

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. DIONISIO MABONG, DEFENDANT AND APPELLANT.

G. R. Nos. L-9805-06. March 29, 1957

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

In the afternoon of May 20, 1955, in the barrio of Rizal, municipality of Lianga, province of Surigao, Rufo Verano, who was a rural policeman, heard some people shouting, that one Dionisio Nabong went berserk. Verano went out of his house armed with a club and saw Mabong stab one Cipriano Tabel with a bolo. After pursuing and attacking victim, Mabong faced Verano who told him to drop his bolo, and when he refused, Verano clubbed him on the face which caused him to stumble to the ground. Thereupon, Verano grabbed the bolo of the accused, tied him with a rope and brought him on a small boat to Lianga where he delivered him to the chief of police.

On May 23, 1955, after proper investigation, Mabong was charged with murder in two separate informations by the chief of police before the Justice of the Peace of Lianga. When the latter conducted the corresponding preliminary investigation, Mabong pleaded guilty, whereupon the Justice of the Peace forwarded the two cases to the court of first instance. In due time, the provincial fiscal filed against the accused the informations required by law, and when the court set the same for arraignment, the accused filed a motion to quash and a petition for habeas corpus alleging as main ground that his detention by the local authorities became illegal upon the expiration of the period of eighteen (18) hours without having been proceeded with in accordance with law, and that the filing later on of the two criminal complaints against him by the chief of police did not have the effect of validating his detention. From the denial of said motion and petition, the accused took the present appeal.

The law on which the accused relies in claiming the illegality of his detention is article 125 of the Revised Penal Code which provides:

"Art. 125. Delay in the delivery of detained persons to the proper judicial authorities. The penalties provided in the next preceeding article shall be imposed upon the public officer or employee who shall detain any person for some legal ground and shall fail to deliver such person to the proper judicial authorities within the period of six hours, for crimes or offenses punishable by light penalties, or their equivalent; nine hours, for crimes or offenses punishable by correccional penalties, or their equivalent; and eighteen hours, for crimes or offenses punishable by afflictive or capital penalties, or their equivalent."

The law indeed provides that a public officer or employee who shall detain any person for some legal ground and shall fail to deliver him to the proper judicial authorities within the period of eighteen (18) hours if the crime for which he is detained calls for an afflictive or capital penalty, may be held amendable to criminal prosecution, but there is nothing said therein that the charge for which he has been detained and for which he has been properly indicted, becomes invalid or nugatory. While a public officer who thus detains a person beyond the legal period may be held criminally liable, the proceeding taken against him for the act he has committed remains unaffected, for the two acts are distinct and separate. As a matter of fact, such an act on the part of the public officer is not considered as one of the grounds on which one can predicate a motion to quash the complaint or information

under Rule 113, section 2, of the Rules of Court.

It is true that the accused was detained in the municipal jail of Lianga for more than three (3) days before criminal charges were preferred against him before the justice of the peace court, and that since his detention no warrant of arrest has been issued by the court as a result of said charges, but the absence of such warrant can have no legal consequence it appearing that when the charges were filed he was already under the custody of the local authorities. As the Solicitor General well observes, "no practical good will come out of quashing the information presented and setting the appellant free. That will only mean a complaint will have to be filed anew against him, that the justice of the peace of Lianga would issue a warrant for his arrest and start all over again with the case. In any event, * * *, with the filing on May 23, 1955 of the corresponding criminal complaints against appellant, the detention there after of the accused became legal and justified; and that the issuance of an order for his arrest or commitment would only be a matter of formality and had already become functus officio."

The case of *Gunable vs. Director of Prisons*, 77 Phil., .993, is on all fours with the present case. There, two of the petitioners were arrested in July, 1942 while the third petitioner was arrested in October, 1942. In November of the same year, the three were charged with murder and frustrated murder before the Court of First Instance of Manila. In a petition for habeas corpus subsequently filed in behalf of the petitioners, it was alleged, among other things, that their detention for periods varying from one to four months following their arrests was unlawful as it violated their right to be brought before proper judicial authorities within six (6) hours after their apprehension. This Court denied the petition, saying:

"With respect to the first ground, it is sufficient to state that the alleged failure of the authorities (who arrested or are detaining the petitioners) to deliver the latter to the judicial authorities within six hours—which may of course be the subject of criminal prosecution under article 125 of the Revised Penal Code—cannot affect the legality of the confinement of the petitioners which is admittedly under subsisting process, issued by a competent court. Indeed, if it appears that the persons alleged to be restrained of their liberty are in the custody of an officer under process issued by a court or judge having jurisdiction to issue the process, the writ of habeas corpus shall not be allowed. (Rules of Court No. 102, section 4.)"

Wherefore, the order appealed from is hereby affirmed, without costs.

Paras, C. J., Bengzon, Padilla, Reyes, A., Labrador, Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

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