

99 Phil. 907

[ G.R. No. L-9785. September 19, 1956 ]

**MARIANO H. DE JOYA, ET AL., PETITIONERS, VS. THE COURT OF FIRST INSTANCE OP RIZAL, PASAY CITY BRANCH, PRESIDED OVER BY THE HON. JUDGE EMILIO RILLORAZA, RESPONDENT.**

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

**BAUTISTA ANGELO, J.:**

Petitioners herein are all attorneys of record of Oscar Castelo accused of murder in Criminal Case No. 3023-P of the Court of First Instance of Rizal which was presided over by Hon. Emilio Rilloraza. Castelo filed a motion dated September 7, 1955 for the disqualification of Judge Rilloraza to try said case anew by virtue of a new trial granted by the Supreme Court. On September 24, 1955, Judge Rilloraza issued an order which reads as follows:

“In order to protect the integrity and dignity of this Court and the Judiciary, the accused-petitioner Oscar Castelo is hereby ordered to appear before this Court on September 29, 1955, at 10:30 o'clock a.m., to show cause why he should not be punished for contempt for having made contemptuous statements and malicious imputations and insinuations or intimations that are absolutely without foundation in truth and in fact in his petition for recusation or disqualification dated September 7, 1955, among which statements read, in part, as follows:

‘ \* \* \* This belief on the part of Melencio of the futility, of defending himself in the face of an apparent conspiracy between the Presiding Judge and the prosecutors was not without justification. What indeed would have been the use of further resistance when the Judge and the prosecutors could talk over the telephone with such familiarity and

apparent rapport indicating connivance between them,' \* \* \*

'Significantly, or is it strange that the failure to extort P100,000.00 from herein petitioner (Oscar Castelo) resulted in his conviction to death?'

\* \* \*

"The attorneys of record of said accused, petitioner Oscar Castelo, namely, Mariano H. de Joya, Estanislao A. Fernandez, Roberto A. Guianzon, Pelicisimo Ocampo, Constancio M. Leuterio, Lauro Esteban and Alejandro de Santos, are hereby likewise ordered to appear before this Court on September 29, 1955, at 10:30 o'clock a.m., to show cause why they should not be punished for contempt for having prepared the statements referred to above and/or having counselled the accused-petitioner Oscar Castelo to make said statements, or for having otherwise given him advice concerning the same statements and imputations and insinuations and intimations."

Castelo filed his own answer to the charge. Atty. Mariano H. de Joya filed a separate answer, while the other respondents filed a joint answer. These answers were sworn to respectively by Castelo and respondent attorneys. After hearing, respondent judge found Castelo and his attorneys guilty of direct contempt. Castelo was ordered to pay a fine of P200 while his attorneys, now petitioners herein, were ordered to pay a fine of PICO each, payable on or before noon of October 8, 1955, with subsidiary imprisonment in case of non-payment of the fine Hence the present petition for certiorari imputing grave abuse of discretion to respondent judge.

The incident arose in view of certain alleged contemptuous statements contained in a motion for disqualification filed with the court on September 7, 1955 which was signed and sworn to exclusively by Oscar Castelo but the notice of hearing set forth therein appears to have been subscribed by all his attorneys, petitioners herein, although only one of them, Alejandro de Santos, has actually signed. Said notice reads:

"NOTIFICATION

To: The Clerk of Court  
Court of First Instance of Rizal  
Pasay City Branch

Sir:

Please set the foregoing petition for hearing<sup>1</sup> on September 10, 1955, at 8:30 in the morning or as soon thereafter as the Honorable Judge may be pleased to hear the same.

Mariano H. de Joya

Estanislao A. Fernandez

Roberto A. Guianzon

Felicisimo Ocampo

Constancio M. Leuterio

Lauro Esteban

Alejandro de Santos

By: Alejandro de Santos

303 Monte de Piedad Bldg.

Sta. Cruz, Manila"

On the other hand, the statements contained in the motion for disqualification which were considered by the court to be contemptuous appear in two of the grounds alleged in support thereof which are quoted hereunder in full:

*"Fifth Incident*

In connection with Exhibits 9- 9-A-, and 9-B-Melencio (also marked Exhibit JJ and (Exhibit II) Melencio testified during the trial that these statements, were prepared by, and with the collaboration of MPD Sergeant Felicisimo .Lazaro and Fiscal Andres Reyes; that the contents thereof were the product of these people's collective efforts, and that they were concocted preparatory to the prosecution's plan to utilize Augusto Melencio as another state witness principally to implicate Castelo after the prosecution had realized that the testimony of Robles was insufficient and unreliable and that the events that preceded the preparation of these exhibits were attended by subtle dissimulations in the beginning, later progressing into misrepresentation, chicanery, deception, promise of discharge from the information, and winding up finally into plain coercion and threats calculated to get Melencio inextricably involved in the scheme to implicate petitioner at all cost. Finding himself too far gone in the snare, Melencio was left no alternative but to sign said statements. Melencio .testified that as a means of impressing him with the hopelessness of his situation as a defendant, he was made to hear a conversation through the telephone between Fiscal Andres Reyes and the Presiding Judge on May 24,

1954 in which the former, in a very familiar tone of voice told the latter that he (Melencio) was not yet ready and that there was need for further postponement. In fact the trial was again postponed to May 26, 1954. This conversation between Fiscal Andres Reyes. and the Presiding Judge, according to Melencio, had the effect of convincing him that his salvation was possible only through submission to the desire of the prosecutors to have him testify as a witness against petitioner. *This belief on the part of Melencio of the futility of defending himself in the face of an apparent conspiracy between the Presiding Judge and the prosecutors was not without justification. What indeed would have been the use of further resistance when the Judge and the prosecutors could talk over the telephone with such familiarity and apparent rapport indicating connivance between them?* Such was the situation, Melencio explained, when he was made to sign the statements. The name of the Presiding Judge was thus significantly mentioned by Fiscal Andres Reyes to Melencio as having a connection with the postponements granted by the Judge on the ground of feigned illness. And yet there was never an attempt on the part of Fiscal Andres Reyes to take the witness stand and deny Melencio's testimony on the matter of the conversation between him and Judge Rilloraza over the telephone. The Presiding Judge viewed this matter with an indifference which does not speak well of his being above this questionable alliance with Fiscal Andres Reyes, if indeed he was above it. The Presiding Judge could have, or should have, cited Fiscal Andres Reyes and Sgt. Felicisimo Lazaro for contempt for deceiving the court in being a party to the feigned illness of Melencio which caused the suspension, of the trial for about two weeks. Judge Emilio Rilloraza did not. This failure on the part of Fiscal Andres Reyes to deny Melencio's statement involving him, and the omission on the part of the Presiding Judge, by remaining passive on a matter which demanded action on his part, rules out all conclusions but that Presiding Judge was too consumed with bias to care, and that Fiscal Andres Reyes had been licensed to do what he pleases with the Judge's name with brazen impunity." (pp. 53-56)

## "INCIDENTS AFTER THE TRIAL

### *First Incident*

Before the promulgation of the decision in this case on March 31, 1955, the name of Honorable Judge Emilio Rilloraza was bandied about during the conversation between Mrs. Saldana, owner of the San Juan de Dios Coffee Shop on Dewey Boulevard, Pasay City, Mrs. Eugenia L. Co, who claims kinship with the Presiding Judge and Miss Adelaida Reyes, one of the former accused in the case. Miss Reyes was contacted by the two ladies (Mrs. Saldana and Mrs. Co) in the evening of March 10, 1955 and informed that herein petitioner together with all the defendants in this case were to be convicted by Judge Emilio Rilloraza and that the penalty was one of death. Mrs. Eugenia L. Co assured Miss Reyes that she had read the decision which was shown to her by 'Tiong'— the Presiding Judge. Mrs. Co, pretending to take pity on Miss Reyes who broke down into tears upon being informed of this said news, stated that 'there is nothing that could be remedied' and she started foisting herself as a 'relative', 'business partner' and very influential with the Presiding Judge whom she calls 'Tiong' Mrs. Co further represented to Miss Reyes that there is nothing that she could not secure from her 'Tiong', adding that her husband who was a Chinese citizen was able to obtain his Philippine citizenship through Judge Emilio Rilloraza, which assertions were confirmed by Mrs. Rufina Saldana. When Miss Reyes asked the two ladies what could be done about the matter, Mrs. Eugenia L. Co readily and brazenly told Miss Reyes to convey to herein petitioner a demand for the sum of f 100,000 in consideration for his acquittaX, It was impressed upon Miss Adelaida Reyes by Mrs. Eugenia L. Co and Mrs. Rufina Saldana that with the payment of PI 00,000, the decision which according to Mrs. Co the Presiding Judge allowed her to read could be changed and the acquittal of herein petitioner secured.

Apprised of this demand, herein petitioner was enraged, and reported the matter to the Army and Constabulary authorities on March 11, 1955. Major Teodulo Natividad and Major Delfin de la Cruz of the Philippine Constabulary investigated the matter and gathered what evidence they could and later sought clarification from the Presiding Judge as to his knowledge or participation in the attempted extortion. Judge Rilloraza's reaction to Major Natividad's inquiry in the matter was a mere denial of any knowledge of the affair and a refusal to cooperate with the PC authorities.

It is a serious matter for a judge's name to be made capital of in a transaction which reflects upon his integrity and upon the dignity of the court presided

over by him. And when, as in this incident, his name is inextricably linked, positive action on his part is imperative. But the Presiding Judge viewed this incident with indifference if not with plain tacit acquiescence. He could have cited Mrs. Eugenia L. Co and Mrs. Rufina Saldana for contempt of court. He did not—which is pregnant with meaning.

Significantly, or is it strange that the failure to extort P100,000 from herein petitioner resulted in his conviction to death? And as previously conveyed by Mrs. Eugenia L. Co to Miss Reyes on March 10 and March H, 1955 all the accused including the petir turner were condemned to death.” (pp. 59-61). “(pp. 2-5, Answer of Solicitor General)

In his answer, respondent Castelo avers that he assumes full responsibility for the preparation and filing of the petition for disqualification of respondent judge; that his attorneys of record have absolutely no participation nor intervention in the preparation of said petition their only intervention being to sign the notice of bearing addressed to the clerk of court; and that the statements alleged in the charge do not constitute contempt. Castelo further avers that, as the supposed contumacious act constitute merely contempt, the proceedings must commence with the filing of a charge. And that as the charge was filed by respondent judge himself, he should inhibit himself from hearing and deciding the same. “He cannot be the complainant, prosecutor, and judge at the same time.”

With the exception of respondent De Joya, who filed a separate answer, the other respondent attorneys, in their answer, aver that they had no intervention in the preparation of, nor have they counselled Castelo in making the statements in, his petition for disqualification, their only intervention being to sign the notice of hearing of said petition. They further aver that, as the alleged statements constitute indirect contempt and the judge himself has made the charge, respondent judge is disqualified to hear and decide the same.

Respondent De Joya, in his answer, avers, among other things, that he did not take part in the preparation of the petition for disqualification and knew nothing of the conditions and circumstances under which it was prepared; that said petition was signed and sworn to only and exclusively by Oscar Castelo and he came to know of its existence only after it had been filed; that in connection therewith his name had been included only in the notice of hearing; that said petition for disqualification is privileged in nature; that contempt

proceedings being criminal in nature, no one can be held responsible for a statement made by another; and that courts of justice and judicial officers should never act with vindictiveness in the preservation of judicial decorum. He prayed that the charge be dismissed as to him.

The questions to be determined are: (1) Are the alleged statements imputed to petitioners contemptuous in character?; (2) If so, do they constitute direct contempt?; and (3) Has respondent judge erred in finding petitioners guilty of the charge?

1. It should be noted that one Augusto Melencio is one of the witnesses who testified for the prosecution in the murder case then pending against Oscar Castelo and among the incidents cited in the petition for disqualification to bolster up the claim that respondent judge should inhibit himself in trying the case anew is the insinuation that Melencio was made to sign certain statements in line with the prosecution's plan to utilize him as a state witness principally to implicate Castelo after the prosecution has realized that the testimony of Robles was insufficient and unreliable to serve as basis of Castelo's conviction. It was stated that Melencio, as a means of impressing him of the hopelessness of his situation, was made to hear a conversation through the telephone between Fiscal Andres Reyes and respondent judge which, according to Melencio, had the effect of convincing him that his salvation was possible only through submission to the desire of the prosecutors to have him testify as a witness against Castelo, and, in the last part of the narration, the following comment appears: "This belief on the part of Melencio of the futility of defending himself in the face of an apparent conspiracy between the presiding judge and the prosecutors was not without justification. What indeed would have been the use of further resistance when the judge and the prosecutors could talk over the telephone with such familiarity, and apparent rapport indicating connivance between them?"

Another incident cited in the petition refers to the alleged attempt to bribe respondent judge to secure the exoneration of Castelo. It was stated that, before the promulgation of the decision in the murder case on March 31, 1955, two ladies, Mrs. Saldana and Mrs. Eugenia L. Co, informed Miss Adelaida Reyes that Castelo and his co-accused were sure to be convicted and given the penalty of death, which made Miss Reyes break down into tears. When Mrs. Co informed Miss Reyes that she was a relative and very influential with respondent judge and that there was nothing that she could not secure from him, she asked Mrs. Co what could be done about the matter. It was then that Mrs. Co brazenly told Miss Reyes that the remedy was for Castelo to offer the sum of P100,000 for his acquittal.

It was impressed upon Miss Reyes by Mrs. Co and Mrs. Saldana that with such payment of P100,000 the decision could be changed and the acquittal of Castelo secured. Informed of this incident, Castelo was enraged and reported the matter to the army and constabulary authorities. The narration of the whole incident closes with the following comment: Significantly, or is it strange that the failure to extort P100,000 from herein petitioner resulted in his conviction to death? And as previously conveyed by Mrs. Eugenia L. Co to Miss Reyes on March 10 and March 14, 1955 all the accused including the petitioner were condemned to death.”

There is no doubt that the insinuations or imputations contained in the above statements appearing in the petition for disqualification are not only contemptuous but have no basis in the evidence. They are contemptuous because, on one hand, they accuse respondent judge of conspiracy or connivance with the prosecutors or concocting a plan with a view to securing the conviction of Oscar Castelo and, on the other hand they implicate the judge in a supposed attempt to extort money from Castelo on a promise or assurance of his acquittal. Obviously, such insinuations or imputations are highly derogatory and serve nothing but to discredit the judge presiding the court in an attempt to secure his disqualification. They are derogatory for, under the circumstances they were uttered, they cannot but reflect on the honesty and integrity of the judge. They have no place in a court pleading and, if uttered by a member of the bar, constitutes a serious disrespect. “As an officer of the court, it is his sworn and moral duty to help build and not destroy unnecessarily the high esteem and regard towards the courts so essential to the proper administration of justice” [People vs. Carillo, 43, Off. Gaz., (12) p. 5012].

2. The alleged contemptuous statements, having been made in a pleading submitted to the court, constitute direct contempt within the meaning of the law. As held, by this Court in the case of Salcedo vs. Hernandez (61 Phil., 724), the act of a lawyer in inserting a paragraph, containing contemptuous phrases, in a motion filed in a case pending before the Supreme Court, “constitutes a contempt in the case of the Court (in facie curiae).” Similarly, in the case of Lualhati vs. Albert, 57 Phil., 86, the facts of which are on all fours with the incident at bar, it was held that the trial judge did not act without or in excess of his jurisdiction, nor abuse his discretion, when he found a lawyer in contempt of court for submitting an urgent motion praying that the trial judge inhibit himself from hearing on retrial a criminal case against the client of said lawyer, which urgent motion, in the opinion of the judge, tended to make the public believe that he was incapable of administering justice to the accused. Indeed, the act of petitioners constitutes direct contempt within the meaning of section 1,



Rule 64, of the Rules of Court, for it is tantamount to a “misbehavior in the presence of or so near a court or judge as to interrupt the administration of justice.” Verily, with such conduct or mis-behavior the proceedings relative to the retrial have been unnecessarily delayed to the detriment of the administration of justice.

3. In connection with the responsibility of petitioners, it is true that Castelo stated in his answer that he assumes full responsibility for the preparation and filing of the petition for disqualification containing the contemptuous statements and that his attorneys of record have had absolutely no participation or intervention in the preparation of said petition other than signing the notice of hearing appearing therein addressed to the clerk of court. But, this averment of Castelo notwithstanding, there appears on the face of the same petition a circumstance which belies such statement. Thus, in the opening statement of said petition the following appears: *“Comes now the accused Oscar Castelo who, only for the purpose of this petition, hereby enters his appearance in collaboration with his attorneys of record, and to this Honorable Court respectfully manifests:”* (Italics supplied). This statement is an indication that both Castelo and his attorneys joined in submitting the above petition for disqualification.

It is likewise true that the notice of hearing appears signed only by Atty. Alejandro de Santos, although the names of the other attorneys merely appear written therein. Apparently, this gives the impression that the notification was placed in the petition without the knowledge and consent of the attorneys who have not signed and common sense dictates that they should not be made accountable thereof. But this surmise or assumption is belied by the subsequent development of the case for the record shows that during the hearing of the petition for disqualification held on September 10 and 12, 1955, the herein petitioners not only appeared for accused Castelo but urged its approval, which shows that at least they acted with full knowledge of the contents thereof and took notice of their import and significance. In urging for its approval they indirectly endorsed and gave force and validity to the statements and arguments embodied therein. With such a behavior they cannot now be heard to contend that they are ignorant of the contemptuous statements contained in the petition in an effort to escape liability. In the circumstances, we are persuaded to conclude that respondent judge did not commit any abuse of discretion in issuing the order subject of the present petition.

Petition is denied, without pronouncement as to costs. The writ of injunction issued by this Court is hereby dissolved.

*Paras, C. J., Padilla, Labrador, Reyes, J. B. L., Endencia, and Felix, JJ., concur.*

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Date created: October 10, 2014