G.R. No. L-7528

[G.R. No. L-7528. December 18, 1957]

THE PEOPLE OF THE PHILIPPINES, COMPLAINANT-APPELLANT VS. ABEL G. FLORES, ET AL., DEFENDANTS-APPELLEES.

D E C I S I O N

ENDENCIA, J.:

In Civil Case No. 74 of the justice of the peace court of Bula, province of Camarines Sur, for replevin, entitled Maria Contreras, et al., versus Salvador Arcilla, et al., defendant-appellee Abelardo G. Flores, as counsel for his co-accused Salvador Arcilla, filed a motion to annul all the actuations therein of the justice of the peace Nicolas Papica, the pertinent portions of which are couched in the following language:

> "2. That Atty. Luis Contreras as well as the presiding Juctice of the Peace of Bula, Atty, Nicolas Papica since before March of 1952, were law partners of the law firm, denominated, 'Contreras – Papica', with offices at Naga City;

> "3. That Justice of the Peace Nicolas Papica has judicial knowledge of the fact that there exists a pending tenancy complaint filed by the tenants of Atty. Luis Contreras one of them is defendant Salvador Arcilla (Tenancy Case No. 3169-R, Lazaro Jastro, et al., vs. Atty. Luis Contreras et al.), and that when this case was indorsed by the Court of Industrial Relations to the Justice of the Peace Nicolas Papica for trial, the latter inhibited himself to hear this case on the ground that he is the law associate of Atty. Luis Contreras;

"4. That when Atty. Luis Contreras, therefore, filed this case with this Court on April 26, 1952,and asked the aforesaid judge to issue an order for the immediate delivery of 8-1/2 cavanes of palay, Justice of the Peace Nicolas Papica should not have acted on the same petition and should have immediately inhibited himself from1 acting on the same being the law partner of Atty. Luis Contreras, who is one of the plaintiffs and their counsel, as his actuations would be subject to imputation of partiality;

"5. That Justice of the Peace Nicolas Papica however, instead of inhibiting himself from this case and with full knowledge that the present complaint is malicious and he would be promoting the interest of the plaintiffs, he issued an order in this case, dated May 25, 1952, commanding the Provincial Sheriff to take from the defendants 8-1/2 cavanes of palay which was immediately complied with by the Provincial Sheriff;

"6. That although Justice of the Peace Nicolas Papica had knowledge of the existing tenancy case Between Atty. Luis Contreras and defendant Salvador Arcilla., and that the existing litigation between them is tenancy in nature and hence, this Court has no jurisdiction to try this case, he gave due course to the immediate delivery of personal property and issued the aforesaid order, to the prejudice of the defendant. Salvador Arcilla, who has been arbitrarily deprived of 8-1/2 cavanes of palay as a result of the collusion between the law-partners 'Contreras & Papica';

"7. That to prove there has been malice, strategy and deliberate conspiracy to prejudice the defendant of the 8-1/2 cavanes of palay because of their relation as law partners, Atty. Contreras filed a belated motion dated May 14, 1952 to inhibit his law partner after having obtained his purpose the unjust and illegal sequestration of the 8-1/2 cavanes of palay;

> "8. That on May 8, 1952 defendant Salvador Arcilla upon receipt of copy of the complaint immediately filed his motion to dismiss but Justice of the Peace Papica being the law partner of Atty. Contreras who is one of the plaintiffs and their counsel had imposed upon the aforesaid judge not to act on the same, with the result that after the lapse of the 5-day from date of sequestration o£ the Provincial Sheriff of the 8-1/2 cavanes of palay, Atty. Contreras appropriated the 8-1/2;"

Attorney Luis Contreras felt offended, and on the conviction that the foregoing motion was maliciously presented by Atty. Flores in order to dishonor and discredit him, he filed with the court of first instance of Camarines Sur a criminal complaint for libel which was docketed as Criminal Case No. 2630, quoting therein as libelous only paragraphs 5, 6, 7 and 8 of the motion, and alleging further "that by means thereof the complainant was injured in his reputation, and in his good name and credit as a lawyer, and in his practice as such, causing him damage in the sum of P5,000.00."

Upon petition of the provincial fiscal, the case was referred to the municipal court of the City of Naga for its preliminary investigation, but said court, on July 25, 1952, returned the case to the court of first instance of Camarines Sur in view of the fact that the accused waived their right to such preliminary investigation.

On September 3, 1952j the provincial fiscal filed a potion praying for the dismissal of the case on the ground that, in his opinion, "the acts complained of in the above entitled case which is a part of a pleading filed in Court by the accused to protect the interest of his client, strongly worded as it is, is privileged or falls under a privileged communication and therefore is not libelous as provided for if Article 354 of the Revised Penal Code," Acting upon this motion, the court dismissed the case upon the following conclusion:

> "A "perusal of these paragraphs reveals that they merely recite the official actuations of the Justice of the Peace, except a remark in paragraphs 6 and 8 to the effect that the acts of said Justice of the Peace are the result of a collusion between him and the herein complainant who are law-partners, as a result of which said complainant was able to appropriate for himself 8-1/2 cavanes of palay. Undoubtedly this remark dons not form a part of the acts of the Justice of

> the Peace which are sought to be annulled, but they are relevant, to the issue raised in the motion which is, as stated above, whether to annul or not the proceedings taken by the said Justice of the Peace. Undoubtedly the language is strong, but lawyers have a right to state the reasons on which their motions or petitions are based, although such reasons may incidentally reflect upon the honor and credit of a judge or of the opposing counsel. This is so, because 4n a democracy the right of the people to criticize the official acts of public servants must not be discouraged if a clean and honest government is to be attained. A judge and a lawyer, the latter being an officer of the court, must have to bear at times in their respective capacities, like any other public servant, the brunt of strong criticisms of their acts. Such criticisms should not be held as libelous, otherwise, few, if any, would dare venture to air publicly whatever misdeeds or excesses they may commit in the exercise of their official and professional duties."

The complainant appealed from this order, and in this instance contend that the lower court erred, in declaring the defamatory statements as privileged communication and in dismissing the complaint. On April 30, 1954, the accused filed with this court a motion to quash appeal alleging that the same is improper and that it conflicts with Sec. 4 of Rule 106 of the Rules of Court. Upon opposition of the appellant, said motion was provisionally denied so as to give way to the determination of the question involved on its proper merit.

We find that the principal question before us is whether or not the appeal may be entertained by this Court, it having been filed by a complainant in a libel case and not by the provincial fiscal who precisely asked for its dismissal after finding that there was no sufficient evidence to establish the guilt of the accused. This question is not new; it has already been ruled upon by this Court in several cases. In the case of Peo. vs. Veles, 77 Phil., 1026, a complaint for libel was dismissed in the lower court upon motion of the defendant and without opposition on the part of the fiscal who was of the opinion that the supposed libelous document subject of the complaint was a privileged communication. The offended party in that case appealed from the order of dismissal, but this Court, upon the Solicitor-General's motion, dismissed the appeal, holding that the offended party cannot appeal from the order of dismissal in a criminal case. And in the case of Peo. vs. Benjamin Liggayu, et al., G.R. No. L-8224 decided on October 31, 1955, wherein the offended party likewise appealed from the order of the lower court dismissing the case upon motion of the provincial fiscal we hold that the offended party has no right to appeal, for –

“x x x To permit an offended party to appeal from an order dismissing a criminal case upon petition of the fiscal would be tantamount to giving said party as much right to the direction and control of a criminal proceeding as that of the fiscal. Granting that the right to appeal is recognized under the old law (Sec. 107, Gen. Orders No. 58), it would seem that under the new law, especially section 4 of Rule 106 which provides that the prosecution shall be ‘under the direction and control of the fiscal,’ without the limitation imposed by Section 107 of General Orders No. 58 subjecting the direction of the prosecution to the right ‘of the person injured to appeal from any decision of the court denying him a legal right,’ said right to appeal by an offended party from an order of dismissal should no longer be recognized in the offended party. Under General Orders No. 58, the fiscal was merely to <u>direct</u> the prosecution and this <u>direction</u> is subject to the right of the offended party; under the new Rules of Court, the fiscal has the <u>direction</u> and <u>control</u> of the prosecution, without being subject to the right of intervention on the part of the offended party. Even under the old Code of Criminal Procedure (Gen. Orders No. 58) this Court has held that if the criminal action is dismissed by the court on motion of the provincial fiscal upon the ground of insufficiency of the evidence, the offended party has no right to appeal, his remedy being a separate civil action if the proper reservation is made therefor. (Peo. vs. Joaquin Lipana, 72 Phil. 166.) To the same effect is the case of People vs. Florendo, 73 Phil. 679, decided under the new Rules of Court, wherein we said-

> ‘It is thus evident, in the light of the history of the enactment of section 107 of General Orders No. 58, as reflected in the observations of one of its framers and explanatory decisions of this Court, that the offended party may, as of right, intervene in the prosecution of a criminal action, but then only when, from the nature of the offense, he is entitled to indemnity and his action therefor has not by him been waived or expressly reserved. This is the rule we have now embodied

in section 15 of Rule 106 of the new Rules of Court, elsewhere quoted. But, as expressly provided in this same section, this right of intervention in appropriate cases is subject to the provision of section 4 of the same Rule which reads as follows:

> 'All criminal actions either commenced by complaint or information shall be prosecuted under the direction and control of the fiscal.'

"As a necessary corollary to this provision, we laid down the principle that even if the offense is one where civil indemnity might rightly be claimed, if the criminal action is dismissed by the court, on motion of the fiscal, on the ground of insufficiency of the evidence, the offended party cannot appeal from the order of dismissal because otherwise the prosecution of the offense would, in the last analysis, be thrown beyond the direction and control of the fiscal. (Gonzales vs. Court of First Instance of Bulacan, supra; People vs. Orais, supra; People vs. Moll, 40 Off. Gaz. 2d Supp. p. 231; People vs. Lipana, 40 Off. Gaz., 3456.) In the cases cited, statements were, however, made by this Court importing a grant of right to the offended party to appeal upon a question of law. We reaffirm these statements as a correct qualification of the rule, it being understood, however, that such right to appeal upon a question of law presupposes the existence of a rightful claim to civil indemnity and the offended party has neither waived nor reserved expressly his action therefor."

The motion of the provincial fiscal of Camarines Sur asking for the dismissal of the case at bar was premised on two grounds, firstly, that there was no sufficient evidence to establish the criminal responsibility imputed upon the accused, and, secondly, that the facts stated in the complaint come under the classification of privileged communication. The trial court, acting favorably upon it, found that the alleged libelous matter consisted mainly in the essential averments in the motion filed by Atty. Flores seeking the annulment of the proceedings had in Civil Case No. 74 above referred to, and that said attorney Flores had the right to allege them for the protection of the rights of his client Salvador Arcilla, his co-accused herein, even if the language used is strong and very critical of the actuations of both the complainant and the justice of the peace. It is, therefore, our opinion that the lower court committed no error in dismissing appellant's complaint, and in consonance with the rulings laid down by us in the cases quoted herein above regarding the right of complainants in criminal cases, we find no ground for sustaining the appeal now under consideration, for, at any rate, Art. 33 of the new Civil Code allows the complainant to institute a separate and independent civil action, if any, for the alleged libelous motion filed by appellees in Civil Case No. 74 of the justice of the peace court of Bula, Camarines Sur.

WHEREFORE, finding no error in the order appealed from, the same is hereby affirmed, without costs.

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

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