

2 Phil. 425

[G.R. No. 1229. August 19, 1903]

FRANCISCO GALL, COMPLAINANT AND APPELLANT, VS. FAUSTINO SAHAGUN ET AL., DEFENDANTS AND APPELLEES.

D E C I S I O N

ARELLANO, C.J.:

We find the accused guilty. There is not sufficient legal proof of the consent of the husband, for the mere fact that seven months passed without his having filed a complaint for the crime of adultery can not be regarded as such. It was error, therefore, to acquit the defendants, as did the court below in the judgment appealed, which appeal we consider solely in so far as it is presented by the injured husband, the only person entitled to institute proceedings for a crime of this class. We disregard the appeal taken by the fiscal.

Therefore, taking into consideration the mitigating circumstance of article 11, and the minority of the woman (her age was 10), under article 9, paragraph 2, we condemn Faustino Salmgun to two years and four months of *prision correccional*, and Jacoba Agcanas to four months and one day of *arresto mayor*, and to the payment of costs.

Torres, Copper, Wiliard, Mapa, and McDonough, JJ., concur.
