

THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. OSCAR CASTELO, AS JUDGE OF FIRST INSTANCE OF MANILA EDUARDO CASTILLO, PEDRO R. PEÑA, GREGORIO E. PURA, AND PABLO MALASARTE, RESPON...

G.R. No. L-4662. August 18, 1952

Ponente: PARAS, C.J.

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PARAS, C.J.:

The petitioner, People of the Philippines, is the plaintiff in criminal case No. 10923 of the Court of First Instance of Manila, for malversation of public property, filed against Eduardo Castillo, Pedro R. Peña, Gregorio E. Pura and Pablo Malasarte. In the course of the trial, or on February 17, 1951, the prosecution filed a petition, praying that it be allowed to present Mrs. Enriqueta V. Pascual or other material witnesses to prove, as direct evidence, certain admissions or confessions made by some of the defendants during the preliminary investigation conducted by the City Fiscal of Manila. On March 2, 1951, the Court of First Instance of Manila denied the petition, on the grounds that it is in violation of section 38 of Republic Act No. 409 and the Rules of Court, and that the declaration of a defendant in the course of a preliminary investigation is privileged. Failing to obtain a reconsideration, the petitioner instituted the present petition for mandamus.

Section 2465 of the Revised Administrative Code, as amended by Commonwealth Act No. 537, embraced in Title X, Chapter 60 (the old Charter of the City of Manila), provided, among others, that "no testimony elicited from a witness by such examination under oath before the fiscal of the city or his assistant under this section shall be used against such witness in any prosecution pending or thereafter instituted against him." The "examination" referred to in said provision is no other than the preliminary investigation conducted by the City Fiscal of "all charges of crimes, misdemeanors, and violations of ordinance." Republic Act No. 409, approved on June 18, 1949, and known as the Revised Charter of the City of Manila, in its section 102, expressly repealed Chapter 60 of the Revised Administrative Code; and section 38 of said Republic Act No. 409, which deals with the office of the City Fiscal, does not contain the provision found in section 2465 of the Revised Administrative Code, already above quoted.

With the statutory prohibition removed, it follows that the testimony of a witness given in a preliminary investigation conducted by the City Fiscal of Manila may now be used against such witness in any prosecution pending or thereafter instituted against him. It is contended for the respondents, however, that to allow the admission of said testimony would be forcing an accused to be a witness against himself, contrary to the constitutional mandate. In the first place, it is not pretended that the admissions or confessions sought to be proved by the prosecution in criminal case No. 10923, were not made by the defendants voluntarily. In the second place, as held in *People vs. Carillo*,[*] 43 Off. Gaz., 5021, 5024, "the conviction of an accused on a voluntary extra judicial statement in no way violates the constitutional guarantee against self-incrimination. What the above inhibition seeks to protect is compulsory disclosure of incriminating facts. While there could be some possible objections to the admissibility of a confession on grounds of its untrustworthiness, such confession is never

excluded as evidence on account of any supposed violation of the constitutional immunity of the party from self-incrimination. (Hendricson vs. People, 10 N. Y., 33; 3 Wigmore on Evidence, p. 250.) The use of a voluntary confession is a universal, time-honored practice grounded on common law and expressly sanctioned by statutes." The Rules of Court (section 14, Rule 123) have thus expressly provided that "the declaration of an accused expressly acknowledging the truth of his guilt as to the offense charged may be given in evidence against him."

We cannot see any difference between a confession made before other investigating officers and a confession made in the course of a preliminary investigation conducted by the City Fiscal, for all practical purposes. The contention that the statements in question are privileged, besides lacking statutory or reglementary authority, is inconsistent with section 14 of Rule 123. The contention is also in a way inconsistent with the respondents' theory that said statements may be used as impeaching evidence.

As the prosecution has the legal right to present the evidence in question, the petition for mandamus is hereby granted, and the respondent Court of First Instance of Manila is ordered to allow the prosecution to establish as direct evidence the confessions or admissions made by the defendants in criminal case No. 10923. So ordered, without costs.

Pablo, Bengzon, Padilla, Tuason, Montemayor, and Labrador, JJ., concur.

* 77 Phil. 572.

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