102 Phil. 229

[G. R. No. L-10212. October 30, 1957]

JOSE ARCHES, PETITIONER AND APPELLANT, VS. MUNICIPAL JUDGE, CITY OF ROXAS, AND CITY ATTORNEY OF THE CITY OF ROXAS, RESPONDENT AND APPELLEES.

D E C I S I O N

REYES, A., J.:
This is an appeal from an order of the Court of First Instance of Capiz dismissing appellant's petition for certiorari.

It appears that on February 12, 1955, an information was filed in the municipal court of Roxas City, charging the appellant Jose Arches with the crime of less serious physical injuries. The information contained the following certification of the city attorney subscribed and sworn to before the municipal judge:

> "Pursuant to Section 24 of Republic Act 603, a preliminary investigation has been conducted in this case under my direction having examined the witnesses under oath and I am of the opinion that the offense complained of has been committed and that there is reasonable ground to believe that the accused herein has committed it."

Following his practice in such cases, the municipal judge, despite the above certification, conducted his own investigation, and having satisfied himself that the offense charged had been committed and that there was reasonable ground to believe that it was committed by the accused, issued a warrant for the arrest of the latter. But to avoid detention, the accused put up bail and then filed a motion to dismiss on the ground that the court had not acquired jurisdiction over his person because, according to him, the warrant for his arrest was issued without "previous examination conducted by the judge" and was for that reason not valid. The motion having been denied, the accused petitioned the Court of First Instance

for a writ of certiorari and injunction to prevent the municipal judge from hearing the case. And this petition having been likewise denied, the accused took the present appeal, which the lower court elevated here, presumably on the theory that a question of jurisdiction was involved.

We find the appeal to be without merit. Contrary to appellant's claim, the record supports the finding below that before issuing the warrant of arrest in this case the municipal judge first made his own investigation to determine for himself if there was "probable cause", that is to say, whether the offense charged had been committed and that there was reasonable ground to believe that it was committed by the accused. This is obvious from the following excerpt from the testimony of the municipal judge:

> "Q. Will you kindly relate to the Honorable Court what procedure you took when criminal case No. 1124 for leas serious physical injuries against Jose A. Arches was filed?
>
> "A. Yes, sir. In the morning of February 12, 1955, the City Attorney accompanied by one Francisca Arches went inside my chamber and presented to me an information entitled People of the Philippines versus Jose A. Arches for less serious physical injuries, which information has been marked as exhibit "A" of the petitioner. Upon reading said information, the City Attorney also showed to me the supposed affidavit of one Francisca Arches who was then inside the chamber of the judge.
>
> "Court:
>
> "Q. She was the complainant herself?
>
> "A. She was the complainant herself.
>
> "*Atty. Bellosillo continuing*:
>
> "Q. And then?

> "A. And then, as Judge, after reading said information and affidavit of the complainant, Francisca Arches, I was shown by the City Attorney the contusions and physical injuries in the person of the complainant, Francisca Arches, which were then noted by me and, after that, I asked the complainant whether what she stated in the information is true that it was Jose A. Arches who caused to her such physical injuries and that whether she was willing to ratify that under oath, and after having asked these questions, the complainant, Francisca Arches, answered under oath in the affirmative tu my said questions for which I then entered an order, which is exhibit "B" of the petitioner, and signed the corresponding warrant of arrest fixing the sum of five hundred pesos for the provisional liberty of the accused, Jose A. Arches."

The above testimony is cor rob orated by the city attorney, who on his part testified that—

> '* * * as such City Attorney, on February 1, 1955, I conducted the necessary investigation on. the criminal complaint of Francisca Arches; that on that same day 1 have never sees Attorney Jose A. Arches; that alter my investigation of the complaining witnesses, Francisca Arches, together with her witnesses, I filed the corresponding information for less serious physical injuries against the petitioner herein, Jose A. Arches, with the Municipal Court of Roxas City; that after the presiding Judge of the Municipal Court has investigated the complaining witness, Francisca Arches, who retained her statements before the Municipal Judge, and the Municipal Judge being satisfied that there was probable cause against the accused, Joss A. Arches, issued the corresponding warrant of arrest; * * *"' (p. 34, t. a. n.)

"We find no justification for disbelieving the sworn declaration of the municipal judge and the city attorney. It is true, as counsel for appellant would 'want us to note, that no testimony of the complainant Francisca Arches, not even an abstract thereof, appears attached to the record. But that in itself does not disprove the municipal judge's declaration that the complainant was in fact investigated by him. If her statements before him were not taken down, it was because, as explained elsewhere in this testimony, the substance of those statements was already embodied in her affidavit, which was in the possession of the city attorney. That affidavit, so it appears, was shown to the judge by the city attorney and its contents ratified by the affiant.

It may not be amiss, in this connection, to state again what this Court has already

repeatedly declared and which if summarized in the opinion of the Chief Justice in the case of Amarga vs. Abbas (98 Phil., 739, 52 Off. Gaz. [5] 2545) as follows:

> "Section 1, paragraph 3, of Article III of the Constitution provides that 'no warrant shall issue but upon probable cause, to be determined by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce.' As was said in the case of U. S. vs. Ocampo, 18 Phil. 1, 41-42, 'The question whether "probable cause" exists or not must depend upon the judgment and discretion of the judge or magistrate issuing the warrant. It dries not mean that particular facts must exist in each particular case. It simply means that sufficient facts must be presented to the judge or magistrate issuing the warrant to convince him, not that the particular person has committed the crime, but that there is probable cause for believing that the person whose arrest is sought committed the crime charged. No rule can' be laid down which will govern the discretion of the court in this matter. If he decides upon the proof presented, that probable cause exists, no objection can be made upon constitutional grounds against the issuance of the warrant. His conclusion as to whether "probable cause" existed or not is final and conclusive. If he is satisfied that "probable cause" exists from the facts stated in the complaint, made upon the investigation by the prosecuting attorney; then his conclusion is sufficient upon which to issue the warrant for arrest. He may, however, if he is not satisfied, call such witnesses as he may deem necessary before issuing the warrant. The issuance of the warrant of arrest is *prima facie* evidence that in his judgment at least, there existed "probable cause" for believing that the person against whom the warrant is issued is guilty of the crime charged. There is no law which prohibits him from reaching the conclusion that "probable cause" exists from the statement of the prosecuting attorney alone, or any other person whose statement or affidavit is entitled to credit in the opinion of the judge or magistrate.' "

It clearly appearing from the record that the municipal judge, before issuing the warrant, for the arrest of the accused, conducted his own investigation to satisfy himself that "probable cause" existed justifying the issuance of the warrant, the order appealed from must be, as it is hereby, affirmed. With costs against the appellant.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes,

J. B. L., and *Endencia, JJ.,* concur.
Felix, J., concurs in the result.

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