

**REPUBLIC OF THE PHILIPPINES, (PEOPLE OF THE PHILIPPINES),
PETITIONER, VS. HON. DELFIN VIR. SUNGA, AS PRESIDING JUDGE,
CFI BRANCH I, CAMARINES SUR, ARISTON ANADILLA, RAFAEL
ANADI...**

G.R. No. L-38634. June 20, 1988

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for review on certiorari of the order[**] of the Court of First Instance of Camarines Sur, 10th Judicial District, Branch I, dated 20 March 1974, dismissing motu proprio Criminal Case No. L-244, entitled "People of the Philippines, Complainant versus Ariston Anadilla, Rafael Anadilla and Jose Anadilla, Accused," as well as of the order dated 22 April 1974 of the same court denying the motion for reconsideration of said earlier order.

The facts are not disputed.

On 10 August 1964, an information for Attempted Homicide was filed by the Provincial Fiscal of Camarines Sur against accused-private respondents Rafael Anadilla, Ariston Anadilla and Jose Anadilla. Trial of the case was set on 11 and 12 March 1974. The hearing set on 11 March 1974 was, however, postponed in view of the absence of one of the accused, respondent Rafael Anadilla who had not yet been arrested by the police authorities. On the same date, the court a quo issued an order for the arrest of said accused, and at the same time set the trial of the case for 29 and 30 July 1974.

On 20 March 1974, the court a quo issued the now assailed order which reads:

"Considering that the offended party, Jose Dadis is no longer interested in the further prosecution of this case and there being no objection on the part of the accused Ariston Anadilla, Rafael Anadilla and Jose Anadilla, this case is hereby DISMISSED with costs de oficio.

"Consequently, the order of arrest issued by this Court against the accused Rafael Anadilla dated March 11, 1974, is hereby ordered lifted and has no force and effect.

"The bail bond posted for the provisional liberty of the accused is hereby ordered cancelled.

"In the case of Ariston Anadilla and Jose Anadilla, the Provincial Warden is hereby ordered to release said accused from their detention immediately upon receipt of this order.

"SO ORDERED."[1]

The affidavit of desistance, relied upon by the aforequoted order, was executed by the offended party on 20 March 1974 and subscribed and sworn to before the branch clerk of court Atty. R.B. Torrecampo. It alleged, among others, that:

"That he was the complainant in Criminal Case No. L-244, entitled, People vs. Ariston Anadilla, et al., for Attempted Homicide, which case is pending before the first branch of this Court; that he is no longer interested in the further prosecution of this case and that he has already forgiven the accused for their acts; that his material witnesses could no longer be contacted and that without their testimonies the guilt of the accused cannot be proven beyond reasonable doubt, and that in view of these circumstances, he requests the Prosecuting Fiscal for the dismissal of the said case." [2]

The Provincial Fiscal moved to reconsider the order of dismissal. This was denied by the court a quo in an order dated 22 April 1974. [3] This petition was thereupon filed before this Court.

The issue in this petition is whether the court a quo may dismiss a criminal case on the basis of an affidavit of desistance executed by the offended party, but without a motion to dismiss filed by the prosecuting fiscal.

The issue presented is not novel. In *Crespo v. Mogul*, [4] promulgated on 30 June 1987, the Court had occasion to state the rule in regard to the respective powers of the prosecuting fiscal and the court, after the complaint or information has been filed in court. In said case, the issue raised was whether the trial court, acting on a motion to dismiss a criminal case filed by the Provincial Fiscal upon instructions of the Secretary of Justice to whom the case was elevated for review, may refuse to grant the motion and insist on the arraignment and trial of the case on the merits.

In the *Crespo* case, an information for Estafa had already been filed by the Assistant Fiscal before the Circuit Criminal Court of Lucena City. Arraignment of the accused and trial of the case were, however, deferred because of a pending appeal by the accused/respondent to the Secretary of Justice. Reversing the resolution of the Office of the Provincial Fiscal, the Undersecretary of Justice directed the fiscal to move for immediate dismissal of the information filed against the accused. Upon such instructions, the Provincial Fiscal filed a motion to dismiss for insufficiency of evidence. The Judge denied the motion and set the arraignment. On a certiorari recourse to the Court of Appeals, the petition was dismissed. Review of the Court of Appeals decision was then sought by the accused with this Court, raising the issue previously stated herein. Resolving, the Court held:

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"The filing of a complaint or information in Court initiates a criminal action. The Court thereby acquires jurisdiction over the case, which is the authority to hear and determine the case. When after the filing of the complaint or information a warrant for the arrest of the accused is issued by the trial court and the accused either voluntarily submitted himself to the Court or was duly arrested, the Court thereby acquired jurisdiction over the person of the accused.

"The preliminary investigation conducted by the fiscal for the purpose of determining whether a prima facie case exists warranting the prosecution of the accused is terminated upon the filing of the information in the proper court. In turn, as above stated, the filing of said information sets in motion the criminal action against the accused in Court. Should the fiscal find it proper to conduct a reinvestigation of the case, at such stage, the permission of the Court must be secured. After such reinvestigation the finding and recommendations of the fiscal should be submitted to the Court for appropriate action. While it is true that the fiscal has the quasi-judicial discretion to determine whether or not a criminal case should be filed in court or not [sic], once the case had already been brought to Court whatever disposition the fiscal may feel should be proper in the case thereafter should be addressed for the consideration of the Court. The only qualification is that the action of the Court must not impair the substantial rights of the accused or the right of the People to due process of law.

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"The rule therefore in this jurisdiction is that once a complaint or information is filed in Court and disposition

of the case as its dismissal or the conviction or acquittal of the accused rests in the sound discretion of the Court. Although the fiscal retains the direction and control of the prosecution of criminal cases even while the case is already in Court he cannot impose his opinion on the trial court. The Court is the best and sole judge on what to do with the case before it. The determination of the case is within its exclusive jurisdiction and competence. A motion to dismiss the case filed by the fiscal should be addressed to the Court who has the option to grant or deny the same. It does not matter if this is done before or after the arraignment of the accused or that the motion was filed after a reinvestigation or upon instructions of the Secretary of Justice who reviewed the records of the investigation." (Italic supplied).[5]

In the case at bar, the Court has taken note that before the case was set for trial, almost ten (10) years had elapsed from the date of filing of the information. It was not, therefore, unusual that the complainant-offended party, in his affidavit of desistance, manifested that his material witnesses could no longer be contacted, but, without their testimony, the guilt of the accused could not be proved beyond reasonable doubt.

The prosecuting fiscal in his motion for reconsideration of the order dismissing the case, obviously believed that despite such manifestation of the complainant, he (fiscal) could prove the prosecution's case.

To avoid similar situations, the Court takes the view that, while the Crespo doctrine has settled that the trial court is the sole judge on whether a criminal case should be dismissed (after the complaint or information has been filed in court), still, any move on the part of the complainant or offended party to dismiss the criminal case, even if without objection of the accused, should first be referred to the prosecuting fiscal for his own view on the matter. He is, after all, in control of the prosecution of the case and he may have his own reasons why the case should not be dismissed. It is only after hearing the prosecuting fiscal's view that the Court should exercise its exclusive authority to continue or dismiss the case.

WHEREFORE, the petition is hereby DISMISSED. Without costs.

SO ORDERED.

Yap, C. J. (Chairman) , Melencio-Herrera, Paras, and Sarmiento, JJ., concur.

[**] Issued by respondent Hon. Del fin Vir. Sunga.

[1] Annex "A". Rollo, p. 7.

[2] Annex "C", Rollo, p. 13.

[3] Annex "C", Rollo, p. 13.

[4] 151 SCRA 462.

[5] Ibid., pp. 467-471

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