

100 Phil. 385

[G.R. No. L-7617. November 28, 1956]

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. PELAGIO G. YANGA, DEFENDANT AND APPELLANT

D E C I S I O N

PADILLA, J.:

This is an appeal, certified by the Court of Appeals for the reason that it involves only questions of law, from a judgment finding the defendant guilty of unjust vexation and sentencing him to suffer 20 days of *arresto menor* and to pay the costs. He claims that the trial court erred in not finding that he had been placed twice in jeopardy; and that the crime with which he was charged had already prescribed.

It appears that on 10 October 1951 the appellant was charged in the Municipal Court of Manila with the crime of light threats in an information which reads, as follows:

That on or about the 4th day of October, 1951, in the City of Manila, Philippines, the said accused did, then and there willfully, unlawfully and feloniously threaten one Cristeto Remigio, by then and there pointing a revolver at the latter, the same not being necessary for his lawful self-defense. (Crim. Case No. B—72655.)

To this he entered a plea of not guilty. On 1 June 1952 the private prosecutor moved for the dismissal of the information on the ground that on 21 May 1952 another for grave coercion had been filed in the Court of First Instance of Manila against the appellant. On 12 June 1952 the Court dismissed the information over the objection of the appellant.

The information for grave coercion filed on 21 May 1952 in the Court of First Instance of Manila, amended on 26 May 1952, reads, as follows:

That on or about the 4th day of October, 1951, in the City of Manila, Philippines, the said accused, without authority of law, by means of violence, did then and there willfully, unlawfully and feloniously compel Cristeto Remigio to do something against his will, by then and there holding the latter around the neck and dragging him from the latter's residence located at 67 Lopez Jaena to the police outpost at the corner of Pa? and Herran Sts., in the City of Manila, Philippines.

That the accused committed the said offense with the following aggravating circumstances:

1. Taking advantage of his official position, he being then a member of the Manila Police Department; and
2. Taking advantage of his superior strength. (Crim. Case No. 18961.)

The appellant contends that the dismissal of the information for light threats in the Municipal Court upon motion of the private prosecutor over his objection, after he had entered a plea of not guilty, is a bar to a prosecution for grave coercion.

The material allegations in the information for light threats are—

* * * the said accused did then and there willfully, unlawfully and feloniously threaten one Cristeto Remigio, by then and there pointing a revolver at the latter, * * *,

whereas the material allegations in the amended, information..for grave coercion are :

* * * the said accused, without authority of law, by means of violence, did then and there willfully, unlawfully and feloniously compel Cristeto Remigio to do something against his will, by then and there holding the latter around the neck and dragging him from the latter's residence * * *.

The evidence that would support a conviction for light threats under the first information would not sustain a conviction for grave coercion charged in the second. The crime x»f

lights threats as charged in the first information is not an ingredient of the crime of grave coercion. Hence the appellant was not placed twice in jeopardy of punishment for the same offense.

The appellant claims that the crime of unjust vexation of which he was convicted had already prescribed. It is true that light offenses prescribe in two months.^[1] In this case, the crime was alleged to have been committed on 4 October 1951. When on 10 October an information for lights threats was filed against the appellant in the Municipal Court, the prescriptive period was interrupted. On 21 May 1952, or before the information for light threats was dismissed on 12 June 1952, upon motion of the private prosecutor, an information for grave coercion had been already filed in the Court of First Instance of Manila against the appellant. The claim of prescription is, therefore, without merit.

The judgment appealed from is affirmed, with costs against the appellant.

Paras, C J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

^[1] Article 90, Revised Penal Code.
