

BIENVENIDO MEDRANO, PETITIONER-APPELLANT, VS. HON. FILEMON MENDOZA, JUDGE OF THE MUNICIPAL COURT OF IBAAN, BATANGAS AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS-APPELLEES.

G.R. No. L-24364. February 22, 1968

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

A criminal complaint for grave threats alleged to have been committed by petitioner-appellant Bienvenido Medrano on September 30, 1963, was lodged by one Leonardo Argente in the Municipal Court of Ibaan, Batangas, on November 29, 1963. Appellant Medrano moved to quash on two grounds: (1) the complaint did not conform substantially to the prescribed form, and (2) more than one offense was charged therein.

The municipal court denied appellant's motion. Subsequently at the latter's instance, the court reconsidered its stand and, in the order dated March 14, 1964, directed the private prosecutor to amend the complaint within five (5) days from receipt thereof by charging light threats only.

The private prosecutor received his copy of the above-stated order on March 18, 1964. However, the amended complaint charging light threats was filed only on April 15, 1964, or 28 days from March 18, 1964, to be exact.

On April 23, 1964, appellant filed a written motion to quash the amended complaint on the ground of prescription, in reiteration of his oral motion of the same tenor made on April 16, 1964. When the municipal court denied his motion, appellant brought the matter to the Court of First Instance of Batangas on a petition for prohibition averring that the refusal of the municipal court to quash the case was "in grave abuse of discretion, in excess of and in direct violation of the legal provision embodied Article 91 of the Revised Penal Code x x x."

The petition was given due course, and the People of the Philippines required to answer, which it did. On November 2, 1964, the Court of First Instance rendered its decision dismissing the petition. Appellant's motion to reconsider which followed was also denied.

Hence, this appeal on the sole legal question of whether prescription had set in or not.

Article 91 of the Revised Penal Code recites:

"The period of prescription shall commence to run from the day on which the crime is discovered by the offended party, the authorities, or their agents, and shall be interrupted by the filing of the complaint or information, and shall commence to run again when such proceedings terminate without the accused being convicted or acquitted, or are unjustifiably stopped for a reason not imputable to him." (Emphasis supplied)

x x x

Orally threatening another in the heat of anger with some harm constituting a crime is a light offense[1] which prescribes in two months or 60 days.[2] This period of 60 days commenced running on September 30, 1963 when

the threats were allegedly made against the offended party. The complaint was filed on the 60th day itself. Subsequently the prosecution was ordered to amend the original complaint to one for light threats within five days from March 18, 1964. The five days lapsed. No complaint was yet filed. Did prescription run again?

Appellant submits that it did, arguing that after the lapse of the five days given to the prosecution within which to file the amended complaint, the proceedings were unjustifiably stopped for reasons not imputable to him, i.e., negligence of the prosecution.

The submission fails to convince Us. Appellant himself caused the stoppage of the proceedings, if any, because of his motion to quash. By this, he, in effect, asked for the quashing of one of two offenses included in the complaint. The municipal court in ordering an amendment of the complaint to charge only light threats, in effect, granted the quashing of the charge for the other offense, effective upon the filing of the amended complaint.

Moreover, while the private prosecutor appears to have delayed in filing the amended charge, the municipal court still accepted the same, thereby excusing the delay. For, as it pointed out, the order to amend the original complaint did not state that failure to file the amended charge within the five-day period fixed would amount to the dismissal of the original complaint. The municipal court therefore retained the discretion to accept or reject the amended charge filed after the lapse of the period provided. Hence, the delay here cannot be said to have resulted in unjustifiable stoppage of the proceedings for reasons not imputable to the accused because (1) it was at his own insistence that the charge had to be changed, and (2) the municipal court, exercising its discretion, excused the delay and accepted the amended charge filed after the lapse of the five-day period. We see no grave abuse of discretion in such acceptance.

The result above reached is actually more favorable to appellant for he now stands charged only for light threats. On the other hand, if the present charge for light threats is considered prescribed, he could still be legally charged with grave threats or even grave coercion,[3] offenses the prescriptive period for which would not yet have lapsed, even if the same is deemed to have run again.

WHEREFORE, the judgment appealed from is, as it is hereby, affirmed. Costs against appellant.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

[1] Art. 285, par. 2, in relation to Art. 9, Revised Penal Code.

[2] Art. 90, Revised Penal Code.

[3] The original complaint alleged that appellant "willfully, unlawfully and feloniously stopped the jeepney the undersigned was driving x x x and then he grabbed (hinalit at ginabot) the streamer of Pepe Fortos then carried by my jeepney, and after throwing it away in uncontrolled anger, exclaimed; 'kayo ay pag-babarilyn' ko. x x x"

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