

94 Phil. 930

[ G.R. No. L-6538. May 10, 1954 ]

**PABLO BURGUETE, PETITIONER, VS. JOVENCIO Q. MAYOR, AS PROVINCIAL GOVERNOR OF ROMBLON, AND ESTEBAN B. MONTESA, AS ACTING MUNICIPAL MAYOR OF BADAJOZ, ROMBLON, RESPONDENTS.**

**D E C I S I O N**

**JUGO, J.:**

The petitioner, Pablo Burguete, is the municipal mayor of Badajoz, Province of Romblon, and was elected for that position in November, 1951; the respondent, Jovencio Q. Mayor, is the provincial governor of Romblon; and Esteban B. Montesa, the acting municipal mayor of Badajoz, Province of Romblon.

On August 21, 1952, a criminal complaint for serious slander was filed against Burguete in the justice of the peace court of Badajoz.

On October 7, 1952, the case was forwarded to the Court of First Instance of Romblon.

On November 13, 1952, Jovencio Q. Mayor suspended the petitioner as mayor on the ground that a criminal case against him was pending, and that it was the "standing policy of the Administration to place under suspension any elective official against whom a criminal action involving moral turpitude is pending adjudication before the competent court."

The Governor directed Esteban B. Montesa, the vice-mayor, to act as mayor.

Burguete now files in this Court a petition for mandamus and *quo warranto* against Mayor and Montesa.

The case for serious slander against Burguete is still pending in the Court of First Instance.

Burguete has filed a motion to quash, but it was denied. The case could not be tried on the merits on account of the non-appearance of the witnesses for the prosecution.

No administrative investigation by the provincial board has been conducted under section 2188 of the Administrative Code.

The questions raised in this case are not new, as they have already been decided in the case of *Lacson vs. Roque*,<sup>[\*]</sup> (49 Off: Gaz., 93). There it was held that the mere filing of an information for libel against a municipal officer is not a sufficient ground for suspending him. The same may be said with regard to serious slander, which is another form of libel. Libel does not necessarily involve moral turpitude. Furthermore, it would be an easy expedient to file a criminal complaint or information against a municipal mayor for the purpose of suspending him, and the suspension would last almost indefinitely, according to the time that would elapse before the criminal case is finally terminated by conviction or acquittal. It is unnecessary to elaborate here on the reasons given for the principle, as they are set forth extensively in said decision.

Our conclusion is that the suspension of the petitioner is illegal and unjustified.

In view of the foregoing, the respondent Jovencio Q. Mayor is ordered to reinstate the petitioner Pablo Burguete in his office as municipal mayor of Badajoz, Romblon, and to oust the respondent Esteban B. Montesa, as such officer, with cost against the respondents. It is so ordered.

*Paras, C. J., Pablo, Bengzon, Montemayor, Reyes, Bautista Angelo, Labrador, and Concepcion, JJ., concur.*

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<sup>[\*]</sup> 92 Phil., 456.

