

ALFREDO B. SAULO, PETITIONER, VS. BRIG. GEN. PELAGIO CRUZ, ETC., RESPONDENT.*G.R. No. L-14819. March 19, 1959*

Ponente: CONCEPCION, J.

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Upon the filing of the petition herein, praying for the reasons therein stated, that a writ of habeas corpus be issued, and that, after appropriate proceedings, the petitioner be discharged, upon the ground that he is illegally detained and deprived of his liberty, this Court issued a resolution, dated December 24, 1958, ordering respondent Brig. Gen. Pelagio Cruz, Commanding General of the Philippine Constabulary, to file, within five (5) days from notice, an answer returnable to the Court of First Instance of Manila. In due course, thereafter, or on January 14, 1959, said court issued an order stating that the facts set forth in the petition—with the exception of the conclusion therein made, relative to the alleged illegality of petitioner's detention—had been substantially admitted in the answer of said respondent, who, however, assailed the jurisdiction of said Court of First Instance, under section 2, Rule 102 of the Rules of Court, to pass upon the issues in this case, namely:

"May a person be arrested without warrant for an alleged violation of an Act which expressly provides that no prosecution thereunder shall be made unless a preliminary investigation has been conducted by the proper Court of First Instance? "When such person has been so arrested, is he entitled to be released during the time the preliminary investigation is being conducted?"

and directing, without passing upon the said question of jurisdiction, that the record of the case—including the transcript of the proceedings had, during the hearing, and the memoranda of the parties—be forwarded to this Supreme Court for further proceedings.

Section 2 of Rule 102 of the Rules of Court provides:

"The writ of habeas corpus may be granted by the Supreme Court, or any member thereof, on any day and at any time, or by the Court of Appeals or any member thereof in the instances authorized by law, and if so granted it shall be enforceable anywhere in the Philippines, and may be made returnable before the court or any member thereof, or before a Court of First Instance, or any judge thereof. It may also be granted by a Court of First Instance, or a judge thereof, on any day and at any time, and returnable before himself, enforceable only within his judicial district." (*Italics ours.*)

Pursuant to this provision, the writ of habeas corpus may be granted, either by an appellate court, or any member thereof, or by a court of first instance. If granted by the Supreme Court, or any member thereof, or by the Court of Appeals, or any member thereof, in the instances authorized by law, "it shall be enforceable anywhere in the Philippines, and may be made returnable before the court or any member thereof, or before a Court of First Instance or any judge thereof." If granted by a court of first instance or a judge thereof, it shall be "returnable before himself, enforceable only within his judicial district."

The case at bar falls under the first alternative, the writ of habeas corpus herein having been issued by this Court.

Conformably with the first sentence of said section 2, the writ was made returnable before the Court of First Instance of Manila. Respondent, however, maintains that the court of first instance alluded to in said section 2, is "the court of first instance within whose jurisdiction the petitioner is confined", under the theory, presumably, that the decision of such court would be "enforceable only, within his judicial district." This view is devoid of merit. It is borne out, neither by said section 2 of the rules, nor by the language of the law pertinent thereto or the established practice thereon.

Although the last sentence of section 2 declares that the writ of habeas corpus granted by a court of first instance shall be enforceable only within his judicial district, this limitation is not in point, the writ in this case having been granted by the Supreme Court and, as provided in said section, "it shall be enforceable anywhere in the Philippines,"

Moreover, it is apparent from sections 12 to 15[1] of said Rule 102 (which are quoted hereunder), that the court or judge to whom the writ is returned shall have the authority and the duty to inquire into the facts and the law pertinent to the legality or illegality of petitioner's detention and to order his discharge from confinement, should it appear satisfactorily "that he is unlawfully imprisoned or restrained." It should be noted, also, that the procedure set forth in the Rules of Court is in line with the provisions of Act No. 654 of the Philippine Commission, section 7 of which reads:

"In cases where an original petition for habeas corpus is filed in the Supreme Court, the Supreme Court shall have the power either to decide on the face of the petition filed that no case has been made for the issuing of a writ, or should such a case appear by the allegations of the petition, to issue the writ and make the same returnable and direct the hearing, either before the Supreme Court as a whole, or any judge thereof, or any judge of a Court of First Instance."

This section is in turn, substantially identical to section 81 of General Orders No. 59, quoted on the margin.

Respondent's pretense is, seemingly, based upon the belief that the "writ of habeas corpus" mentioned in section 2 of Rule 102—which, if issued by a court of first instance or a judge thereof shall be "enforceable only within his judicial district"—is the same order of "discharge", referred to in section 15 of said rule. However, the writ alluded to in said section 2 is nothing but the one specifically described in section 6 of Rule 102, reading:

"In case of imprisonment or restraint by an officer, the writ shall be directed to him, and shall command him to have the body of the person restrained of his liberty before the court or judge designated in the writ at the time and place therein specified. In case of imprisonment or restraint by a person not an officer, the writ shall be directed to an officer, and shall command him to take and have the body of the person restrained of his liberty before the court or judge designated in the writ at the time and place therein specified, and to summon the person by whom he is restrained then and there to appear before said court or judge to show the cause of the imprisonment or restraint."

In other words, said writ of habeas corpus plays a role somewhat comparable to a summons, in ordinary civil actions, in that, by service of said writ, the court acquires jurisdiction over the person of the respondent. Once authority over the latter has thus been established, the appellate court issuing the writ, or the court of first instance to which the writ has been made returnable— acting in place of the appellate court—may render a decision, which—like other decisions of the Supreme court and of courts of first instance—may be enforced anywhere in the Philippines.

In point of practice, when a writ of habeas corpus is, conformably to law, made returnable to a court other than that issuing the writ, the court to which the writ is returned or the judge thereof possesses full authority to examine all issues raised in the case and to settle the same. In the language of the American Jurisprudence:

"After a return to a writ, the court or judge to whom the return is made must pass upon all questions of both law and fact and determine the ultimate question whether the prisoner is wrongfully restrained of his liberty. It is necessary for the court to determine the weight and credibility of the evidence where the testimony is conflicting.

"* * * With further reference to habeas corpus proceedings in Federal courts, it is expressly provided by statute that the court or judge before whom the prisoner may be brought shall proceed in a summary way to determine the facts of the case, by hearing the testimony and arguments, and thereupon to dispose of the prisoner as law and justice may require." (25 Am, Jur., p. 245; Italics ours.)

Accordingly, the Court of First Instance of Manila may validly inquire into the legality of petitioner's restraint and issue such orders, in connection therewith, as may be proper, in the light of the facts proven and the law applicable thereto.

Would it not be advisable that the merits of the case be adjudicated here and now? It is the considered opinion of this Court that it would be best that this task be under taken by the Court of First Instance of Manila, inasmuch as: (1) said court has already acquired jurisdiction thereon, owing to the writ made returnable, and returned, thereto, and (2) said court has been conducting, and is still conducting, the preliminary investigation in Criminal Case No. 46410 thereof, against petitioner herein, which respondent invokes in justification for his (petitioner's) detention, so that the lower court is better situated, than we are, to ascertain the pertinent facts and to make a reasonable appraisal thereof.

This should not be construed, in any manner whatsoever, as indicating that we sanction the indefinite detention of an individual, without either a warrant of arrest or an order of commitment, or that one charged with a violation of the Anti-Subversion Act (Republic Act No. 1700), penalized therein "by prison mayor to death", may be kept under custody, without said warrant of arrest or order of commitments, regardless of the duration of the preliminary investigation conducted pursuant to the provisions of said Act. The importance of a warrant of arrest and/or said order of commitment; the effect, upon the legality or illegality of a detention without warrant, of the filing of a complaint or information after the expiration of the period fixed by law for the delivery of the detainee to the corresponding judicial authority (Art. 125, Revised Penal Code, as amended by Act No. 3940); the steps to be taken after said delivery; the purpose of a preliminary investigation; the period of time within which the same should be completed; and the alternatives that may be availed of when no warrant of arrest or order of commitment has been issued and the preliminary investigation is not seasonably undertaken or can not be finished promptly, have been thoroughly elucidated in the decisions of this Court in *Lino vs. Fuguso* (77 Phil., 933) and *Sayo vs. Chief of Police of Manila* (80 Phil., 859), and in the resolution on the motion for reconsideration filed in the latter case, and it is not our intention in the present resolution to alter the view thus expressed in said cases.

Wherefore, let the record of the case at bar be remanded to the lower court for appropriate action. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Reyes J. B. L., and Endencia, JJ. concur.

[1] "SEC. 12. Hearing on return. Adjournments.—When the writ is returned before one judge, at a time when the court is in session, he may forthwith adjourn the case into the court, there to be heard and determined. The court or judge before whom the writ is returned or adjourned must immediately proceed to hear and examine the return, and such other matters as are properly submitted for consideration, unless for good cause shown the hearing is adjourned, in which event the court or judge shall make such order for the safekeeping of the person imprisoned or restrained as the nature of the case requires. If the person imprisoned or restrained is not produced because of

his alleged sickness or infirmity, the court or judge must be satisfied that it is so grave that such person cannot be produced without danger, before proceeding to hear and dispose of the matter. On the hearing the court or judge shall disregard matters of form and technicalities in respect to any warrant or order of commitment of a court or officer authorized to commit by law.

"SEC. 13. When the return evidence, and when only a plea.—If it appears that the prisoner is in custody under a warrant of commitment in pursuance of law, the return shall be considered prima facie evidence of the cause of restraint; but if he is restrained of his liberty by any alleged private authority, the return shall be considered only as a plea of the facts therein set forth, and the party claiming the custody must prove such facts.

"SEC. 14. When a person lawfully imprisoned recommitted, and when let to bail—If it appears that the prisoner was lawfully committed, and is plainly and specifically charged in the warrant of commitment with an offense punishable by death, he shall not be released, discharged, or bailed. If he is lawfully imprisoned or restrained on a charge of having committed an offense not so punishable, he may be recommitted to imprisonment or admitted to bail in the discretion of the court or judge. If he be admitted to bail, he shall forthwith file a bond in such sum as the court or judge deems reasonable, considering the circumstances of the prisoner and the nature of the offense charged, conditioned for his appearance before the court where the offense is properly cognizable to abide its order or judgment; and the court or judge shall certify the proceedings, together with the bond, forthwith to the proper court. If such bond is not so filed, the prisoner shall be recommitted to confinement.

"SEC. 15. When prisoner discharged if no appeal.—When the court or judge has examined into the cause of caption and restraint of the prisoner, and is satisfied that he is unlawfully imprisoned or restrained, he shall forthwith order his discharge from confinement, but such discharge shall not be effective until a copy of the order has been served on the officer or person detaining the prisoner. If the officer or person detaining the prisoner does not desire to appeal, the prisoner shall be forthwith released." When the writ is issued by a member of the Supreme Court, it may be made returnable before himself, or the Supreme Court, or before any court immediately inferior, or any judge thereof.

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