

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. ISAURO SANTIAGO, DEFENDANT AND APPELLEE.

G.R. No. L-17663. May 30, 1962

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

The information herein alleges that defendant Isauro Santiago has committed the crime of "libel" as follows:

"That on or about the 5th day of October, 1959, in the City of Manila, Philippines, the said accused, for the evident purpose of injuring the name and reputation of Mayor Arsenio H. Lacson, and of impeaching and besmirching the latter's virtue, honesty, honor and reputation, and with the malicious intent of exposing him to public hatred, contempt and ridicule, did then and there wilfully, unlawfully, feloniously, maliciously and publicly call said Mayor Arsenio H. Lacson, in the course of a political speech delivered at 392 Fraternal, Quiapo, in said city, thru the medium of an amplifier system and before a crowd of around a hundred persons, the following to wit: 'Arsenio Hayop Lacson, pinakawalang hiyang Alkalde, Mayor Lacson raped a woman at the Aroma Cafe and another City Hall employee In the Shellborne Hotel', which are false, malicious and highly defamatory statements against Mayor Arsenio. H. Lacson, delivered with no good intentions or justifiable motive, but solely for the purpose of injuring the name and reputation of said Mayor Arsenio H. Lacson and to expose him to public hatred, contempt and ridicule".

Defendant moved to quash this information upon the ground that the crime charged therein is, not libel, but oral defamation, which has already prescribed, it having been allegedly committed on October 5, 1959, or more than six (6) months prior to the filing of the information on August 11, 1960. The Court of First Instance of Manila granted this motion and, accordingly, quashed the information, with costs de officio. Hence, this appeal by the prosecution.

The only issue in this case is whether the crime charged in the information is oral defamation, under Article 358 of the Revised Penal Code, or libel, under Article 355, in relation to Article 353, of the same Code. Said provisions read:

"ART. 358—Slander.—Oral defamation shall be punished by arresto mayor in its maximum period to prison correccional in its minimum period if it is of a serious and insulting nature; otherwise, the penalty shall be arresto mayor or a fine not exceeding 200 pesos".

"ART. 355—Libel by means of writings or similar means.—A libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be punished by prison correccional in its minimum and medium periods or a fine ranging from 200 to 6,000 pesos, or both, in addition to the civil action which may be brought by the offended party."

"ART. 353. Definition of libel—A libel is a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person or to blacken the memory of one who is dead."

The prosecution maintains that "the medium of an amplifier system", thru which the defamatory statements imputed to the accused were allegedly made, falls within the purview of the terms "writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means", appearing in said Article 355, in the sense, at least, that an "amplifier system" is a means "similar" to "radio".

This pretense is untenable. To begin with, as correctly stated in defendant's brief, "radio as a means of publication is 'the transmission and reception of electromagnetic waves without conducting wires intervening between transmitter and receiver' (Library of Universal Knowledge)" (see, also, 18 Encyclopedia Britannica, p. 885), "while transmission of words by means of an amplifier system", such as the one mentioned in the information, "is not thru 'electromagnetic waves' and is with the use of 'conducting wires' intervening between the transmitter * * * and the receiver * * *".

Secondly, even the word "radio" used in said Article 355, should be considered in relation to the terms with which it is associated—"writing, printing, lithography, engraving * * * phonograph, painting, theatrical exhibition or cinematographical exhibition"—all of which have a common characteristic, namely, their permanent nature as a means of publication, and this explains the graver penalty for libel, than that prescribed for oral defamation. Thus, it has been held that slanderous statements forming part of a manuscript read by a speaker over the radio constitute libel (*Sorensen vs. Wood*, 243 N. W. 82, 82 A.L.R. 1109; *Nules vs. Wasmer*, 20 P. [2d] 487, 104 A.L.R. 877), whereas the rules governing such offense were declared inapplicable to extemporaneous remarks of scurrilous nature, made ad libitum in the course of a radio broadcast by a person hired to read a prepared text, but not appearing thereon (*Summit Hotel Co. vs. National Broadcasting Co.*, PA-124 A.L.R. 963),

In short, the facts alleged in the information constitute the crime of oral defamation punished in Article 358 of the Revised Penal Code, which prescribed six (6) months after its commission, or on April 5, 1960 (Articles 90 and 91, Revised Penal Code), over four (4) months before the filing of said information, on view of which the order appealed from is affirmed, without special pronouncement as to costs. It is so ordered.

Padilla, Bautista Angelo, Reyes, J. B. L., Barrera, Paredes and Dizon, JJ., concur.

Order affirmed.

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