

44 Phil. 134

[G. R. No. 18942. December 01, 1922]

**THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS.
LEONCIO COLUMNA ET AL., DEFENDANTS AND APPELLANTS.**

D E C I S I O N

STATEMENT

On July 26, 1921, the following information was filed against the defendants:

“That on or about the 25th day of May, 1921, in the municipality of Noveleta, Province of Cavite, P. I., the accused Mariano Lugero, being provided with a revolver without license, and the others armed with bolos, did intentionally, illegally, criminally, with unchaste designs and by means of force, abduct Miguela de los Reyes in a road of the barrio of Sta. Rosa, Noveleta, Cavite, P. I., taking her from there to a rice field of the said municipality against her will. Contrary to law.”

It was dismissed as to the defendant Damian Villaluz. The remaining defendants were tried and convicted, and each of them was sentenced to fourteen years, eight months, and one day of *reclusion temporal*, to the accessories of the law, and each to pay one-seventh of the costs. At the same time, and as a part of the first, another complaint was filed against the same defendants for the crime of robbery. For the purpose of the trial, the two cases were consolidated, and, as a result, the defendants were acquitted of the charge of robbery. From the conviction of abduction with force, all of the defendants appeal, claiming that the trial court erred in not considering certain material facts and circumstances which should have acquitted them, and in holding that the crime of abduction with force was proven, and in not giving full credit to the testimony of the defense, and in not giving them the benefit of the reasonable doubt, and in not acquitting them of the crime charged.

Johns, J.:

The only question involved is one of fact over which there is a sharp conflict in the evidence. The prosecuting witness was a maiden 22 years of age, and on the morning of the alleged offense, she was peacefully driving in a *carromata* from Bacao, of the municipality of Malabon, to make some purchases in the municipality of Noveleta where she claims to have been attacked on May 25, 1921, in the barrio of Santa Rosa. It appears from her evidence that she was stopped while driving on the highway, and that while the defendants Florentino Navarro, Eugenio Enano, and Mariano Lugero were unhitching the horse and holding the driver of the *carromata*, the other three defendants took her out of the *carromata* and dragged her to a nearby rice field where the first three followed, and where Leoncio Columna hugged and began to kiss her and touched the private parts of her body, while the others attempted to put her down on the ground. That on account of her cries for help, Telesforo Monton, Patricio Frijoles, Venancio Lurmico and Albino Caldejon rushed to the scene when the defendants fled.

The evidence of the prosecuting witness is materially corroborated by the above-named parties who were called as witnesses, and also by Bernardino Colocotoc, the driver of the *carromata*, and it was upon the combined testimony of such witnesses that the trial court found the defendants guilty of the crime of abduction with force. As it found, these witnesses are relatives of the offended party, and that she told the doctor, who rendered the first aid, that her injuries were caused "on account of her falling down." But the fact remains that she went direct from the rice field where she was taken to the municipal building where she made a complaint, charging the defendants with the crime of abduction. It is true that in the original complaint she included the defendant Damian Villaluz, a lieutenant of the barrio. But it appeared that he went to her rescue, a fact of which she was ignorant at the time.

The trial court found that the defendants were not carrying prohibited arms, and that they were carrying only sticks and bolos.

The attorney for the defendants has submitted a very able and adroit brief in which he contends that the defendant Leoncio Golumna met the prosecuting witness riding in a *carromata* with Bernardino Colocotoc, and that on passing he said to them: "Where are you going, spouses?" and that they insulted him by saying that he was shameless and a son of ill repute. That the defendant Columna got out of his conveyance and boarded the *carromata* inside of which there was a hand to hand fight between him and Colocotoc. That the

prosecuting witness struck Columna with her fist and got out of the *carromata* and ran into a yard adjoining the road, and while passing through a gate she stumbled and fell to the ground. She got up and Columna followed her, and that they had a fight in the yard, and that he slapped her several times, and that she insulted him with vile language and struck him several blows with her heavy slipper. That the defendant Damian Villaluz, a lieutenant of the barrio, came up and that, upon seeing him, Columna then ran away.

This testimony is not credible. Under his own evidence, he boarded the *carromata* and attacked the prosecuting witness and the driver inside of their own conveyance, and after the prosecuting witness made her escape, he followed her with whom he had a fight in the yard and slapped her several times, and that he continued the fight until the arrival of Damian Villaluz when he ran away. From his own evidence, it is very apparent that the offended party was trying to escape and that Columna followed her and tried to prevent her escape. Such evidence is not worthy of belief. But assuming it to be true, it is a sad reflection upon the defendant Columna.

The question is largely one of credibility of the witnesses. The trial court saw and heard them testify and found the defendants guilty of the crime charged. The evidence of the defendants as to what happened is unreasonable, and assuming it all to be true, an unwarranted and unjustifiable attack was made upon the prosecuting witness in her own conveyance, and it is very apparent that the defendants had no regard for a helpless, defenseless woman. The testimony for the prosecution, if true, as the trial court found, is sufficient to prove the guilt of the defendants beyond a reasonable doubt.

Three of the defendants unhitched the horse from the *carromata* and the other three forcibly took her out of the conveyance into a rice field where they were followed by the three defendants who unhitched the horse. You have a helpless, defenseless woman out in a rice field where she was taken by force and surrounded by six strong men who caressed and fondled her and touched the private parts of her body and undertook to throw her down on the ground and were only prevented by her cries for help, and when assistance came to her relief they fled and ran away.

A woman is not a chattel in any civilized country. The defendants contend that the penalty is harsh and severe, but the law was intended to protect and defend the person and body of a woman from such vicious and brutal assaults.

In this case, the stubborn fact remains that the prosecuting witness was peacefully driving

on the public highway in her own conveyance and was forcibly taken into an adjoining rice field where she was surrounded by the six defendants, who brutally caressed and fondled with her person. It is very apparent that had it not been for her cries for help a more serious crime would have been committed.

The judgment of the lower court is affirmed, with costs. So ordered.

Araullo, C. J., Street, Malcolm, Avanceña, Villamor, Ostrand, and Romualdez, JJ., concur.
