

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANTS VS. ORLANDO CARREON, DEFENDANT AND APPELLEE.

G. R. No. L-17920. May 30, 1962

Ponente: BARRERA, J.

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BARRERA, J.:

On February 17, 1960, Orlando Carreon was charged in the Municipal Court of Ozamis City (Crim. Case No. 2916) with the crime of Other Light Threats defined and penalized under Article 285 of the Revised Penal Code, in an information which reads:

"That on or about the 13th day of February, 1960, in Zamora St., in front of the Public Market, City of Ozamis, Philippines, and within the jurisdiction of this Honorable Court, the above' named accused, did, then and there, wilfully, unlawfully, and feloniously, threaten one Manuel M. Mananquil by then and there holding and pushing his shoulder, at the same time drawing his sidearm, and uttering to the latter in a threatening tune the following words: 'Unsay imong gui inspection sa akong igsoon sa bukid nga wala ka may labut sa Bureau of Education' which if translated to the English language means, 'What inspection did you make to my sister in the mountain when you are not connected with the Bureau of Education?' as a result of which Manuel M. Mananquil was scared and frightened.

"Contrary to Article 285, of the Revised Penal Code."

To this information, the accused Carreon filed a motion to dismiss (quash) on March 29, 1960, on the ground of insufficiency of evidence against him, to which, the prosecution duly filed an answer (opposition) on April 4, 1960. On the same date (April 4), the Municipal Judge denied said motion, for the reason that "the evidence stands sufficient for conviction" of the accused Carreon. Thereafter, trial of the case proceeded and after submission, the Municipal Judge, on June 29, 1960, rendered a decision convicting the accused Carreon, not of Other Light Threats as charged, but of Unjust Vexation. Said decision, in part, states;

"Upon a careful examination of the evidence adduced by the parties, the Court is inclined to believe that accused Orlando Carreon did not draw his revolver against Manuel Mananquil nor threaten him with any weapon. * * * In view of this finding, the Court seriously doubts as to whether the accused could be held guilty of the crime of light threat as charged in the information.

"There is no question, however, that in confronting and treating the offended party in the manner testified to by Sgt. Obido and Patrolman Cuevas, the accused did unjustly vex or annoy the said offended party. That there was really intention of the accused to vex the offended party on the night in question, was shown by the fact that shortly before the incident in question occurred, the accused met the offended party at Zulueta Street and, in a hard and provoking manner, asked the latter what he was inspecting about in the slaughter-house of the public market of this City.

"If the accused committed the offense of unjust vexation, can he be convicted and sentenced accordingly under the information filed in this case?

"It is alleged, among others, in the information that the accused threatened one Manuel M. Mananquil by 'then and there holding and pushing his shoulder, * * * and uttering to the latter in a threatening tone the following words: 'What inspection did you make to my sister in the mountain when you are not connected with the Bureau of Education?' These allegations in the information, in the opinion of the Court, substantially describe the offense of unjust vexation which was duly proven by the evidence presented during the trial. Hence, the accused can be convicted and sentenced accordingly.

"Wherefore, finding the accused guilty beyond reasonable doubt of unjust vexation, and there being no aggravating nor mitigating circumstance attendant in the commission of the crime, the Court hereby sentences Orlando Carreon to pay a fine of P25.00 with subsidiary imprisonment in case of insolvency, and to pay the costs.

"So ordered."

From this decision, the accused Carreon appealed to the Court of First Instance of Misamis Oriental (docketed as Crim. Case No. 5282), by filing his notice of appeal on July 20, 1960. There the City Fiscal reproduced the same information filed in the Municipal Court.

On August 11, 1960, the accused Carreon, through counsel, filed a motion to quash the information on the grounds that (1) any further proceeding or trial of the Le will constitute double jeopardy; and (2) the facts charged in the information do not constitute the offense of Unjust Vexation. To this motion,- no opposition was filed by the prosecution.

On October 24, 1960, the Court of First Instance dismissed the case, in an order of this tenor:

"ORDER

"Finding the motion to quash filed by Atty. Pedro Samson C. Animas to be well-founded, this case is hereby ordered DISMISSED, with costs de oficio, and the cancellation of the bail bond posted for the provisional release of the accused.

"So ordered."

From this order, the prosecution has taken the present appeal, claiming that the trial court erred in granting the accused Carreon's said motion to quash.

There is merit in the appeal. The first ground urged by appellee, both in the Court of First Instance and her in this appeal, in support of his motion to quash, which the trial court sustained, is that any further proceeding or trial of the case will constitute double jeopardy on his part; and this seems to be predicated on the statement of the Municipal Court that it "seriously doubts as to whether the accused could be held guilty of the crime of light threat as charged in the information", and on the fact that the accused was instead convicted of Unjust Vexation. Counsel for the accused interprets this action on the part of the Municipal Court as a judgment of acquittal with respect to the offense of light threat and, since the information in the Court of First Instance is captioned "Other Light Threats", it is argued that proceeding under that information would place the accused in jeopardy for the second time.

This contention, if plausible, is nevertheless not valid. In the first place, the cited statement of the Municipal Court is not a finding of acquittal, but a mere statement of a doubt. Secondly, the rule is well-settled that when an accused unqualifiedly appeals from a sentence of the trial court—as did the accused in this case—he waives the constitutional safeguard against double jeopardy and throws the whole case open to the review of the appellate court, which is then called upon to render such judgment as law and justice dictate, whether favorable or unfavorable to the appellant (*Lontoc vs. People*, 74 Phil. 513, 519). If this is true with respect to appeals from the

Courts of First Instance, with more force would it be in relation to appeals "from the municipal or justice of the peace courts, where Rule 119 of the Rules of Court specifically provides:

"SEC. 8. Effect of appeal.—After the notice of appeal, all the proceedings and judgment of the justice of the peace or municipal court are vacated, and the case shall be tried in all respects anew in the Court of First Instance as if it were a case originally instituted in that court."

Under this provision, when an appeal has been perfected, the judgment of the justice of the peace or municipal court is vacated, and the case is tried de novo in the Court of First Instance, as if it were there originally instituted. No new information need be filed in the latter court in order that it may acquire jurisdiction to try and decide the case (*Crisostomo vs. Director of Prisons*, 41 Phil. 368; *People vs. Co. Hiok*, 62 Phil. 501). The prosecution may choose to stand on the information filed in the justice of the peace court, or to file a new information in the Court of First Instance, provided the same charges the same Criminal act^[1] for which the accused was tried by the justice of the peace court (*Andres vs. Wolfe*, 5 Phil. 60).

In the instant case, when the accused Carreon filed a notice of appeal on July 20, 1960 from the judgment of the Municipal Court of Ozamis convicting him of Unjust Vexation, said judgment was vacated, and the information against him for Other Light Threats was automatically—as in fact it was actually—reproduced (refiled) in the Court of First Instance of Misamis Oriental, which will try and decide the case anew, as if it was there originally instituted, completely unaffected by what the Municipal Court had found. In fine, against the proceeding to be had in the Court of First Instance, which is brought about by the appeal taken by the accused Carreon himself, he can not interpose the plea of double jeopardy.

The second ground invoked by the accused Carreon for the quashing of the information is that the facts charged therein do not constitute the crime of Unjust Vexation. But the information previously filed in the Municipal Court and reproduced (refiled) in the Court of First Instance upon appeal of the accused Carreon charges him with the crime of Other Light Threats, and not of Unjust Vexation. What the Court of First Instance will determine, after due trial, whether the accused will be found guilty of light threats or unjust vexation under the facts alleged in the information and proved during the hearing, is something which cannot be anticipated at this stage. And, since the accused himself admits the sufficiency of the information as to Other Light Threats, the Court of First Instance should, in the circumstances, have denied the motion to quash.

Wherefore, the order of the trial court (dated October 24, 1960) appealed from is hereby set aside, and the case is remanded to the court a quo for further proceedings. No costs. So ordered.

Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Paredes, and Dizon, JJ., concur.

[1] Not any designated offense as specified by the fiscal, which may be erroneous.

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