

7 Phil. 209

[G.R. No. 3093. December 22, 1906]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. REGINO MANABAT,
DEFENDANT AND APPELLANT.**

D E C I S I O N

CARSON, J.:

The accused in this case was charged with the crime of robbery in that on the night of the 6th of May, 1904, in Concepcion, in the Province of Tarlac, he entered the house of one Feliciano Puri, breaking down the door, and after maltreating the said Feliciano Puri, and giving her a number of blows with, his revolver, he took from her by force the sum of 6 pesos and 50 centimos. He was convicted of the crime of robbery as defined and penalized in article 503, paragraph 5, of the Penal Code, and sentenced to three years eight months and one day imprisonment, with the accessory penalties imposed by law, and to return to the said Feliciano Puri the sum of 6 pesos and 50 centimos, with subsidiary imprisonment in case of insolvency, and to pay the costs of the trial.

It appears that on the night of the 6th of May, 1904, the accused entered the house of Feliciano Puri during the absence of her husband; that he struck her several blows with his fist and with the butt end of the revolver which he carried, knocking out a tooth, and compelled her to give him 6 pesos and 50 centimos which she had concealed in her belt, after which he left the house, firing a revolver shot through the window.

The night was dark and there was no light in the house and the only mode by which the witness was able to identify the accused was by the sound of his voice. It was shown that she and the accused had known each other intimately since their youth, having lived in the same barrio for many years, so that there was nothing unreasonable in her assertion that she recognized the accused by his voice, although she could not see his face on account of the darkness.

It appears that on that very night she made complaint to the Constabulary charging the accused with the commission of the crime; that the following morning he was arrested and, that day being Saturday, was held in arrest until Monday, when he was brought before the justice of the peace, where he signed a written confession admitting his guilt. At the trial he withdrew the confession and offered three witnesses in defense to prove an alibi, and stated that the alleged confession was made under threats and duress and under fear of personal injury from the Constabulary who had him in detention. One of these witnesses, a relative of the accused, stated that the accused arrived in the barrjo on the afternoon preceding the night of the robbery, having come to attend the wedding of a mutual relative; that he was sick with fever and was unable to attend the wedding and that he was compelled to spend the night at the house of the witness and was not absent therefrom during that night. The accused, however, as well as the witness Jos6 Bermuda, declared that he had arrived in the barrio two days before the wedding, that he attended the wedding, and had been compelled to leave it on account of sickness, when he went to the house of the first witness and spent the night there.

We do not think the evidence as to the alibi can be accepted in view of the material contradictions in the statements of the witnesses, and we are of opinion that, even though the confession made before the justice of the peace were excluded from the record, the evidence of the complaining witness is sufficient under all the circumstances to establish the guilt of the accused.

The court below failed to take into consideration any aggravating circumstances, although since the crime was committed at nighttime and advantage was taken of the darkness for the commission of the offense, the penalty should have been imposed in its maximum degree. We therefore reverse the sentence imposed by the trial court and instead thereof we sentence the said Regino Manabat to six years ten months and one day's imprisonment (*presidio mayor*) with the accessory penalties prescribed by law, the indemnification of the said Feliciano Puri in the sum of 6 pesos and 50 centimos, with subsidiary imprisonment in case of insolvency, and the payment of the costs of both, instances. After the expiration of ten days let judgment be entered in accordance herewith and ten days thereafter the case remanded to the court below for proper action. So ordered.

Arellano, C. J., Torres, Mapa, Willard, and Tracey, JJ., concur.

Johnson, J., did not sit in this case.

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