this year (1913), the said accused, maliciously and criminally, set fire to the two warehouses of Jacobo Selzer, situated in the inhabited part of the barrio of Luyos, which were destroyed together with the tobacco, rice, and corn contained therein, the value of which amounted to P8,320. The motive is unknown. The act took place in the municipality of San Antonio, Province of Nueva Ecija, P. I., in violation of the law."

The facts disclosed by the evidence of record are fully set forth by the Solicitor-General in his brief on appeal as follows:

"The evidence adduced by the prosecution shows that on the evening of May 1, 1913, some warehouses owned by Jacobo Selzer were destroyed by a fire and that their destruction entailed a loss estimated at P8,400; that the defendant was seen in the neighborhood during the afternoon of the day on which the fire occurred, and asked a servant of Selzer if her masters were at home and was informed that they were away; that after the fire started the defendant was seen a short distance from the burning warehouses running away from them.

"There was no evidence introduced by the defense."

The decision of the trial judge is as follows:

"In this case it has been proven that the accused, Amado Esmundo, a short time before the fire in question, was seen near the buildings that were burned and was asking one of the servants of the house, Eugenia Arsega, if her master and mistress were at home on that occasion. He was told by her that they were not. It is further shown by the witness Andres Villamayor that when he started for the fire at its inception he met the accused running away from the fire. It is shown by the witness Sabas Villamayor that on the night when the warehouses were burned the accused was seen in the neighborhood of said warehouses going in the direction of the warehouses. It is objected that the testimony of Sergeant Carreon of the Constabulary is not sufficient because it has not been shown that these declarations of the accused were given spontaneously, freely and willingly. The court is of the opinion that the evidence is sufficient even if we exclude the testimony of said Sergeant Carreon.

"The court, therefore, finds the accused Amado Esmundo guilty as charged in the complaint and sentences him to eight years and one day in Bilibid, to indemnify the injured party, Jacobo Selzer, in the sum of eight thousand three and twenty pesos (P8,320) and in case of insolvency to suffer subsidiary imprisonment as prescribed by law, and to pay the costs of this proceeding. It is so ordered.

"Done in open special court at Cabanatuan, Province of Nueva Ecija, Fourth Judicial District, on this the 24th

day of September, 1913.

"W. E. McMAHON,

"Judge of the Mountain Judicial District,

"Acting in the Fourth Judicial District."

Counsel for appellant, appointed de officio by this court, concludes his brief with the following observation:

"We submit that it is useless to write a brief on this case.

The prosecution has no case at all."

We are strongly inclined to agree with counsel. In the absence of any evidence as to motive, there is nothing in the record which would sustain a finding that the origin of the fire was malicious and not accidental, or that this accused was guilty of the crime of arson with which he was charged.

The accused introduced no evidence in his own defense, but in doing so he was clearly within his rights, and the prosecution having failed utterly to make out a case, there was no necessity for his doing so. Certainly no inference of guilt can be drawn from his silence, though we are at a loss to account for the conviction in the court below unless the trial judge overlooked the presumption of innocence in favor of the accused and his right to decline to testify at the trial without having any inference of guilt drawn from his failure to go on the witness stand.

As appears from the information, the fiscal before going to trial was well aware that he had no evidence as to a motive which might have induced the accused to commit the crime of arson, and with no evidence which even tended to disclose that the buildings had been set on fire maliciously, it would seem that he should either have asked for a dismissal, or for a continuance until he could find some evidence tending directly to establish the commission by the accused of the offense with which he was charged. For the benefit of the various officers engaged in the prosecution of criminal offenses, we cite from a former decision as follows:

"The records of criminal cases submitted to this court so frequently disclose a lack of all effort to develop the motive for the commission of the crime charged, that we take advantage of this opportunity to direct the attention of all prosecuting officers, and especially of provincial fiscals, to the importance of definitely ascertaining and proving when possible the motives which actuated the commission of a crime under judicial investigation. It is true that it is not indispensable to conviction for murder that the particular motive for taking the life of a human being shall be established at the trial, and that in general when the commission of a crime is clearly proven conviction may and should follow even where the reason for its commission is unknown (151 U. S., 396); but in many criminal cases one of the most important aids in completing the proof of the commission of the crime by the accused is the introduction of evidence disclosing the motive which tempted the mind to indulge the criminal act; and in nearly every case wherein the law places the penalty to be imposed in the discretion of the courts within certain limits, it will be found that a knowledge of the motive which actuated the guilty person is of the greatest service in the exercise of this discretion." (U. S. vs. Carlos, 15 Phil. Rep., 47.)

The judgment of conviction entered in the court below should be reversed, and the accused acquitted of the offense with which he is charged in the information, with costs in both instances de officio. If in detention he will be set at liberty forthwith, and if at large under bail, his bond should be exonerated. So ordered.

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

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