

[G.R. No. 2100. September 15, 1905]

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MATIAS DE LA CRUZ ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

TORRES, J.:

In a written complaint filed on the 19th of April, 1904, the defendants in this case, Matias de la Cruz and Crisanto Corpus, were charged by a police officer with the crime of theft, in that, with intent to gain, and without the knowledge of the owner thereof, they took and carried away a gold ring set with diamonds of the value of 550 pesos, Mexican currency, and another ring, set with a sapphire and diamonds, of the value of 250 pesos, Mexican currency, making a total of 800 pesos, Mexican currency, equivalent to 4,000 pesetas, Mexican currency, all of this in violation of the statute in such cases made and provided.

The complaint having been duly allowed, the court after hearing the evidence, acquitted the defendant, Crisanto Corpus, and sentenced the other defendant, Matias de la Cruz, to two years' imprisonment (*prisionn correccional*) without making any order as to the restitution of the articles stolen, or their value, nor as to the costs. From this judgment the defendant, Matias de la Cruz, appealed to this court.

Even assuming that the crime of theft herein charged was actually committed—that is to say, that the disappearance of the jewelry belonging to the offended party, Tomas Cabangis, was due to theft—the fact remains that there is nothing of record which satisfactorily shows that Matias de la Cruz is guilty, or that he was the person who took

the said articles. He pleaded not guilty, and there is not sufficient evidence of record to convince us that he had any participation in the commission of the crime. The owner of the articles stolen testified that he found in the possession of the defendant, Crisanto Corpus, a key, with which the box containing the missing jewelry might have been opened, but this fact, in itself, is not conclusive. He was therefore properly acquitted by the court below. It does not appear that the defendant, Matias de la Cruz, who denied it, opened the box with the key in question for the purpose of stealing the jewelry, nor that he had such key in his possession, or made use of any such key as alleged by the offended party.

As to the extrajudicial confession alleged to have been made by the defendant, Matias de la Cruz, before G. William Marshall, a member of the police force, it should be borne in mind that the defendant, Matias de la Cruz, in his sworn statement absolutely denied that he committed the theft with which he is now charged, alleging "that he made the confession to Marshall for the reason that he was maltreated * * * by another person who appeared also to be a member of the police force." A confession made under such circumstances can not be considered as competent evidence of the guilt of the person making such confession. Section 4, Act No. 619 of the Philippine Commission, dated February 6, 1903, provides:

"No confession of any person charged with crime shall be received as evidence against him by any court of justice unless it be first shown to the satisfaction of the court that it was freely and voluntarily made and not the result of violence, intimidation, threat, menace, or of promises or offers of reward or leniency."

There is nothing in the record to indicate that this confession was made by the defendant, Matias de la Cruz, freely and voluntarily, and that it was not the result of violence, intimidation, threat, or menace. It can not, therefore, be received as evidence against him.

Furthermore, a person charged with a crime is presumed to be innocent until the contrary is proved, and in case of a reasonable doubt as to his guilt he is entitled to an acquittal. This is the case here, and the defendant should be acquitted. (Section 57, General Orders, No. 58.)

For the reasons above stated, we are of opinion that the judgment of the court below should be reversed as to the defendant, Matias de la Cruz, who is hereby acquitted, with the costs *de officio*.

Let the case be returned to the court below with a certified copy of this decision and of the judgment to be entered in accordance herewith for its execution. So ordered.

Arellano, C. J., Mapa, Johnson, Carson, and Willard J., concur.
