

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SOFRONIO DE LA CRUZ, DEFENDANT AND APPELLANT.*G.R. No. 9444. October 29, 1914*

Ponente: ARELLANO, C.J.

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Sofronio de la Cruz was charged with having threatened Dolores Coronel in a letter with death or the burning of her house unless she gave him P500, which she must deposit in the place indicated to her in the letter. This letter was found by Rafaela Coronel, who was living with Dolores, in the fence around her house, and as she was then on her way to church she turned it over to her neighbor Agustin Coronel, who read its contents to Dolores Coronel, an old woman of 70 years, who became nervous and uneasy upon seeing herself thus threatened. Tito Coronel reported the matter to the municipal president of Guagua, Pampanga, who went to Dolores' house and adopted some precautionary measures. Upon returning to the town hall he found a man held under arrest by the Constabulary. He had him searched to see whether he was carrying any prohibited thing and there was found upon him an envelope inside a pocketbook, and upon the envelope was written the name of Dolores Coronel. The man under arrest was Sofronio de la Cruz.

The letter with its envelope, found in the fence around the house, forms Exhibit A. The envelope found in the pocketbook, Exhibit B.

On this envelope (Exhibit B) the name written is "Dolores Cronel" and the letter and envelope (Exhibit A) also set forth the same name, "Dolores Cronel." It is sufficient to compare the nature of the handwriting of the name "Dolores Cronel" on the envelope (Exhibit B) with that of the same writing used in the letter (Exhibit A) in order to appreciate at a glance their complete similarity.

Sofronio de la Cruz had been arrested by the Constabulary and taken to the town hall for a similar letter, addressed, apparently, to one Andres Valenzuela of the same neighborhood of Guagua, which has been brought into this case as Exhibit C. A glance at it corroborates the idea that both letters were written by the same hand.

Sofronio de la Cruz says that Tito Coronel wrote the name "Dolores Cronel" that appears on the envelope found on him; but Tito Coronel was made to write a name in court for comparing his handwriting, and it is evident that this is not at all like that of any of the letters that figure as exhibits in the case.

In connection with this phase of the defense the defendant presented the witness Florentino Nacu to demonstrate that the old woman Dolores Coronel had been in his house, accompanied by Tito Coronel, for the purpose of talking about plowpoints with the defendant, and that the latter made a note of her name in order to know her address, and Tito Coronel wrote the name "Dolores Cronel" on the envelope (Exhibit B); that the defendant remained in Florentino Nacu's house until Good Friday (on which day the letter addressed to Dolores Coronel was found); that he was in said house to collect from Nacu what the latter owed him; that on the Wednesday previous he had urged Nacu to get some money because he needed it badly. Florentino Nacu testified in agreement, but to all this said that while the old woman Dolores and the defendant were talking about plowpoints he was in the

kitchen cooking the food for his family and gave his attention to that, although he was moving in and out where Dolores and Tito Coronel were talking with the defendant, but still he did not affirm that he had seen Tito Coronel write on the envelope that he handed the defendant. Tito Coronel totally denies all the assertions of the defendant and his witness Nacu.

The Court of First Instance of Pampanga sentenced the defendant, as guilty of threats, under article 494 of the Penal Code, to four years two months and one day of prison correccional, the accessories of the law, with credit for half the time of detention suffered, and to payment of the costs.

The first ground of error assigned to us is the denial of the motion for dismissal presented by the defense after the evidence for the prosecution had been closed and before that for the defense had been begun, the motion being based upon lack of evidence.

The Attorney-General in this instance alleges that the question has already been determined by this Supreme Court in a negative sense in the case of the United States vs. Abaroa (3 Phil. Rep., 116), wherein the following principle was laid down: "After the prosecution rests, the court should not dismiss the case on motion for insufficiency of proof but should require the defendant to present evidence on his own behalf."

This is true. But this decision was rendered on December 29, 1903, when, in conformity with General Order No. 58, it was possible to appeal from dismissals and final judgments. It was then held that the practice of dismissing the case immediately after the evidence for the prosecution had been closed ought not to be followed, for when the order of dismissal was appealed from and this higher court sustained the conviction of the accused on that evidence of the prosecution he would have been convicted without having been heard in his own defense, which would work an injustice; and when to avoid this difficulty the order of dismissal was overruled and the case returned for rehearing, another difficulty would be encountered, which is that of subjecting the accused a second time to another trial without action on his part and without need, since all the evidence could and should have been taken at the trial already held, and with the additional risk of all the inconveniences of delay. In this state of affairs the Supreme Court of the United States rendered the decision in the case of *Kepner vs. U. S.* (195 U. S., 100; 11 Phil. Rep., 669), and since then the situation assumed and disposed of in *United States vs. Abaroa* cannot be considered, for the Government cannot now appeal from an order sustaining the motion to dismiss presented by the defense after the evidence for the prosecution has been closed, on the ground of insufficiency thereof.

Even now, after the *Kepner* case, it is no ground for error that the Court of First Instance denied the motion for dismissal presented immediately after the evidence for the prosecution had been closed because the defense believed it to be insufficient; for the reason that, as in this case, the court did not hold it to be insufficient—it was under no obligation so to hold it—and it could continue the trial and take the evidence for the defense in order to reach the conclusion induced, in its opinion by the allegations and the evidence, or as it did conclude in this case by sentencing the defendant on the evidence for the prosecution, which it held to be sufficient.

And it is quite sufficient, as the trial court has held, even taking into consideration only the exhibits.

One of the methods of proving the authenticity of a writing is collation, the comparison the court can make with other writings proven to its satisfaction to be authentic. The trial court held to be proven to its satisfaction as authentic the writing by the defendant (Exhibit B) that was found inside the pocketbook. The defendant tried to ascribe the writing to another—to Tito Coronel:—and his counsel tested Tito Coronel by having him write in the court room what he dictated to him. He directed him to write the name of a person and of a place as the address of a letter, and it plainly appears that neither the free handwriting of the letter nor the firmness of the strokes of the writing is at all like the somewhat rough and uncertain form, as of a beginner, of the writing and strokes in Exhibit B and the anonymous Exhibits A and C. These are signed in the same way with a "Pulano Tal" so similar that it

seems to be one signature traced over the other. Moreover, Tito Coronel, said to be an intimate of the old woman Dolores Coronel, if he had really written her name in order thus to give the defendant a definite post-office address, when he knew so well how to write, as he demonstrated, would not have written Dolores Cronel, as it appears in Exhibits A and B. Furthermore, the initial "D" of the name Dolores and the same unusual way of writing the "D" in the Exhibits A and C is not the "D" written by Tito Coronel in the word "Dumaguete," which he was made to write. The attempt to ascribe to Tito Coronel the writing of the name that appears in Exhibit B was frustrated. "I wish to prove," said the witness Pedro Bacani, municipal president, "that the witness Tito Coronel is an influential man, and not, as the defense is trying, to prove indirectly that it was Tito Coronel who wrote the letter." The defense: "From the moment we presented him as a witness, we ceased to suspect him. We admit that Tito Coronel is an influential man." (p. 50.)

The trial court having held that the anonymous threat (Exhibit A) was written by the defendant, and there being no ground for the contrary, the legitimate conclusion from the facts is to sustain such finding, which is certainly corroborated by the other data furnished by the witness Florentino Nacu regarding the presence in Guagua of the defendant, who was a resident of Angat, Bulacan.

The conclusion in law therefore is for the guilt of the defendant, who is guilty of the crime penalized in paragraph one of article 494 of the Penal Code; and there must be imposed upon him the penalty lower by two degrees than that fixed by the law for the crime he threatened to commit. For having made the threat and demanding a sum of money, even though he did not obtain it, the penalty should be in the maximum degree, however, as he made the threat in writing. The penalty fixed by the law for the crime Tie threatened to commit, which is homicide, is reclusion temporal (art. 404), so the lower by two degrees, according to scale No. 2, is prision correccional, which in its maximum degree is four years two months and one day to six years. The penalty of four years two months and one day of prision correccional in the judgment appealed from being in this degree and the imposition of the accessories of the law and the allowance of half of the time of detention suffered and the payment of the costs all being proper, said judgment is affirmed, with the costs of this instance.

Torres, Johnson, Carson, and Araullo, JJ., concur.

Moreland, J., concurs in the result.

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