

ROSAURO REYES, PETITIONER, VS. THE PEOPLE OF THE PHILIP-PINES, RESPONDENT.

G.R. Nos. L-21528-29. March 28, 1969

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This case is before us on appeal by certiorari from the decision of the Court of Appeals affirming that of the municipal court of Cavite City, convicting Rosauro Reyes of the crimes of grave threats and grave oral defa-mation, and sentencing him, in the first case (Criminal Case No. 2594), to four (4) months and ten (10) days of arresto mayor and to pay a fine of P300, with subsidiary imprisonment in case of insolvency; and in the second case (Criminal Case No. 2595), to an indeterminate penalty of from four (4) months of arresto mayor to one (1) year and and eight (8) months of prision correctional, and to pay Agustin Hallare the sum of P800 as moral damages, with costs in both cases.

The petitioner herein, Rosauro Reyes, was a former civilian employee of the Navy Exchange, Sangley Point, Cavite City, whose services were terminated on May 6, 1961. In the afternoon of June 6, 1961, he led a group of about 20 to 30 persons in a demonstration staged in front of the main gate of the United States Naval Station at Sangley Point. They carried placards bearing statements such as, "Agustin, mamatay ka;" "To, alla boss con Nolan;" "Frank do not be a common funk;" "Agustin, mamamatay ka rin;" "Agustin, Nolan for you;" "Agustin, alla bos con Nolan;" "Agustin, dillega el dia di guide rin bo chiquiting;" and others. The base com-mander, Capt. McAllister, called up Col. Patricia Monzon, who as Philippine Military Liason Officer at Sangley Point was in charge of preserving harmonious relations between the personnel of the naval station and the civilian population of Cavite City. Capt. McAllister requested Col. Monzon to join him at the main gate of the base to meet the demonstra-tors. Col. Monzon went to the place and talked to Rosauro Reyes and one Luis Buenaventura. Upon learning that the demonstration was not directed against the naval station but against Agustin Hallare and a certain Frank Nolan for their having allegedly caused the dismissal of Rosauro Reyes from the Navy Exchange, Col. Monzon suggested to them to demonstrate in front of Hallare's residence, but they told him that they would like the people in the station to know how they felt about Hallare and Nolan. They assured him, however, that they did not intend to use violence, as "they just wanted to blow off steam."

At that time Agustin Hallare was in his office inside the naval station. When he learned about the demonstration he became apprehensive about his safety, so he sought Col. Monzon's protection. The colonel thereupon escorted Hallare, his brother, and another person in going out of the station, using his (Konzon's) car for the purpose. Once outside, Col. Monzon purposely slowed down to accommodate the request of Reyes. He told Hallare to take a good look at the demonstrators and at the placards they were carrying. When the demonstrators saw Hallare they shouted, "Mabuhay si Agustin." Then they boarded their jeeps and followed the car. One jeep overtook and passed the car while the other two trailed behind. After Hallare and his companions had alighted in front of his residence at 967 Burgos St., Cavite City, Col. Monzon sped away.

The three jeeps carrying the demonstrator's parked in front of Hallare's residence after being gone by it twice.

Rosauro Reyes got off his jeep and posted himself at the gate, and with his right hand inside his pocket and his left holding the gate-door, he shouted repeatedly. "Agustin, putang ina mo. Agustin, mawawala ka. Agustin lumabas ka, papatayin kita." Thereafter, he boarded his jeep and the motorcade left the premises. Meanwhile, Hallare, frightened by the demeanor of Reyes and the other demonstrators, stayed inside the house.

On the basis of the foregoing events Rosauro Reyes was charged on July 24 and 25, 1961 with grave threats and grave oral defamation, respectively (Criminal Cases Nos. 2594 and 2595, Municipal Court of Cavite City), as follows:

"The undersigned City Fiscal of the City of Cavite accuses Rosauro Reyes of the crime of Grave Threats, as defined by Article 282 of the Revised Penal Code and penalized by paragraph 2 of the same Article, committed as follows:

"That on or about June 6, 1961 in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above named accused, did then and there, will-fully, unlawfully and feloniously, orally threaten to kill one Agustin Hallare.

Contrary to law.

Cavite City, July 24, 1961.

DEOGRACIAS S. SOLIS

City Fiscal

BY: (SGD.) BUEN N. GUTIERREZ

Special Counsel"

"The undersigned complainant, after being duly sworn to an oath in accordance with law, accuses Rosauro Reyes of the crime of Grave Oral Defamation, as defined and penalized by Article 358 of the Revised Penal Code, committed as follows:

"That on or about June 6, 1961, in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above named accused, without any justifiable motive but with the intention to cause dishonor, discredit and contempt to the undersigned complainant, in the presence of and within hearing of several persons, did then and there, willfully, unlawfully and feloniously utter to the undersigned complainant the following insulting and serious defamatory remarks, to wit: "AGUSTIN, PUTANG INA MO", which if translated into English are as follows: "Agustin, Your mother is a whore."

Contrary to law.

Cavite City, July 25, 1961.

(SGD.) AGUSTIN HALL EE

Complainant

"Subscribed and sworn to before me this 25th day of July, 1961, in the City of Cavite, Philippines.

(SGD.) BUEN N. GUTIERREZ

Special Counsel"

Upon arraignment, the accused pleaded not guilty to both charges and the cases were set for joint trial. On the day of the hearing the prosecution moved to amend the information in Criminal Case No. 2594 for grave threats by

deleting therefrom the word "orally". The defense counsel objected to the motion on the ground that the accused had already been arraigned on the original information and that the amendment "would affect materially the interest of the accused." Nevertheless, the amendment was allowed and the joint trial proceeded.

From the judgment of conviction the accused appealed to the Court of Appeals, which returned a verdict of affirm-ance. A motion for reconsideration having been denied, the accused brought this appeal by certiorari.

Petitioner avers that the Court of Appeals erred: (1) in affirming the proceedings in the lower court allowing the substantial amendment of the information for grave threats after petitioner had been arraigned on the original information; (2) in proceeding with the trial of the case of grave threats without first requiring petitioner to enter his plea on the amended information; (3) in convicting petitioner of both offenses when he could legally be convicted of only one offense, thereby putting him in jeopardy of being penalized twice for the same offense; (4) in convicting petitioner of grave threats when the evidence adduced and considered by the court tend to establish the offense of light threats only; and (5) in convicting petitioner of grave oral defamation when the evidence tend to establish that of simple slander only.

On the first error assigned, the rule is that after the accused has pleaded the information may be amended as to all matters of form by leave and at the discretion of the court, when the same can be done without prejudice to the rights of the defendant (Section 13, Rule 110, New Rules of Court). Amendments tat touch upon matters of substance cannot be permitted after the plea is entered.

After a careful consideration of the original inform-ation, we find that all the elements of the crime of grave threats as defined in Article 282[1] of the Revised Penal Code and penalized by its paragraph 2 were alleged therein namely: (1) that the offender threatened another person with the infliction upon his person of a wrong; (2) that such wrong amounted to a crime; and (3) that the threat was not subject to a condition. Hence petitioner could, have been convicted thereunder it is to be noted that under the aforementioned provision the particular manner in which the threat is made not a qualifying ingredient of the offense, such that the deletion of the word "orally" did not affect the nature and essence of the crime as charged originally. Neither did it change the basic theory of the prosecution that the accused threatened to kill Rosauro Reyes so as to require the peti-tioner to undergo any material change or modification in his defense. Contrary to his claim, made with the concurrence of the Solicitor General, petitioner was not exposed after the amendment to the danger of conviction under paragraph 1 of Article 282, which provides for a different penalty, since there was no allegation in the amended information that the threat was made subject to a condition. In our view the deletion of the word "orally" was effected in order to make the information conformable to the evidence to be presented during the trial. It was merely a formal amendment which in no way prejudiced petitioner's rights.

Petitioner next contends that even assuming that the amendment was properly allowed, the trial court committed a reversible error in proceeding with the trial on the merits without first requiring him to enter his plea to the amended information. Considering, however, that the amendment was not substantial, no second plea was necessary at all.

The third and fourth issues are related and will be discussed together. Petitioner avers that the appellate court erred in affirming the decision of the trial court convicting him of grave threats and of grave oral defamation when be could legally be convicted of only one offense, and in convicting him of grave threats at all when the evidence ad-duced and considered by the court indicates the commission of light threats only.

The demonstration led by petitioner against Agustin Hallare in front of the main gate of the naval station; the fact that placards with threatening statements were carried by the demonstrators; their persistence in trailing Hallare in a motorcade up to his residence; and the demon-stration conducted in front thereof, culminating in repeated

threats flung by petitioner in a loud voice, give rise to only one conclusion: that the threats were made "with the deliberate purpose of creating in the mind of the person threatened the belief that the threat would be carried into effect." [2] Indeed, Hallare became so apprehensive of his safety that he sought the protection of Col. Monzon, who had to escort him home, wherein he stayed while the demonstration was going on. It cannot be denied that the threats were made deliberately and not merely in a temporary fit of anger, motivated as they were by the dismissal of petitioner one month before the incident. We, therefore, hold that the appellate court was correct in upholding petitioner's conviction for the offense of grave threats.

The charge of oral defamation stemmed from the utterance of the words, "Agustin, putang ina mo". This is a common enough expression in the dialect that is often employed, not really to slander but rather to express anger or displeasure. It is seldom, if ever, taken in its literal sense by the hearer, that is, as a reflection on the virtues of a mother. In the instant case, it should be viewed as part of the threats voiced by appellant against Agustin Hallare, evidently to make the same more emphatic. In the case of Yebra, G. R. No. L-14348, Sept. 30, 1960, this Court said:

"The letter containing the allegedly libelous remarks is more threatening than libelous and the intent to threaten is the principal aim and object to the letter. The libelous remarks contained in the letter, if so they be considered, are merely preparatory remarks culminating in the final threat. In other words, the libelous remarks express the heat of passion which engulfs the writer of the letter, which heat of passion in the latter part of the letter culminates into a threat. This is more important and serious offense committed by the accused. Under the circumstances the Court believes, after the study of the whole letter, that the offense committed therein is clearly and principally that of threats and that the statements therein derogatory to the person named do not constitute an independent crime of libel, for which the writer maybe prosecuted separately from the threats and which should be considered as part of the more important offense of threats.

The foregoing ruling applies with equal force to the facts of the present case.

WHEREFORE, the decision appealed from is hereby reversed and petitioner is acquitted, with costs de oficio, insofar as Criminal Case No. 2595 of the Court a quo (for oral defamation) is concerned; and affirmed with respect to Criminal Case No. 2594, for grave threats, with costs against petitioner.

Concepcion, C.J., Reyes, JBL, Dizon, Zaldivar, Sanchez, Fernando, Teehankee, and Barredo, JJ., concur.
Ruiz Castro and Capistrano, JJ., no take part.

[1] ART. 282. Grave Threats. - Any person who shall threaten another with the infliction upon the person, honor or property of the latter or of his family of any wrong amounting to a crime, shall suffer:

1. The penalty next lower in degree than that prescribed by law for the crime he threatened to commit, if the offender shall have made the threat demanding money or imposing any other condition, even though not unlawful, and said offender shall have attained his purpose. If the offender shall not have attained his purpose, the penalty lower by two degrees shall be imposed.

If the threat be made in writing or through a middleman, the penalty shall be imposed in its maximum period.

2. The penalty of arresto mayor and a fine not exceeding 500 pesos, if the threat shall not have been made subject to a condition.

[2] U.S. vs. Sevilla, 1 Phil. 143; U.S. vs. Paguirigan 14 Phil 450.

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