

ROMANA CAMPITA, PETITIONER AND APPELLANT, VS. HON. AQUILINO L. VILLANUEVA, PRESIDING OVER THE MUNICIPAL COURT OF LUCENA CITY AND HOBART DATOR, RESPONDENTS AND APPELLEES.

G. R. No. L-20228. November 28, 1964

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an appeal from an order of the Court of First Instance of Quezon, dismissing the petition in the above entitled case.

In a complaint filed with the Court of First Instance of Quezon on May 28, 1962, and docketed therein as Case No. 1342-G thereof, Hobart Dator, the municipal mayor of Lukban, province of Quezon, was charged by petitioner Romana Campita with the crime of acts of lasciviousness, allegedly committed on May 24, 1962. A little over a week later, or on June 7, 1962, an officer of the Constabulary, in turn, accused petitioner, in Criminal Case No. 321 of the Municipal Court of Lucena City, of serious oral defamation, for having allegedly made, on May 27, 1962, the following defamatory statement: "Yang si Mayor Dator ay walang hiya, bastos, masamang tao at manggagahasa". Petitioner moved to dismiss this complaint against her upon the ground that the Said municipal court had no jurisdiction over the case, because the aforementioned defamatory statement imputes to Dator the crime of either rape or acts of lasciviousness, none of which may be prosecuted except upon complaint of the offended party, pursuant to Article 360 of the Revised Penal Code. The municipal court, presided over by Hon. Aquilino Villanueva, Municipal Judge denied the motion to dismiss. Petitioner filed a motion for reconsideration of the order to said effect, which was, also, denied. Then, Judge Villanueva caused the petitioner to be arraigned and set the case for hearing.

Thereupon, petitioner instituted in the Court of First Instance of Quezon the present action for certiorari, prohibition and mandamus against Judge Villanueva¹ and Hobart Dator. After alleging the foregoing facts, petitioner prayed for a writ of preliminary injunction restraining respondent Judge from further proceeding in said Case No. 321 until further orders from said court of first instance, that the arraignment in said case be nullified and that thereafter respondent Judge be prohibited permanently from proceeding with the hearing and determination of said case and ordered to dismiss the same. Respondents Villanueva and Dator moved to dismiss the petition in this case, which was granted. Hence the present appeal.

The fourth paragraph of Article 360 of the Revised Penal Code, upon which petitioner's motion to dismiss in Case No. 321 was based, reads:

* * * * *

"No criminal action for defamation which consists in the imputation of a crime which cannot be prosecuted de oficio shall be brought except at the instance of and upon complaint expressly filed by the offended party."

The lower court opined that this paragraph does not apply to cases of oral defamation because the first paragraph of said Article 360 reads:

"Any person who shall publish, exhibit or cause the publication or exhibition of any defamation in writing or by similar means, shall be responsible for the same."

Respondent Judge deduced from this provision that the fourth paragraph of Article 360 applies only to defamations in writing or by similar means.

This view is untenable. Article 360 in part of Section Two of Chapter I, Title Thirteen of the Revised Penal Code. Said Section Two is entitled "General Provisions". Although, said Chapter I, is captioned "Libel", and Section One thereof is entitled "Definition, forms and punishment of this crime" (libel), said Section One includes Articles 358 and 359 prescribing the penalty for "slander or oral defamation", and "slander by deed," respectively. Hence, the provisions of Articles 360, 361 and 362 of said Code, contained in Section Two, entitled "General Provisions", should be considered applicable, not only to libel by means of writing or other similar means, but, also, to oral defamation, and to slander by deed, unless the text of law indicates otherwise.

Thus, the first paragraph of Article 360, entitled "Persons Responsible," makes specific reference to defamations "in writing or by similar means." So, too, the second paragraph of said Article, expressly refers to "the author, editor of a book or pamphlet or the editor, or business manager of a daily newspaper, magazine or serial publication." containing a defamatory statement. Similarly, the third paragraph of the same Article is explicitly limited to "cases of written defamation." Unlike these three paragraphs, the fourth paragraph thereof does not qualify or characterize the class of defamation therein alluded to. What is more the phrase "no criminal action for defamation" with which the paragraph begins, indicates that it applies to all kinds of defamation. Hence, this Court applied it in *People vs. Martinez* (76 Phil. 509), *US. vs. Castañares* (18 Phil. 210), *U.S.vs. De la Cruz* (17 Phil. 139) and *Gorostiza vs. People* (L-9091, August 28, 1956), involving cases of oral defamation.

It is next, urged, that petitioner's statement quoted in the complaint in Case No. 321 does not impute to Dator a crime which cannot be prosecuted de oficio. Respondents maintain that the words "Walang hiya, bastos, masamang tao" contained in said statement, impute, not a crime, but merely a vice or defect, and that the term "manggagahasa," likewise, found in said statement, comes from the word "gahasa" which means force, and, accordingly, implies a person who uses force. It is true that "gahasa" has reference to "force," or violence, but, it is no less true that "gahasa" is never used or understood to refer to force or violence in general — such as force to lift an object or to break or destroy the same — but only, to force or violence when applied to a woman, for the purpose of satisfy the lust of the actor. Force or violence is used, for instance, to pull a cart or to throw down the opponent in a wrestling match. Yet, it would be ridiculous to spy that this was accomplished through "gahasa."

Moreover, the fact that said term "manggagahasa" is preceded — in the statement allegedly made by petitioner herein — not only by the phrases "walang hiya" and "masamang tao" but, also, by the word "bastos" indicates clearly that Dator had allegedly resorted to force or violence to satisfy his lewd designs. Then, too, it is obvious that the complaint against petitioner in Case No. 321 is merely an aftermath of her complaint against Dator for acts of lasciviousness allegedly performed by him upon her person. There can be no doubt, therefore, that the above quoted statement of petitioner herein imputed to appellee the commission of the crime of either acts of lasciviousness or rape. Since neither may be prosecuted "except upon complaint filed by the offended party" (Art. 344, Revised Penal Code), it follows that the complaint in Criminal Case No. 321 did not confer jurisdiction upon the municipal court of Lucena to try petitioner for the offense therein charged.

Wherefore, the order appealed from is hereby reversed and another one shall be entered annulling the proceedings in said Criminal Case No. 321 and permanently restraining respondent Judge from hearing and deciding the same,

with costs against respondent Hobart Dator. It is so ordered.

Bautista Angelo, Reyes, J. B. L. Barrera, Paredes, Regala, Makalintal, Bengzon, J. P. and Zaldivar, JJ. concur.

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