

**NATALIA B. NICOMEDES AND PRECIOLITA V. CORLISS,
PETITIONERS AND APPELLANTS VS. THE CHIEF OF CONSTABULARY,
ETC., ET AL., RESPONDENTS AND APPELLEES.**

G.R. No. L-16022. November 23, 1960

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is an appeal from a decision of the Court of First Instance of Rizal dismissing the petition for prohibition with preliminary injunction filed by petitioners praying that respondent provincial fiscal be restrained' from conducting the preliminary investigation of a case involving the death of one Asuncion Sertimo.

Asuncion Sertimo, maid of petitioners, died of certain stab wounds in the midnight of August 7, 1958, in the mezzanine floor of petitioners' furniture store at No. 49 Sta. Mesa Boulevard, San Juan, Rizal. The San Juan police, the justice of the peace, and the mayor investigated the death by making an ocular inspection of the scene of the crime. They took the statements of petitioners and other witnesses living in the adjoining rooms and ground floor of the mezzanine. After the investigation, and from the report of the Medico Legal Officer of the NBI who conducted an autopsy of the deceased, they found that the wounds that caused her death were self-inflicted, furnishing a copy of their report to the provincial fiscal, the provincial governor, the NBI, the PC and the Office of Malacañang. Because of said finding, no one was prosecuted.

Two months after the incident, however, the PC, thru its CIS agents, conducted a reinvestigation of the case requiring petitioners to appear before, them. While at first they refused to appear, they agreed later giving their statements before the Chief Legal Officer of the CIS, at Camp Crame. This officer (submitted his report to the provincial fiscal recommending the prosecution of petitioners for murder, whereupon, the latter summoned petitioners to appear before him for preliminary investigation, Instead of appearing, they filed the present petition seeking to enjoin the fiscal from conducting the investigation.

Petitioners contend in their petition that the reinvestigation which the Philippine Constabulary has conducted of the case is uncalled for, unwarranted, and illegal, the same not being authorized by law, and that both the PC and the provincial fiscal acted in excess of their authority In making the same investigation because the San Juan police which has exclusive jurisdiction of the case had already done it, with the result that a new investigation thereof would place petitioners in double jeopardy.

Respondents, on the other hand, contend that the PC as & national police agency has authority to act on the case; that the provincial fiscal in calling petitioners for preliminary investigation acted in accordance with the provisions of Republic Act No. 732; and that the actions taken by the PC and the provincial fiscal are valid and within the bounds of the law.

Issues having been joined, the lower court set the case for hearing, but petitioners filed a motion for judgment on the pleadings stating that the provincial fiscal failed to deny specifically the material allegations of the petition thereby admitting the same, and apparently agreeing to it, the court rendered decision dismissing the petition for

lack of merit.

While it is true that the death of Asuncion Sertimo has already been investigated by the police force of San Juan, Rizal, and its opinion was that the stab wounds found in her body were self-inflicted thereby concluding that she committed suicide, said investigation is not conclusive as to bar other police officers from making further investigation especially the law officers of the locality charged with the duty of bringing the culprits to the bar of justice. Among such police officers are the members of the Philippine Constabulary which is a national police agency duly authorized and empowered to prevent and suppress breaches of the peace and violations of the law in the Philippines. Thus, Section 848 of the Revised Administrative Code provides:

"Sec. 848. Authority of members of Constabulary as peace officers. -Members of the Constabulary are peace officers and are authorized and empowered to prevent and suppress brigandage, unlawful assemblies, riots, insurrections, and other breaches of the peace and violations of the law. They are empowered and required to execute any lawful warrant or order of arrest issued against any person or persons for any violation of law, and to make arrests upon reasonable suspicion without warrant for breaches of the peace or other violations of law."

It cannot be disputed that the act surrounding the death of Asuncion Sertimo is a breach of the peace that demands a thorough investigation by any police force with a view to bringing the party responsible to the bar of Justice. Certainly, a violation of the law has been committed, for no less than the life of a person is involved, and to such dastardly act our constabulary force cannot remain indifferent if it wants to do its duty. Anyway, the only purpose of its inquiry is to find out the truth. As the lower court has properly observed:

"The contentions of the petitioners are untenable. It is apparent that there is a misapprehension of the scope of the authority of the Philippine Constabulary as guardian of the law and order. Petitioners would want to convey the idea that only the San Juan Police can and should investigate crimes within its jurisdiction and thus exclude the national police agency that is the Philippine Constabulary. If such argument were carried to its logical conclusion, then it would necessarily follow that the Constabulary would not have any territory to cover under the duty imposed upon it by law-to enforce law and order-and, consequently, its existence would not serve the purpose for which it was created. Such contention of petitioners is therefore without any logical basis."

Neither is it correct to say that the Provincial Fiscal of Hiral can no longer conduct a preliminary investigation because the police force of San Juan has already conducted its own and found that the deceased committed suicide, for such is his duty whenever a crime is committed within his jurisdiction. This can be clearly gleaned from Section 1687 of the Revised Administrative Code, as amended by Republic Act No. 732, which we quote for reference:

"Sec. 1687. Authority of Fiscal to conduct investigation in criminal matter.-A provincial fiscal shall have authority to conduct investigation into the matter of any crime or misdemeanor and have the necessary information or complaint prepared or made against persons charged with the commission of the same. * * * To this end, he may, with due notice to the accused, summon reputed witnesses and require them to appear before him and testify and be cross-examined under oath by the accused upon the latter's request. * * *

"The Provincial Fiscal shall also cause to be investigated the cause of sudden deaths which have not been satisfactorily explained and when there is suspicion that the cause arose from the unlawful acts or oppressions of other persons, or from foul play. * * *"

The claim that a reinvestigation of the case by the provincial fiscal would place petitioners in double jeopardy is untenable, for that defense can only be availed of when the accused undergoes a court trial before a proper court and does not apply to a preliminary or administrative investigation. And it is a well-known rule that an injunction will not lie to restrain a criminal prosecution for the obvious reason that public interest requires that criminal acts

be immediately investigated and prosecuted for the protection of society (Gorospe vs. Peñaflorida, 101 Phil., 886).

"Nature of preliminary investigation.-While a preliminary investigation may in a sense be inquisitorial, it is often the only means of discovering¹- the persons who may reasonably be charged with a crime so as to enable the fiscal to prepare his complaint or information. Such investigation is not properly a trial or any part thereof, but is merely preparatory thereto, and has no other purpose than that of determining whether a crime has been committed, and whether there is probable cause to believe the accused guilty thereof. Accordingly, a plea of double jeopardy based on the fact that prior to the defendant's trial there had been two preliminary examinations carried on in the proceedings against him relative to the same offense for which he is being tried, in the first of which he had been discharged for lack of evidence and in the second he had been remanded for trial, cannot be sustained." (2 Moran, Comments on the Rules of Court, 1957 ed., p. 660, and cases cited therein.)

The decision appealed from is affirmed, with costs.

Paras, C.J., Bengzon, Padilla, Labrador, Reyes, J.B.L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

Judgment affirmed.

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