

45 Phil. 113

[G.R. No. 20063. August 27, 1923]

**THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS.
ANSELMO BLANCE, DEFENDANT AND APPELLANT.**

D E C I S I O N

JOHNSON, J.:

The defendant-appellant was charged with the crime of rape. The complaint alleged:

“That on or about October 4, 1922, in the municipality of Panay, Province of Capiz, Philippine Islands, the aforesaid accused, being the principal teacher of the public school of said municipality, did willfully, unlawfully, criminally, and through force and intimidation lie and have carnal knowledge with Maria Bernales, against the latter’s will, she being a maiden eighteen years of age, and a teacher of the same school and subordinate of the accused, the act having been committed in the very school building. Contrary to law.”

Upon said complaint the defendant was duly tried, found guilty of the crime charged, and sentenced to be imprisoned for a period of seventeen years and four months of *reclusion temporal*, to pay to the offended party the sum of P1,000 and to maintain the child, if any should be born as a result of the said illicit relations, with the accessory penalties prescribed by law, and to pay the costs. From that sentence the defendant appealed to this court.

In his first assignment of error, he alleges that the lower court committed an error in his finding of fact that the appellant and the offended party had, by mutual consent, illicit relations prior to the 4th day of October, 1922. An examination of the record shows that the appellant admitted, in open court

(stenographic notes, p. 66) that he had been having illicit relations with the offended party for several months prior to the date mentioned in the complaint (4th day of October, 1922). In view of his own admission in open court it scarcely seems necessary to argue the first assignment of error.

In his second assignment of error, he alleges that the lower court committed an error in not permitting him to ask questions concerning the person, or persons, who had instigated the present prosecution. An examination of the record shows that the offended party, Maria Bernales, filed the complaint in the court of the justice of the peace of the municipality of Panay, the next morning after the commission of the offense described in the complaint. The record, therefore, answers the question of the appellant. Any further inquiry into that question is deemed unnecessary.

In his third assignment of error, he alleges that the lower court committed an error in his treatment of the witnesses for the defense. An examination of the record clearly refutes the allegations of the appellant. There is nothing in the record which shows that the lower court in any way attempted to intimidate, or to influence, the witnesses for the defense.

The facts, as they appear from the record, may be stated as follows:

That the appellant and the offended party were both teachers in the public school; that the appellant was 23 years of age; that the offended party was 18 years of age. The evidence also shows that there had been some relations between the appellant and the offended party for some time prior to the commission of the act described in the complaint, for the reason that she made an effort to be transferred to some other school. She intimated that the people of the community were talking about her relations with the appellant. The appellant was a married man. The mother of the offended party, together with her daughter, made a visit to the appellant for the purpose of discussing the rumors abroad in the community about their relations.

The appellant, evidently, when he declared that he had been having illicit relations with the offended party, did so under the belief that that would convince the court that the illicit relations, which took place at the time and place mentioned in the complaint, did not take place by force and violence and

against her will.

Maria Bernales swore positively, during the trial of the cause, that she was forced by violence to submit to the illicit relations which she charged in the complaint. That she tried to defend herself by striking the appellant with a paper weight, and that as a result of the blow a scar was produced upon the face of the appellant. During the trial the appellant presented the scar on his nose and explained that it had been produced by Maria Bernales. He attempted to justify the fact that he had been struck by Maria Bernales with a paper weight by showing that she had illegally attacked him. The lower court believed the explanation given by Maria Bernales and refused to accept the explanation given by the appellant.

Admitting that the appellant had been having illicit relations with the offended party for months before the time and place mentioned in the complaint, yet, nevertheless, that fact would not constitute a defense, providing the illicit relations, which are described in the complaint, took place by force and violence and against the will of the offended party.

The fact that Maria Bernales may have been an unchaste character constitutes no defense of the charge of rape, providing it is proved that the illicit relations described in the complaint were committed with force and violence. The appellant is equally guilty, under the law, if force and violence were used, regardless of the good or bad morals of Maria Bernales. (People vs. Hartman, 103 Cal., 242; McClain on Criminal Law, vol. 1, sec. 460 and cases cited.)

For the reason that the lower court made a careful and extended analysis of the evidence in his decision, all of which were announced to the appellant, we find no reason, nor good purpose, for making a re-analysis of the evidence at this time.

After a careful examination of the evidence, we are fully persuaded that the facts and the law fully justify the conclusion of the lower court. The sentence appealed from is therefore hereby affirmed, with costs. So ordered.

Araullo, C.J., Street, Malcolm, Avanceña, Villamor, Johns,

and *Romualdez, JJ.*, concur.

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