

101 Phil. 586

[G. R. No. L.-9625. May 27, 1957]

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. FRANCISCA CELIS, DEFENDANT AND APPELLANT.

D E C I S I O N

PADILLA, J.:

Francisca Celis was charged with slander in the Municipal Court of Manila, in a complaint subscribed and sworn to on 7 July 1955 by Dominga B. Mutya and filed on 12 July 1955, committed as follows:

That on or about the 9th day of June, 1955, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously and publicly utter and proffer slanderous words and expressions against the undersigned complainant such as "Putangina-asawa ka ng asawa ko sa cuarto namin. Akala mo hindi na ako babalik kaya ikaw pumatol sa asawa ko," and other expressions of similar import, thereby bringing the said undersigned into public contempt, disgrace, dishonor and ridicule, (Case No. D-45987.)

Upon arraignment, the defendant entered a plea of not guilty and after trial the court found her guilty of slander as provided for in Article 35S of the Revised Penal Code and sentenced her to pay a fine of P100, with subsidiary imprisonment in case of insolvency, and the costs. The defendant appealed to the Court of First Instance where it was docketed as Case No. 32104.

The defendant was arraigned under the same complaint filed in the Municipal Court and again she entered a plea of not guilty. The offended party Dominga B. Mutya testified that on June 9, 1955 at about 2:00 o'clock in the afternoon while she was in her room at the second floor of the house situated at 2531 E.

Fernandez, Tocson, Tondo, Manila, she was called by her landlady Dionisia Tiongson who said that the accused was uttering bad words against her. When she went down and asked why, the accused told her "Nagmamaangmangan ka pa. Hindi ba ina-asawa ka ng asawa ko sa cuarto namin? Akala mo yata hindi na ako babalik kaya ka pumatol sa asawa ko." These words, translated into English, mean "You pretend to be innocent. Is it not true that my husband was having sexual intercourse with you in our bedroom? Probably, you thought that I would not come back, that is why you acceded to the desires of my husband." These words were uttered publicly and in a loud voice in the presence of Letieia Torres, Fordeliza Limjeuco and Dionisia Tiongson, the landlady of the offended party. The offended party answered "Baka ikaw," meaning "May be you fire the one." Whereupon, the accused grabbed the offended party by the hair. At this juncture, the husband of the accused arrived and separated the combatants. He brought the accused to their house which was just behind the residence of the offended party. In their house, the accused kept on uttering bad and insulting words against the offended party in the presence of their neighbors who gathered in front of the house listening to her.

At 4:00 o'clock that afternoon, the husband of the accused who owns a jeep for hire was driving the jeep. Upon passing in front of the residence of the offended party who was then in the dress shop on the first floor of the house where she was residing, the husband of the accused turn his face towards the dress shop. He was seen by the accused who immediately shouted the following words "Talagang hindi maaring hindi ka lumingon sa puta," which words, translated into English, mean "It is really impossible for you not to look at the prostitute." Following the uttering of those words, the accused went in front of the dress shop where the offended party was and said, referring to the offended party "Talagang makapal ang mukha ng babaeng iyan," which, translated into English, mean

"That woman is really shameless." The offended party told her to come nearer if what she was saying was true. The accused answered "I will and why not? I really saw my husband having sexual intercourse with you in our room." These words were uttered in the presence of many persons.

After the accused (the complainant) was cross-examined, counsel for the

accused, after conferring with her, manifested that it is the desire of the accused to withdraw her plea of not guilty and to substitute it with a plea of guilty and made a motion to that effect. The court granted the motion and, upon re-arraignment, the accused pleaded guilty to the information. (Decision of the Court of First Instance.)

Whereupon the Court found the defendant guilty of serious oral defamation and sentenced her to 4 months and 1 day of *arresto mayor* and to pay the costs. The defendant has appealed, assigning the following errors claimed to have been committed by the trial court:

1. The trial court erred in finding the accused guilty of the offense of serious oral defamation instead of simple defamation penalized under Article 358 of the Revised Penal Code.
2. The Court erred in imposing on the defendant appellant the penalty of four months and one day of *arresto mayor*.

The appellant contends that the complaint subscribed and sworn to by the offended party charged only slight or simple slander as provided for in the last clause of article 358 of the Revised Penal Code, because according to her it was filed in the Municipal Court where after trial she was found guilty and sentenced to pay a fine of P100, with subsidiary imprisonment, and costs; that on appeal the Court of First Instance could not find her guilty of a more serious offense, because according to her if the complaint charged a more serious crime the Municipal Court did not have jurisdiction to try, convict and sentence her for such more serious offense; and that the Court of First Instance as an appellate court, had jurisdiction only to dismiss the appeal and the complaint filed in the Municipal Court and not to try her upon such complaint.

What confers jurisdiction upon a court to try, convict and sentence a defendant is not the filing of a complaint or information but the crime charged therein. The facts pleaded in the complaint filed in this case charged the crime of slander as defined and punished in the first clause of article 358 of the Revised Penal Code. The Municipal Court did not have jurisdiction to try the appellant upon the complaint filed by the offended party. Its verdict and sentence are null and void for lack of jurisdiction. The appellant should have raised in the Court of First Instance the question of nullity of the verdict and sentence; but instead

of doing so she entered a plea of not guilty when arraigned and went ahead without objection with the trial, and after the offended party had testified she offered to withdraw her plea of not guilty to enter one of guilty, upon which the sentence appealed from was rendered. The trial court entered upon and exercised its original jurisdiction when it tried and sentenced the appellant.

There being no modifying circumstance the penalty to be imposed is in its medium period, or 1 year and 1 day to 1 year and 8 months of *prision correctional*; and pursuant to the Indeterminate Sentence Law, the minimum penalty is 1 month and 1 day of *arresto mayor* and the maximum, 1 year and 8 months of *prision correctional*, and the accessories of the law. Modified as to penalty only the sentence appealed from is affirmed, with costs against the appellant.

Bengzon, Montemayor, Reyes, A., Bautista Angelo, Labrador, Conception, Reyes, J. B. L., Endencia, and Felix, JJ., concur.