

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. RUFINO CANENT, DEFENDANT AND APPELLANT.

G.R. No. 9950. November 05, 1914

Ponente: TORRES, J.

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TORRES, J.:

On August 4, 1913, the provincial fiscal of Batangas filed a complaint with the Court of First Instance of the said province, charging Rufino Canent with the crime of lesiones menos graves. After trial, the justice of the peace of the provincial capital, to whom the case had been assigned by the Court of First Instance, sentenced the defendant, on April 17th of the present year, to the penalty of one month and one day of arresto mayor and to the payment of the costs. No indemnity was awarded to the injured party, because he introduced no specific evidence to show whether or not he was entitled thereto. This judgment sustained that of February 18, preceding, as a result of the evidence introduced at the new trial had on petition of the accused, who appealed from the said judgment to this court.

At about 4 o'clock of the afternoon of July 5, 1913, as Benedicto Magnani, one of the companions of the contractor of the work on the Sabang Bridge in the pueblo of Batangas, was about to pour a pail of gravel into a measuring barrel in order to fill it up, the accused, Canent, objected to his so doing on the ground that that was not one of the conditions of the contract. A dispute then arose between them and the accused snatched the pail of gravel from Magnani's hand, whereupon they quarreled and struck each other with their fists. At this moment Ottavio Machetti, according to his testimony, approached in order to separate them, but the accused said that he came up to help his companion, Magnani. Thereupon the accused Canent struck Machetti with his right fist, from which, protruded a closed pocketknife ; the blow caused a lesion on the left ear of about a centimeter and a half in length which healed after ten days, professional attendance and did not prevent Machetti from performing his customary labors. A medical examination showed (page 14 of the record) that this wound was light and curable in seven days; that it would not have prevented him from pursuing his usual occupation, though healing thereof was retarded by a pledget which was inserted between the edges of the wound, wherefore it did not heal up for ten days.

These facts appear to have been duly proven in this case and the crime is properly classified as that of lesiones menos graves under article 418 of the Penal Code, inasmuch as the accused, simply because he saw Machetti approaching and thought the latter would assist the man with whom he was quarreling, struck Machetti a blow over the left eyebrow, thereby inflicting upon him a wound which was cured ten days afterwards without leaving any bad results.

Defendant pleaded not guilty and alleged that the injured party, Ottavio Machetti, came up while he was having a dispute with Benedicto Magnani; that as Machetti assisted the latter, the defendant struck him on the mouth, where upon he and Machetti fought and the latter, in defending himself with his right arm, fell face downward on the ground and must have injured his left eyebrow by striking some hard substance in his fall. This allegation does not appear to be sustained by any evidence whatever, for his own witness, Leoncio Hertes, testified that he did not

see Machetti fall to the ground, and Benedicto Magnani corroborated the testimony given by Machetti to the effect that the latter approached Magnani and the accused for the purpose of separating them, whereupon Machetti was assaulted by the defendant.

A consideration of the contradictory testimony given by the witnesses for the defense at the rehearing does not warrant the inference that the allegation of the accused is true. Juan Pagcaliuagan testified that it was Magnani who held the pail of gravel; Agustin Cantos declared that it was the defendant, Rufino Ganent, and Ottavio Machetti who snatched away the pail; and while Pagcaliuagan stated that it was Magnani who struck the accused, on the other hand Agustin Cantos declared that it was Machetti who struck him. In view of these contradictions, therefore, it is impossible to consider any of the facts to be proven by the testimony of witnesses who refute one another.

Matanoglio Prieto, a witness called in rebuttal, testified that Pagcaliuagan was unable to see what occurred because both he and Prieto were in a low place whence they could not see what was going on; that the place of the occurrence was on high ground. It must therefore be believed that this witness did not see what happened, for he himself testified that the place where the quarrel took place was about four meters and a half higher than the wall which Pagcaliuagan was filling in. Hence, it would be improper to find that there was any provocation or that anything took place tending to exempt the defendant in committing the unlawful act. However, consideration can be taken of the circumstance of loss of reason and self-control in the heat of anger, owing to the fact that Ganent was assaulted by Benedicto Magnani and that during the quarrel, when these two men were approached by Ottavio Machetti, Magnani's companion and a relative of the contractor, the accused had substantial grounds for the belief that Machetti came up for the purpose of helping Ganent's opponent, Magnani.

It is undeniable that the trial court acted in accordance with the law in refusing to grant the petition of counsel for the defense to admit the testimony of two other witnesses who were present at the hearing of the case, although they were not in due season called upon to testify. The testimony of these witnesses would not have been newly discovered evidence. It would have been additional evidence, which the defense voluntarily failed to produce at the hearing of the case as it believed that that already submitted was sufficient to prove the defendant's innocence, and such belief did not entitle it to introduce new evidence upon the reopening of the case.

The allegation is made that section 4 of Act No. 2041, as amended by section 2 of Act No. 2131, is unconstitutional for the reason that it diminishes and restricts the jurisdiction of the Court of First Instance in providing that it may assign certain cases limitedly specified in the said Acts to the justice of the peace of the capital of the province for trial. This cannot be sustained. The provisions mentioned do not diminish or curtail the jurisdiction of the Court of First Instance by the fact of authorizing him to assign the trial of such cases to the justice of the peace of the capital of the province in order that this latter officer, sharing the former's powers, may act in his stead, especially in the cases limitedly specified by law, and relieve the Court of First Instance from the duty of attending to them so that its attention may not be diverted from the more serious and important cases that come before it. Besides, {it was intended that cases thus assigned should be tried in accordance with the rules of procedure observed in the Courts of First Instance, and not. with those that govern proceedings in the justice of the peace courts. The Act providing for the organization of courts in the Philippine Islands contains no provision whatever that conflicts with the Acts aforementioned, with respect to the assignment of cases by the Courts of First Instance to the justices of the peace. Neither do these latter Acts violate the provisions of the Philippine Bill, since, pursuant to section 9 of this Act of Congress of July 1,1902, the Supreme Court and the Courts of First Instance of the Philippine Islands shall possess and exercise jurisdiction as heretofore provided and such additional jurisdiction as shall hereafter be prescribed by the Government of said Islands, subject to the power of said Government to change the practice and method of procedure. In providing that justices of the peace in the

capitals of provinces may, by assignment of the respective judge of the district in each case, have like jurisdiction as the Court of First Instance to try persons charged with an offense for which the penalty does not exceed two years' imprisonment or a fine of two thousand pesos, or both such imprisonment and fine, the legislature of this country has merely made use of the power and authority conferred upon it by the said section 9 of the Act of Congress called the Philippine Bill.

For the foregoing reasons, whereby the errors assigned to the judgment appealed from have been refuted, the said judgment should be, as it is hereby, affirmed, with the costs against the appellant.

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

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