

MONTSERRAT D. AQUINO, PETITIONER, VS. PHILIPPINE ARMY AMNESTY COMMISSION AND CAPTAIN TOMAS YQUIN, RESPONDENTS.

G. R. No. L-3879. April 27, 1951

Ponente: JUGO, J.

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JUGO, J.:

This is a petition for a writ of prohibition. The petitioner Montserrat D. Aquino is the widow of the deceased Potenciano Aquino, with residence in Pamplona, Cagayan. The respondent Captain Tomas Yquin is an officer of the Philippine Army, in active service.

On August 31, 1946, the Provincial Fiscal of Cagayan filed an information against Tomas Yquin with the Justice of the Peace Court of Sanchez Mira, Cagayan, accusing him, with other individuals, of the murder of Potenciano Aquino and others, Criminal Case No. 1610 of said court. On September 7, 1946, the President of the Philippines issued Amnesty Proclamation No. 8. Pursuant to Administrative Order No. 11, creating Guerrilla Amnesty Commissions, and Administrative Order No. 17, creating the Philippine Army Amnesty Commission to investigate the claims for the benefits of amnesty of persons subject to military law, the Provincial Fiscal, who had filed an information against respondent Yquin and others, cited Captain Tomas Yquin to appear before him. He took Yquin's affidavit and inquired from him whether he wanted to avail himself of the amnesty proclamation. Captain Yquin answered in the negative. Later, however, Yquin filed a petition With the Philippine Army Amnesty Commission to investigate his claim for the benefits of amnesty. Due to this petition, the Fiscal did not press the case against him in the Justice of the Peace Court. When he appeared before said Commission, and was asked whether he pleaded guilty to the charge filed against him, he answered that he did not want to do so and requested the Commission to allow him to withdraw his petition for amnesty. This was granted.

The Fiscal filed again with the Justice of the Peace Court the information against Yquin and another person, and the court issued orders of arrest, but before Yquin was arrested, he filed again with the Commission his application for amnesty and no further proceedings were held in the Justice of the Peace Court with regard to him. One of the reasons why he did so was that the Commission and he had learned of the latest decisions of this Court, which held that the plea of guilty was not necessary as a prerequisite to the investigation by the Commission.

The petitioner Montserrat D. Aquino, after the investigation had begun, through her counsel, objected to the readmission of his petition on the ground that, having been withdrawn by Yquin, with the approval of the Commission, the latter could not readmit it and proceed with the investigation. For the convenience of the parties, the investigation took place in Abulog, Cagayan, by a board deputized by the Philippine Army Amnesty Commission. The objection was referred to the Commission in Camp Murphy, which overruled it in a lengthy well-reasoned order.

The petitioner now comes to this Court praying for a writ of prohibition against the respondents to prevent them

from proceeding with the investigation, so that the matter may be referred to the civil courts.

The petitioner invokes estoppel against the respondent Yquin. The fact that he refused to plead guilty and withdrew his first application does not constitute estoppel, because an accused may at any time change his plea of not guilty to guilty, which is generally allowed by the courts. In the present case, he need not even change his plea, as in fact he has not done so (*Barrioquinto et al., vs. Fernandez et al.*, 82 Phil., 642, 46 Off. Gaz., 3031; *Viray vs. Amnesty Commission of the Armed Forces of the Philippines et al.*, 47 Off. Gaz., 3467).[*] The withdrawal of his application for amnesty is also no ground for estoppel. There is nothing in the Amnesty Proclamation and the implementing administrative orders and instructions which would prevent the presentation of an application for amnesty after it has been withdrawn. It should be considered in this connection that the respondent Yquin withdrew his petition, among other reasons; because he was under the impression that it was necessary for him to plead guilty before he could ask for amnesty and he did not want to take the risk. At any rate, said acts of the respondent Yquin does not come within the definition of estoppel given in Rule 123, section 68 (a), for the accused is not attempting to falsify anything which he had stated to be true to the petitioner.

The petitioner herein did not object to the authority of the Philippine Army Amnesty Commission, through the Deputy Board at Abulog, Cagayan, to investigate the case of the respondent Yquin—other than on the ground of estoppel as above cited—for Captain Yquin is an Officer of the Philippine Army in active service. In the *Viray* case, *supra*, the Philippine Army Amnesty Commission investigated the case of a Philippine Army officer in active service, which is the same status of the herein respondent Captain Yquin. Furthermore, the distribution of cases among the different Commissions by mere administrative orders does not create venue and jurisdiction, in the sense that the parties cannot waive same.

It is the spirit of the amnesty proclamation and the administrative orders of the President and the instructions issued by the Secretary of Justice implementing it, that the investigation before the several Amnesty Commissions should be conducted in a liberal and expeditious manner, as evinced by the expression "without the least possible delay", "shall examine the facts and circumstances surrounding each case and, if necessary, conduct summary hearings of witnesses" (Proclamation No. 8) ; "the decision or resolution on a given case need not state the facts in detail but merely and briefly the grounds upon which it is based" (Adm. Order No. 11). Expressions to the same effect are found in the several instructions issued by the Secretary of Justice for the implementation of the amnesty proclamation.

In view of the foregoing, the petition is denied. Without pronouncement as to costs. So ordered.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Montemayor and Bautista Angelo JJ., concur.

[*] 85 Phil., 854

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