

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HONORABLE CESARIO C. GOLEZ, JUDGE, COURT OF FIRST INSTANCE OF CAPIZ, BRANCH I, AND POLICARPIO AMORES, RESPONDENTS.

G.R. No. L-29268. August 30, 1982

Ponente: RELOVA, J.

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RELOVA, J.:

Records show that the City Fiscal of Roxas City filed an information against private respondent Policarpio Amores for violation of Section 87 of Republic Act No. 180, as amended, with the Court of First Instance of Capiz, presided by respondent Judge Cesario C. Golez. The information, docketed as Criminal Case No. 4452, was filed for the preliminary investigation by the Court of First Instance, pursuant to Section 187 of the Election Code. The said information reads as follows:

"That on the 14th day of November, 1967, an election day of the 1967 elections, in the City of Roxas, Phil-ippines, and within the jurisdiction of this Honorable Court, the above respondent, then being a member of the board of election inspectors, of Precinct No. 19, duly constituted and convened, with deliberate intent to obstruct the efficient performance of the said board of election inspectors, did then and there willfully, unlawfully and feloniously absent himself from the polling place during the voting for more than twenty (20) minutes, without the permission of the said board, and without leaving a sub-stitute to take his place and bringing with him the keys of the ballot boxes, thereby resulting in the failure of the said board to canvass the votes in the evening."

Respondent Judge Golez issued an order dismissing the case on the ground that "in view of the ruling of the Supreme Court in the case of Albano v. Arranz, L-24403, December 22, 1965, this Court cannot legally conduct a preliminary investigation under Section 13, Rule 112, New Rules of Court, of an offense charged in an information filed by the Fiscal."

City Fiscal Abela filed a motion for reconsideration of respondent Judge's order dismissing the information alleging, among others, that the case of Albano v. Arranz relied upon by the court has no bearing in the case at bar, and that it was never the intention of the law "to take out from the province and power of the fiscals to initiate and prosecute offenses defined by the Code."

The motion for reconsideration was denied. Hence, this petition for certiorari with prayer that the order of respondent judge dismissing the information be annulled and that he be ordered to conduct the preliminary investigation of the case in accordance with the provisions of the Revised Election Code.

Section 187 of Republic Act 180, as amended, otherwise known as the Revised Election Code provides:

"SEC. 187. Jurisdiction of Courts of First Instance. - The Courts of First Instance shall have exclusive original jurisdiction to make preliminary investigations, issue warrants of arrest and try and decide any criminal action or proceeding for violation of this Code. From its decision an appeal shall lie as in other criminal cases."

By the above provision of law, it is clear that it is the Courts of First Instance which have exclusive original jurisdiction to make preliminary investigations, issue warrants of arrest and try and decide any criminal action for violation of said code.

However, Section 182 of Presidential Decree No. 1296, otherwise known as "THE 1978 ELECTION CODE" provides that:

"SEC. 182. Prosecution. - The Commission shall, through its duly authorized legal officers, have the power to conduct preliminary investigation of all election offenses punishable under this Code, and to prosecute the same. The Commission may avail of the assistance of other pro-secuting arms of the Government."

Thus, it is no longer the Courts of First Instance which shall conduct the preliminary investigation of election offenses. The power has been transferred to the Commission on Elections.

ACCORDINGLY, respondent Judge is hereby directed to refer the records of this case to the Commission on Elections for its appropriate action.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Melencio-Herrera, Plana, Vasquez, and Gutierrez, Jr., JJ., concur.

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