

100 Phil. 533

[G.R. No. L-8917. December 24, 1956]

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ERNESTO NATOZA, ET AL., DEFENDANTS. YOLANDA SARMIENTO, COMPLAINANT AND APPELLANT.

D E C I S I O N

ENDENCIA, J.:

Yolanda E. Sarmiento, the complainant-appellant, filed on October 8, 1954 with the Justice of the Peace Court of Lilio, Laguna, a complaint for serious illegal detention against Ernesto Natoza and John Doe. Thereupon the Justice of the Peace conducted the corresponding investigation in accordance with Sec. 7, Rule 108 of the Rules of Court and subsequently issued the warrant of arrest against the accused. After the arrest the case was set for October 23, 1954 for the formal preliminary investigation and, to that effect, notices were issued to the accused Ernesto Natoza and to the complainant and her witnesses. On that date, Natoza entered a formal waiver of his right to a preliminary investigation and at the same time asked that the case be remanded to the Court of First Instance of Laguna. Accordingly, the record of the case was sent to the Court of First Instance of Laguna where it was docketed as Criminal Case No. 16137. On November 6, 1954 the assistant provincial fiscal of Laguna reinvestigated the case upon previous notification to the complainant-appellant and her counsel and the accused to be present there. Appellant and her counsel failed, however, to appear at the reinvestigation, while the accused did and presented, evidence in his behalf; and the assistant provincial fiscal of Laguna, after considering the evidence for the complainant formerly presented before the Justice of the Peace of Lilio and that adduced by the accused at the reinvestigation, filed a motion for dismissal, the pertinent portions of which are as follows:

“A reinvestigation of this case was conducted by the Office of the Provincial Fiscal on November 6, 1954, notice thereof having been given to the private prosecutor; and at such hearing the accused Ernesto Natoza offered evidence

in his own behalf. No appearance was however made by the offended party or her counsel. At such reinvestigation evidence was submitted consisting of no less than five (5) letters addressed by Yolanda Sarmiento to the accused Ernesto Natoza and sufficiently established to be in 'the handwriting of Yolanda Sarmiento, as reflected by a comparison with her classroom theme papers submitted also by the defendant. The nature of these five letters conclusively show an amorous relation between the complaint and the accused. The profuse endearing terms therein negative the necessity of threat and force that was allegedly employed by the accused on said Yolanda Sarmiento.

"The time and the occasion for the start of the alleged offense in the premises of the Lilio Academy at 9:00 in the morning in the presence of many spectators likewise make it difficult to sustain the claim of intimidation or threat. Testimony has been offered at the reinvestigation by Lina Suiza, a classmate of the offended party, who positively averred that Yolanda Sarmiento was alone when she boarded the LTB truck of her own free will and even entrusted her books to said witness prior to her departure. This is corroborated no less by Miss Josefina Virina, a faculty member of the Lilio Academy who boarded the same bus and saw Yolanda Sarmiento take the truck alone and that the accused Ernesto Natoza was already in the LTB bus even before Yolanda Sarmiento took the same vehicle. This same witness stated that Yolanda Sarmiento sat beside the driver at the left side of the bus, sitting separately and at some distance away from the accused. Throughout the journey from Lilio to San Pablo City there was more than ample opportunity for the offended party to seek help or make an outcry especially under the circumstances above recited and there was none made by her. Upon reaching San Pablo City this opportunity could even be greater for she had to transfer to another truck to reach Pila and again no protest was registered or shown to have been made. The conduct of these two young people upon their arrival at Pila as testified to by Lilia Natoza tend strongly to show a simple impulsive adventure of two young people nearly enough to an elopement which was however frustrated by the efforts of the guardian aunt of the Offended party, ' All the foregoing circumstances supported by evidence both oral and documentary most strongly refute the uncorroborated charge of illegal detention and there is so evidence that any other criminal offense has been committed."

On November 9, 1954, this motion was granted by the Court of First Instance of Laguna. On November 20, 1954, the complainant's counsel filed a motion for reconsideration of the order of dismissal on the ground that the complainant-appellant and her witness Regina Sarmiento were not present in the reinvestigation conducted by the assistant provincial fiscal of Laguna, alleging that they were not duly notified therefor and that said reinvestigation was unconstitutional and illegal and made without "due process of law". The court denied this motion for reconsideration on November 27, 1954, but, again, on December 20, 1954 another petition for reconsideration was filed on the ground that the aforementioned reinvestigation of the case done by the assistant provincial fiscal was contrary to sections 5 and 6, Rule 108 of the Rules of Court and in open violation of the due process clause of our fundamental law. Said petition for reconsideration was also denied, hence the present appeal on the ground that the lower court erred in ordering the dismissal of the complaint and in not holding that the procedure followed in the reinvestigation conducted by assistant provincial fiscal Alampay was contrary to law and the Constitution.

Carefully considered, we find no merit in the foregoing contention. The record does not disclose any abuse on the part of the assistant provincial fiscal in conducting the reinvestigation. He filed the motion for dismissal after weighing the testimonies of the complainant-appellant and her witness Regina Sarmiento, which were attached to the record of the case, as well as the evidence presented by the accused during the reinvestigation. He submitted a well-reasoned motion for dismissal and the lower court, after carefully examining the motion for dismissal, granted it. There was, therefore, no abuse either on the part of the provincial fiscal or the trial court in acting on the case as they did. On the other hand, it appears that the issues raised by the appellant in connection with the power of the fiscal to file the motion for dismissal and the authority of the trial court to grant it were squarely resolved by this Court in *Gonzales vs. Court of First Instance of Bulacan*, 63 Phil. 846, and in *People vs. Orais and Jimenez*, 65 Phil. 744, where it was held that the provincial fiscal who finds the evidence in the preliminary investigation as well as that presented to him insufficient to establish, at least *prima fade*, the guilt of the accused, has perfect authority to file a motion for dismissal, and that the judge who dismissed the case, upon motion of the fiscal on the ground of insufficient evidence to establish *prima fade* the guilt of the accused, commits no reversible error. And this is so because, under Section 4, Rule 106 of the Rules of Court, all criminal actions shall be prosecuted under the direction and control of the fiscal.

With reference to appellant's contention that the reinvestigation of the case conducted by the assistant provincial fiscal of Laguna was illegal and unconstitutional in that it was

done without notice to the complainant or her counsel, we find, in the first place, that, according to the motion for dismissal, the complainant and her counsel were notified of said reinvestigation but that they failed to appear thereat, and between complainant's claim that she was not notified and the fiscal's contention that notification was duly issued to the complainant and her counsel', we are more inclined to believe in the fiscal's contention, for the presumption is that the law was obeyed and official duty was regularly performed. In the second place, even without the notification, the provincial fiscal is clothed with authority to make investigation of the case for the purpose of satisfying himself whether the evidence of record is sufficient for the filing of the corresponding information, and if after his investigation he finds that no sufficient evidence warrants the prosecution of the case, it is within his authority, as prosecuting officer, to file the corresponding motion to dismiss which, if granted, cannot be appealed by the offended party who, under the law, has no right even to compel the fiscal or the court, thru mandamus, to proceed with the case unless there is a clear abuse of discretion on their part, which the record of the case fails to show.

Wherefore, finding no errors in the order appealed from, the same is hereby affirmed.

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