

[G.R. No. 2676. March 31, 1906]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. EUSTAQUIO HORCA,
DEFENDANT AND APPELLANT.**

D E C I S I O N

ARELLANO, C.J.:

The court below found that the act committed by the defendant, and it is so charged in the complaint, constitutes the crime of robbery. The Attorney-General contends in this court that the crime committed was that of threats (*amenazas*), as defined and penalized in article 494, number 1, of the Penal Code.

This difference of opinion arises from the different manner in which they view the acts which preceded the delivery of the 130 pesos by Narciso Rile, while a prisoner in the municipal building of Jaro, Leyte, to the defendant, Eustaquio Horca, then, president of the town, who had ordered his arrest.

The real facts in the case are: That Narciso Rile was arrested by order of the municipal president for some act, as Rile, himself, says, something which occurred in front of his house, but as the defendant Horca testified, for the murder of a signal corps sergeant; that while he was detained in the municipal building Rile's wife brought the sum of money in question there; that this money was delivered by Rile to the defendant, Horca; and that three days after his arrest, Rile was set at liberty.

Whether Rile paid this money because Horca demanded it of him; or whether he paid the money to escape a possible long term of imprisonment; or whether to avoid molestation at the hands of the defendant Horca; or whether he did so to escape criminal prosecution; or whether he was induced to pay the same or voluntarily offered to pay the money in order to be free from restraint and the results which would possibly follow a criminal prosecution, does not clearly appear from the record.

This court finds, however, that a prisoner was set at liberty by a public official who in the exercise of his police powers had ordered his arrest for the commission of a crime, and that the prisoner was thus set at liberty in consideration of money paid by him.

This is simply a case of a public official being corrupted by bribery; it is a case of bribery.

This is not a case wherein violence was used by a kidnaper who demands the payment of money in exchange for the liberty of the person kidnaped; this is not a case of a highway robber who demands money from the person he accosts under threats of violence.

Horca did not deceive Rile. He did what he promised to do for the money which was paid to him. He did not obtain the money from him through deceit; he did what he had promised to do. He promised to set Rile at liberty for a certain sum, upon the receipt of which he liberated him.

He gave him his liberty instead of turning him over to the justice of the peace for trial. And this is bribery, as was held by this court in the case of the United States vs. Pablo Valdehueza,^[1] No. 2118.

We therefore find that the defendant, Eustaquio Horca is guilty of the crime of bribery, an offense not included in the crime charged in the complaint. The case is accordingly dismissed, and it is ordered that a new complaint charging the crime of bribery be filed, with the costs of this action *de officio*. So ordered.

Torres, Mapa, Johnson, and Willard, JJ., concur.

DISSENTING

CARSON, J.:

I dissent. I am of opinion that the judgment appealed from should be affirmed.

^[1] 4 Phil. Rep., 470.

