

THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. EMETERIO C. OCAYA, AS DISTRICT JUDGE, 15TH JUDICIAL DISTRICT, BRANCH VI, PROVINCE OF BUKIDNON, AND ESTERLINA MARAPAO, LETICIA...

G.R. No. L-47448. May 17, 1978

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court declares the questioned orders of respondent judge dismissing the information for supposed lack of jurisdiction as null and void. Respondent judge wrongfully dismissed the case before him in disregard of the elemental rule that jurisdiction is determined by the allegations of the information and that the offense of serious physical injuries charged in the information had duly vested his court with jurisdiction. The Court orders the transfer of the case below to another branch of the Bukidnon court of first instance, since it is doubtful that the State and offended party may expect a fair and impartial hearing and determination of the case from respondent judge who with his erroneous preconceptions and predilections has adversely prejudged their case for serious physical injuries as one merely of slight or less serious physical injuries.

The office of the provincial fiscal of Bukidnon, after preliminary investigation filed an information dated October 13, 1977 in the court of respondent judge, charging the three private respondents-accused (Esterlina Marapao, Leticia Marapao and Diosdado Marapao) for serious physical injuries committed as follows:

"That on or about the 23rd day of July, 1977, in Don Carlos, Bukidnon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon one Mrs. LOLITA ARES, a mother who was then still on the twelfth (12th) day from her child delivery, by then and there wrestling her to the ground and thereafter throwing and hitting her with a fist-size stone at the face thereby inflicting upon said Mrs. LOLITA ARES: -

'lacerated wound, transverse right at about 2.5 cm. x 0.5 cm. in width at the level of the maxillary arch of the face, with contusion and swelling all around the inflicted area'

which injury considerably deforms her face, and further causing upon said Mrs. LOLITA ARES to suffer a relapse (nabughat in the local dialect) arising from her weak constitution due to her recent child delivery, which relapse incapacitated her from performing her customary labor for a period of more than thirty days.

"Contrary to and in violation of Article 263, paragraph 3 of the Revised Penal Code."

The records do not show that arraignment or trial on the merits has been held, much less that warrants for the arrest of the accused had been issued. Instead, after "scanning the records of (the) case" and noting that the thereto attached medical certificate stated that the injuries suffered by the victim Lolita Ares would require medical attention from 7 to 10 days and, therefore, "may either be slight or less serious physical injuries only" contrary to victim's affidavit that she was incapacitated from her customary labor for more than 30 days and the fiscal's findings as to the prominent scar left on the victim's face as a result "which considerably deforms her face" (as

duly alleged in the information), respondent judge motu proprio ordered the dismissal of the case "as the crime of slight or less physical injury is not within the jurisdiction of the court" as per his Order of October 27, 1977, stating as his reason that

"The Court is of the opinion that what governs in the filing of a physical injury case is the certificate issued by the physician regarding the duration of treatment, and not what the victim declares because the same is self-serving."

The fiscal's motion for reconsideration proved futile with respondent judge in his Order of November 16, 1977 denying the same, evaluating the case without having heard the parties or their witnesses (particularly the physician who issued the medical certificate) nor having received their evidence and ruling against the deformity alleged in the information on the basis of his perception from a reading of the medical certificate and the fiscal's written resolution finding proper basis for the filing of the information, that

"Now, does the finding of the fiscal to the effect that he observed a big scar at the left cheek bone of Mrs. Lolita Ares justify the filing of the charge of serious physical injuries, under Article 263 of the Revised Penal Code, when the attending physician certified that what he found was a lacerated wound on the right side of the face? Clearly, the scar found by the investigating fiscal could not be the result of the acts imputed to the accused but for some other cause, for how could the scar be found on the left side when the injury inflicted was on the right side?"[*]

Hence, the petition at bar as filed by the provincial fiscal for nullification of respondent judge's orders.

The Solicitor General in his comment has noted that there is ample legal and factual basis for the information charging serious physical injuries, stating that "(T)hat the allegations in the Information that a fist-size stone hit the face of Lolita Ares causing lacerated wound on the maxillary arch of the face which considerably deformed her face (are) not only supported by the medical certificate, but also by the admission of accused Diosdado Marapao during the preliminary investigation that he threw a fist-size stone which hit the face of Lolita Ares and the personal finding of Fiscal Tamin during the preliminary investigation that there is a prominent scar on her face," and that the offense as charged falls under Article 263, paragraph 3 of the Revised Penal Code which imposes thereon a penalty of prision correccional in its minimum and medium periods and is therefore properly cognizable by respondent judge's court.

The Court finds that respondent judge committed a grave abuse of discretion in precipitately dismissing the case for alleged lack of jurisdiction on the mere basis of his totally wrong notion that what governs in the filing of a physical injury case is the medical certificate regarding the duration of treatment and "not what the victim declares because the same is self-serving."

It is elemental that the jurisdiction of a court in criminal cases is determined by the allegations of the information or criminal complaint and not by the result of the evidence presented at the trial,[1] much less by the trial judge's personal appraisal of the affidavits and exhibits attached by the fiscal to the record of the case without hearing the parties and their witnesses nor receiving their evidence at a proper trial.

It is equally elementary that the mere fact that evidence presented at the trial would indicate that a lesser offense outside the trial court's jurisdiction was committed does not deprive the trial court of its jurisdiction which had vested in it under the allegations of the information as filed since "(once) the jurisdiction attaches to the person and subject matter of the litigation, the subsequent happening of events, although they are of such a character as would have prevented jurisdiction from attaching in the first instance, will not operate to oust jurisdiction already attached." [2]

Indeed, the Solicitor General has aptly commented that "the dismissal of the case had only resulted in duplication

of work and wasted time in the remand of records when respondent trial judge dismissed the instant case for want of jurisdiction, when it could have immediately proceeded to arraign the accused and try him."

Once more the Court is constrained to admonish the trial courts to proceed with proper study and circumspection before summarily dismissing cases duly filed within their court's cognizance and needlessly burdening the appellate courts with cases such as that at bar which should not have reached us at all in the first instance. Respondent judge's disregard of the established rule that the information for serious physical injuries properly vested his court with jurisdiction to try and hear the case, and that if from the evidence submitted a lesser offense was established, that he equally had jurisdiction to impose the sentence for such lesser offense, is difficult of comprehension. Besides, the doctor who issued the medical certificate had yet to be presented at the trial and conceivably could corroborate the victim's testimony that her injuries had taken longer to heal than had at first been estimated by him as well as clarify the location of the victim's facial scar.

Respondent judge's actions and premature and baseless declaration that the victim's declaration as to the period of her incapacity is "self-serving" raise serious doubts as to whether the State and the offended party may expect a fair and impartial hearing and determination of the case from him, since seemingly with his erroneous preconceptions and predilections, he has adversely prejudged their case as one merely of slight or less serious physical injuries. The case below should therefore be transferred to another court presided by another judge.

ACCORDINGLY, the questioned orders of respondent judge are declared null and void. The case below for serious physical injuries is remanded and ordered transferred to Branch V of the court of first instance below, and the judge presiding the same is ordered to issue the corresponding warrants of arrest and to proceed with dispatch with the arraignment of the respondents-accused and the trial and determination of the case on the merits. Let copy of this decision be attached to the personal record of respondent judge. No pronouncement as to costs.

SO ORDERED.

Makasiar, Santos, Fernandez, and Guerrero, JJ., concur.

[*] Italics copied.

[1] *People vs. Cottiok*, 62 Phil, 501, 503; see *U.S. vs. Mallari*, 24 Phil. 366, 368; and *People vs. Celis*, 101 Phil. 586, 589-590.

[2] *Ramos vs. Central Bank*, 41 SCRA 565, 583, citing *People vs. Pegarum*.

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