

2 Phil. 9

[G.R. No. 1025. March 06, 1903]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. BONIFACIO PLANA ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

LADD, J.:

The appellants, Bonifacio Plana, Emigdio Yadao, and Romualdo Ines, have been convicted by the Court of First Instance of Ilocos Norte of robbery *en cuadrilla*.

The private prosecutor is one Francisca Guerrero, a resident of Laoag, in Ilocos Norte. She testifies that on the evening of November 21, 1901, as she was traveling along the highway in a cart a little north of Sinait, in Ilocos Sur, accompanied by Monica Calong and Pedro Juan, the latter the driver of the cart, the party were overtaken in an uninhabited place called Santa Cruz in the pueblo of Badoc, in Ilocos Norte, by three men, armed with talibones, who compelled them to turn round and go back; that they had gone but a short distance in that direction when some thirty more men, armed with talibones and clasp knives, emerging from the bushes on both sides of the road, ordered them to get out of the part and compelled the witness by threats of death to disclose the fact that she had some money in a basket in the cart, which they thereupon opened and from which they took 200 pesos in Mexican silver, some pieces of cloth, and other articles. Monica Calong and Pedro Juan in substance give the same account of the occurrence, except that the latter says he was taken into the woods by the robbers, where he was kept under guard for about an hour and so did not witness the actual rifling of the basket.

There appears to be no sufficient reason to question the fact of the robbery as related by these witnesses, but as the participation of the appellants in the crime we are unable to free our minds from grave doubt.

The private prosecutor says it was a clear, moonlig night, and that she recognized the

appellants, all of whom she had known previously. It appears that she had been in Santa Catalina in Ilocos Sur just previously to the robbery, and was on her way to her home in Laoag when the robbery took place. She says she was sick for a week at Santa Catalina, and that during that time the appellant Plana made several visits at the house where she was stopping and that she bought a carriage and two horses from him for 120 pesos, of which she paid 100 pesos down; that the carriage was in Vigan, and that she went there and got it, and started out with it for Laoag, and to Plana followed her as far as Bantay; that she then proceeded on to San Ildefonso where she stayed overnight that that night Plana was arrested in front of the house where she was stopping, for what reason she does not know; that the next afternoon he was released and she let him take the carriage so that he could go back to Santa Catalina; that the next morning at 2 o'clock the carriage was returned to her by a little boy; that these things greatly surprised the witness and that she made up her mind that Plana was not a good man, and told the boy to take the carriage back to Plana, as she withdrew from the bargain, and that Plana must return her the money, which, however, he did not do; and that somebody told her afterwards that Plana promised to revenge himself upon her for what she had done.

As respects the other two appellants she says she became acquainted with them at Sinait, where she stopped on the journey from Laoag to Santa Catalina, the occasion being a musical entertainment which they and Gaspar Ines, who she says was another one of the bandits, gave at the house where she was stopping.

Monica Calong's evidence as respects the identity of the appellants is the same as that of the private prosecutor, and she says she made their acquaintance at the same time as the latter in Santa Catalina and Sinait respectively. She also testifies to the same effect as respects the sale of the carriage and horses by Plana to the private prosecutor, and there is another witness who confirms the testimony of the private prosecutor as to this transaction to some extent.

Pedro Juan, the driver of the cart, is much less positive in his identification of Plana, merely saying that "to judge by the appearance and figure of the accused Bonifacio Plana," he was one of the robbers. He says that he did not recognize the other two appellants.

The defense was an *alibi* supported by numerous witnesses.

Our doubts as to the identity of the appellants arise not so much from the strength of the *alibi* as from the somewhat suspicious character of the evidence of the private prosecutor

and from the inherent probabilities of the case. So far as the transaction respecting the sale of the carriage and horses is concerned, there Avould appear to be more reason to suppose that the private prosecutor might desire to take revenge upon Plana for not returning the money by preferring a false accusation against him than that Plana should desire to take revenge upon her for rescinding the bargain by robbing her. The same consideration applies to some extent to the testimony of Monica Calong, who seems to have been closely associated with the private prosecutor. Moreover, it seems somewhat improbable that Plana, who appears to have been a man of some property and position, should, on a clear, moonlight night, and without having disguised himself, attack and rob on the public highway persons with whom he had had business dealings just previously and who would be almost certain to recognize him.

To these considerations is to be added the significant fact that the driver of the cart fails to satisfactorily identify Plana, and does not undertake to identify the other two appellants.

In a case like the present, the determination of which depends upon the credit which is to be accorded to the direct testimony of a few witnesses, uncorroborated by circumstances, and deprived as we are of the aid which would be afforded by an opportunity to see the witnesses and hear them testify, we can not avoid giving to such considerations as those to which we have adverted a weight to which they would not perhaps have been found to be entitled if the trial had been before us in the first instance, or if the case had been more fully developed below. We are hid, for these and other reasons which need not be stated, to the conclusion that the judgment of conviction must be reversed and the appellants acquitted, with costs de oficio. Let the cause be returned to the court below for proceedings in conformity with this opinion.

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