

[G.R. No. 1099. March 10, 1903]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. MANUEL NAVARRO ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

LADD, J.:

The defendants, Manuel Navarro, Julio Alarcon, and Adriano Labrador, were convicted in the Court of First Instance of Bataan, of robo, under No. 5 of article 503 of the Code, and have appealed.

The case of prosecution rests principally upon the testimony of two witnesses, Narcisa Pangalinan, who is the wife of Tomas Bautista, and their son, Francisco Bautista, 10 years of age. Narcisa Pangalinan testifies, in substance, that one Sunday evening in July, 1902, the defendants Navarro and Labrador entered her house in the pueblo of Orion, Bataan, maltreated and intimidated her husband and herself, and compelled her to open a trunk where she had in a tampipe 150 pesos in silver, the accumulated savings of six years, which Navarro seized and carried off'. She further testifies that the defendant Alarcon was with Navarro and Labrador, though he did not enter the house, but stayed outside while the other tAvo committed the robbery. She states that the defendants took her husband with them when they left the house, but that he returned the same night accompanied by a policeman.

Francisco says that on the night in question he came home from fishing and found Labrador and Alarcon on the stairs; that they prevented him from going into the house, and that Labrador searched his pockets and took from him half a real. He also states that he saw Navarro going off with the tampipe. And in other important details he confirms the testimony of his mother.

Tomas Bautista was unable to be present at the trial on account of sickness, and did not

testify.

One rather singular circumstance was developed by the evidence for the defense, namely, that when Tomas Bautista and some others went to the *concejal* of the barrio, apparently on the very night of the robbery, to report what had occurred, the defendant Navarro went with them. This fact, however, standing by itself, falls far short of raising a reasonable doubt in our minds as to Navarro's guilt. He may have had an idea that by being among the first to denounce the crime he could in some manner exonerate himself from responsibility for his share in it. There is no other evidence tending to exculpate either Navarro or the other defendants, except some very slight proof of an alibi as to Labrador. We believe the evidence of the witnesses for the prosecution, and are of opinion that the defendants were properly convicted. No aggravating or extenuating circumstances were appreciated by the court below, but the penalty was nevertheless applied in the maximum grade. We appreciate as an aggravating circumstance the fact that the crime was committed at night, (Art. 10, No. 15.) The penalty may therefore stand as fixed by the court below.

With the modification indicated the judgment is confirmed with costs, and the cause will be remanded to the court below for the execution thereof.

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

Mapa, J., dissents.

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