

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. AMADOR E. GOMEZ, IN HIS CAPACITY AS THE THEN PRESIDING JUDGE OF BRANCH VIII, COURT OF FIRST INSTANCE OF RIZAL, AND VICENTE ACEVED...

G.R. No. L-32815. June 25, 1980

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

On a motion to quash[1] filed in Criminal Case No. 18204 of the Court of First Instance of Rizal, Hon. Amador Gomez, presiding, dismissed an information for libel, hereunder reproduced in full as follows:

"That on or about the 12[th] day of July, 1968, in the municipality of Mandaluyong, pro-vince of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then an employee of Muller & Phipps (Manila) Ltd., with malicious intent of impeaching the honesty, virtue, integrity and reputation of one Edgardo M. Biasbas, Internal Auditor of the said Corporation, and with mali-cious intent of injuring and exposing the said Edgardo M. Biasbas to public hatred, contempt and ridicule, did then and there willfully, un-lawfully and feloniously distribute, posted at the Company's bulletin board and circulate un-sealed copies of a letter containing libelous matter, pertinent portion of said letter, quoted hereunder:

'July 12, 1968

Mr. J. Kasten
Manager, Muller & Phipps
(Manila) Ltd.
Corner Pioneer & Reliance Sts.,
Mandaluyong, Rizal

Dear Mr. Kasten:

This is in reply to your memo dated July 10, 1968. I vehemently deny having knowledge of all the allegations made in your letter.

The truth of the matter being:

- That on July 1, 1968, Mr. J. dela Paz informed me that the Delivery Panel of Mr. Arturo Ramos was held up in Quezon City. Immediately thereafter, I informed the Insurance Company and I requested their representation;
- That an hour later your Internal Auditor Mr. Edgardo Biasbas, came to me and invited me to the scene and we went;
- That when we arrived at the site where the Panel was located, we saw a Quezon City Mobile Car Patrol already parked near our truck with several onlookers. Later another Police Car arrived and we were escorted to Police Precinct No. 4 for investigation;

- That when Mr. Arturo Ramos opened the panel I saw two of three cartoons of Camel Cigarettes. One of the cartoons was opened by your Internal Auditor, Mr. Biasbas, and given to policemen and some onlookers;
- That during the investigation in the Police Precinct, it was Mr. Biasbas who supplied the investigator the quantity of the items being robbed;
- That when we were already in the pre-cint I called up the Insurance Company and informed it of our whereabouts, Atty. Sian told me that he will be sending an Adjuster either in the precinct or in the company, if there will be any available;
- That it was Mr. Biasbas who conducted the inventory of Mr. Ramos Stocks together with the adjuster on July 2, 1968;
- That it was your Internal Auditor, Mr. Biasbas, who did the reconciliation of Mr. Ramos' stock accountabilities and supplied the adjuster the figures which were adopted as our losses and claims against the Insurance Company, Ordinarily, this is my work but for some reasons that your Internal Auditor, Mr. Biasbas should explain, he did the work for me.
- That the figures supplied by Mr, Edgardo Biasbas were accepted by the Adjuster of the Insurance Company; and
- That the figures supplied and reconciled by Mr. Biasbas and the Adjuster were transmitted by the latter to the insurance com-pany with his favorable recommendations which are now being processed by the insurance company for payment.

And by way of observation, I strongly suggest that your Internal Auditor, Mr. Edgardo Biasbas, be dis-missed for misrepresentation, gross inefficiency and lack of necessary qualifications, to wit:

- That it is the malicious desire of Mr. Biasbas to implicate me with some coaching from some of your 'trusted' people so as to pave the way of my dismissal, thereby sabotaging the Labor Management CBA negotiation which is now underway.
- That it is his greed and lust for power and aspiration in one of the vacant managerial positions in the Company that prompted him to author this drama. He thinks perhaps that he can mislead you and concede to his idea and you might find ground for my dismissal and, as achievement, you might reward the position he is aspiring for.
- That he is not qualified to his present position. An Internal Auditor, as the name suggests, should be well-versed in the field of Accounting and can design system and procedure and establish internal controls that will minimize costs of time, and effort. But record will bear out that this is not the case. This Internal Auditor instead engages in a provincial junket with a minimum daily expense of P25.00 a day excluding his basic salary of P600.00 a month, harassing some of your employees particularly our salesman in the field who sell our products. And lately, going to the extent of feeding you false informations which might even jeopardize the business operation of our company which we and the union are trying our best to protect.

Very truly yours,

(Sgd.) Vicente E. Aceveda

c.c.: 201 file

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which statements the said accused meant and intended to convey malicious accusation and imputations against

said Edgardo M. Biasbas, when in truth and in fact, as the accused very well knew that the same are entirely false and untrue and were published and circulated for no other purpose than to expose said Edgardo M. Biasbas, thereby casting upon the latter public dishonor, discredit and contempt.'

Contrary to law." (pp. 2-4, Rollo)

The grounds for the motion to quash are (1) that the facts charged do not constitute an offense and (2) the writing is privileged communication under Article 354 of the Revised Penal Code.

The order of dismissal dated April 15, 1969, is likewise reproduced in full as follows:

"ORDER[2]

"What is now before the Court for resolution is the motion to quash filed by the accused through counsel, dated December 18, 1968. No opposition thereto has been interposed by the prosecution despite the fact that the office of the Fiscal was furnished a copy thereof as early as December 19, 1968, and despite the further fact that this Court in its order, dated February 10, 1969, gave the prosecution a period of three (3) days within which to submit a written opposition if it so desires.

"Not only because the motion to quash at bar is not opposed by the prosecution, but also because the Court finds the same to be well founded and meritorious, that this Court chooses to grant, as it hereby grants the aforesaid motion to quash.

"WHEREFORE, and finding the motion at bar to be in order, the Court hereby orders the quashal of the information at bar charging costs de oficio. The bail bond executed for the provisional liberty of the accused is declared cancelled and without further force and effect."

As may be seen, the order of dismissal failed to discuss which of the grounds set forth in the motion to quash said motion was being sustained, and the reasons in support of the action of the court, or whether both grounds are found "well founded and meritorious" as may well be what the court a quo meant with the sweeping statement it made in reaching its unreasoned conclusion. Hence, in its appeal to this Court from the order of dismissal, filed on August 29, 1969, on the same day of its receipt by the Office of the Provincial Fiscal (p. 38, Original Record of the Case), the Government contends that neither of the two grounds adverted to is really "well founded and meritorious."

We sustain the submission of the Solicitor General, representing the petitioner herein.

1. It needs little showing that the statements contained in the allegedly libelous letter are clear defamatory. It imputes dishonesty, depravity and lack of virtue to the complainant. Specifically, such words as "misrepresentation, gross inefficiency, lack of necessary qualifications," "malicious desire of Mr. Biasbas", "his greed and lust for power and aspiration for one of the managerial positions," "engages in provincial junket with a minimum daily expense of P25.00 a day", cannot but bring dishonor and disgrace to the complainant's reputation to be considered libelous.

The element of publicity is undeniably present with the allegation in the information that Aceveda did willfully, unlawfully, feloniously distribute, post at the company's (Muller and Phipps [Manila] Ltd.) bulletin board and circulate unsealed copies of a letter."

Malice as the other element of the crime of libel is, likewise, alleged in the information with such phrase as "with malicious intent of impeaching the honesty, virtue, integrity and reputation of one Edgardo M. Biasbas." The libelous character of the statements contained in the letter upon which the libel indictment is based, having been shown, malice is presumed.[3]

Finally, the element of identifiability of the offended party or the person defined is never in doubt from the allegation of the information which quotes the libelous letter mentioning by name the person defamed and insulted, the complainant, Edgardo Biasbas.

We, therefore, hold that the first ground of the Motion to Quash that the facts alleged do not constitute an offense is without factual or legal basis.

2. The second ground is equally devoid of merit. The claim of the accused Aceveda that the letter is a privileged communication because it is intended to explain what his superior asked of him which, if not so explained, may cause his dismissal from his position in the company, and that he had merely expressed opinions of, not derogatory remarks against, complainant, even assuming such claim to be true, is not a ground for a motion to quash. It is a matter of defense which must be proved after trial of the case on the merits. Thus -

"Although a publication which imputes political corruption or the use of political influence or privileges for pecuniary gain is libelous per se (53 C.J.S. SEC. 28, p. 29) still as already adverted to above, since the privileged character or nature destroys the presumption of malice, the onus of proving malice is on the plaintiff and whether malice of defendant exists, the same can only be proved after trial of the case on the merits." [4]

Likewise, in the case of *See Lu Chu Sing vs. Lu Tiong Gui* [5] it was held:

"The privileged character of the defamatory statements is a matter of defense. It is not a proper ground for a motion to dismiss. The fact that the communication is privileged does not mean that it is not actionable. * * * *
* (AQUINO, REVISED PENAL CODE, Vol. II, BOOK II, 1961. ED. p. 1719 AND CASES CITED THEREIN) "When a communication contains libelous matter, its author is not relieved from criminal liability or punishment just because under certain circumstances it might be considered privileged. The privileged character simply does away with the presumption of malice which the plaintiff has to prove in such a case." (p. 13, Petitioner's Brief)

Respondent Aceveda intimates that the respondent court had properly dismissed the case for libel on ground of lack of interest on the part of the prosecution, asserting that it is within the prerogative of the court to dismiss a case for non-suit, citing Section 3 of Rule 17 of the New Rules of Court. We fail to see in the order of dismissal any intent on the part of the court of making the lack of opposition filed by the prosecution to the motion to quash as a ground for its dismissing the case, as constituting lack of interest, just because notwithstanding the order of the court for the prosecution to submit its opposition to the motion to quash within three days from notice, no such opposition was filed. The records show that on the same day, August 29, 1969, a copy of the order of dismissal was received, a notice of appeal was prepared and filed September 8, 1969. [6] This is by no means indicative of lack of interest. [7] The respondent court merely mentioned the lack of opposition as possibly showing by itself some merit of the motion to quash, aside from its own analysis of the grounds for said motion, which induced the court to conclude that the motion to quash is "well-founded and meritorious", although it gave no reason for its conclusion. And as so worded, the order is not quite in conformity with, if not in violation of, the requirement of the Constitution and Section 2 of Rule 120 of the Revised Rules of Court, considering that the dismissal of the information would finally terminate the case. An appeal may then be taken from the order of dismissal, and there is need for the appellate court to be apprised of the reasons, in law and jurisprudence, deemed by the court to justify the dismissal of the case on a mere motion to quash. Legally defective both in form and substance, the order dismissing Criminal Case No. 18204 of the Court of First Instance of Rizal may not, therefore, be sustained or upheld.

WHEREFORE, the order appealed from is hereby set aside, and let the case returned to the Court of origin for proper further proceedings.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Fernandez, and Guerrero, JJ., concur.
Melencio-Herrera, J., took no part.

[1] p. 50, Rollo, Annex B to Petition.

[2] p. 5, Rollo.

[3] People vs. Topacio, 59 Phil. 356., U.S. vs. Prautch, 10 Phil. 562, Antonino vs. Valencia, 57 SCRA 70.

[4] Duque vs. Santiago, L-16916, Nov. 29, 1962, 6 SCRA 661.

[5] 76 Phil. 676.

[6] p. 38, Original Records of Criminal Case No. 18204, CFI of Rizal.

[7] Tandoc vs. Tensuan, L-50835, Oct. 30, 1979.

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