

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. SIXTO VELEZ, DEFENDANT AND APPELLEE.

G.R. No. L-1219. February 25, 1947

Ponente: FERIA, J.

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FERIA, J.:

This is a motion filed by the Solicitor General with this Court to dismiss the appeal, interposed by the attorney for the offended party, from the order of the Court of First Instance of Misamis Occidental that dismissed the information against the accused, upon motion of the latter's counsel, on the ground that the supposed libelous document is a privilege communication. The provincial fiscal did not oppose to the motion for dismissal filed by the defendant in the Court of First Instance, because he was also of the opinion that the letter which was the subject matter of the case was a privilege communication.

It is true that the offended party or his attorney may commence a criminal action and file the proper complaint, but according to section 15, Rule 106, of the Rules of Court, he may intervene in the prosecution of the criminal action so commenced only if he has not waived the civil action or expressly reserved the right to institute it, subject always to the direction and control of the fiscal under section 4 of the same Rule 106. Said section 15 of Rule 106 provides as follows:

"SEC. 15. Intervention of the offended party in criminal action.—Unless the offended party has waived the civil action or expressly reserved the right to institute it after the termination of the criminal case, and subject to the provisions of section 4 hereof, he may intervene, personally or by attorney, in the prosecution of the offense."

It appearing from the record that there was a pending civil action arising out of the same alleged libelous document, filed by the offended party against the same defendant (p. 28, Record), the offended party has no right to intervene in the prosecution of this case, and consequently can not appeal from the order of the court dismissing the information. The reason of the law in not permitting the offended party to intervene in the prosecution of a criminal case if he has waived his right to institute a civil action arising from the criminal act, or has reserved or, a fortiori, already instituted the said civil action, is that he has no special interest in the prosecution of the criminal action.

Besides, even if the offended party has not instituted a separate civil action nor reserved his right to do so, and has intervened in the prosecution of the criminal action, as his intervention is subject to the direction and control of the fiscal, that is, the provincial fiscal or the Solicitor General, the latter in the exercise of his authority to control the prosecution has the right to move for the dismissal of the appeal interposed by the offended party, if such dismissal would not affect the right of the offended party to civil indemnity. And in the present case the dismissal of the information or the criminal action does not affect the right of the offended party to institute or continue the civil action already instituted arising from the offense, because such dismissal or extinction of the penal action does not carry with it the extinction of the civil one under section 1 (d) Rule 107, Rules of Court, which reads as follows:

"(d) Extinction of the penal action does not carry with it extinction of the civil, unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil might arise did not exist. In the other cases, the person entitled to the civil action may institute it in the jurisdiction and in the manner provided by law against the person who may be liable for restitution of the thing and reparation or indemnity for the damages suffered;"

In view of the foregoing, the appeal interposed by the offended party is dismissed, with costs against the appellant.

Moran, C.J., Paras, Pablo, Hilado, Bengzon, Briones, Hontiveros, Padilla, and Tuason, JJ., concur.

TUTOL

PERFECTO, M.:

Kami ay tutol sa pasiya ng nakararami sapagka't maliwanag na labag sa batas.

Ang pasiyang iyan ay nagpapawalang kabuluhan sa karapatan ng napinsala ng isang kasalanan upang makialam sa paguusig ng may kasalanan hanggang ito ay maparusahan at lubos na makatugon sa kanyang sagutin sa harap ng batas.

Ang karapatan ng napinsala sa paghaharap ng habla o sakdal laban sa may kasalanan ay tiyak na kinikilala sa mga sumusunod na seksyon ng Regla danim (106):

"SECTION 1. Commencement of criminal action.—All criminal actions must be commenced either by complaint or information in the name of the People of the Philippines against all persons who appear to be responsible therefor.

"SEC. 2. Complaint defined.—Complaint is a sworn written statement charging a person with an offense, subscribed by the offended party, any peace officer or other employee of the government or governmental institution in charge of the enforcement or execution of the law violated."

Kung sang-ayon sa mga kautusang ito ang napinsala ay mayroong karapatang magharap ng isang sakdal, ano ang kabuluhan ng karapatang iyan kung, sa kabilang dako, sangayon sa nakararami, ang napinsala ay walang karapatan upang makialam sa paglilitis ng habla na kanyang sinimulan?

Walang ano mang mahusay na matuwid na maaring maipahayag upang hadlangan ang karapatan ng napinsala upang makialam sa usapin na kanyang sinimulan. Sino pa ang magkakaroon ng higit sa kanya ng pagmamalasakit upang ang tunay na katarungan ay maigawad sa kanyang usapin?

Ang pasiya ng nakararami ay nababatay sa isang baliktad na pagbabasa ng mga kautusan ng batas. Ang seksyon pulim (15) ng Regla danim (106) na ipinagmamatuwid ng nakararami upang pawalang kabuluhan ang ginawang paghahabol ng napinsala sa usaping ito ay hindi maaaring bigyang kahulugan na nagpapawalang kabuluhan ng karapatan na ipinagkakaloob ng mga seksyon 1 at 2, sapagka't iyan ay isang balintuna na hindi dapat ipalagay na ginawa ng mga sumulat o kumatha ng mga regla.

Ang mga nakararami ay nagpapalagay na ang napinsala ay walang bagay na dapat pagmalasakitan kung hindi ang isang halaga na maaari niyang masingil sa nagkasala, at hindi dapat manghimasok kung ito ay parusahan o hindi. Ito'y isang napakamaling palagay, sapagka't nababatay sa simulain na sa napinsala ng isang kasalanan ay wala ng may halaga kung hindi ang salapi lamang. Ang mga ulila ng isang magulang na pinatay ay wala ng dapat habulin kung hindi kung magkano ang kanilang masingil sa pumatay, at hindi dapat makialam kung ito ay magdusa o

hindi. Ang dalagang inagawan ng puri o ginahasa ay hindi kailangang dumulog sa hukuman upang palapatan ng dusa ang salarin, kung hindi ang maka-kuwalta na lamang. Sa ganitong paraan ang buhay, ang kalayaan, ang karangalan at kapurihan ng mga napinsala at ng kanilang mga kamaganak ay lalabas na mga murang kalakal, kagaya ng mga itinitinda sa palengke, na hindi kailangang ipagtanggol ng buong kaya, kung hindi pawang nakalaan na ihandog sa sino mang may salapi na makatumbas sa halagang maitakda ng isang hukuman.

Ang aming budhi ay hindi kailan pa man mapapanatag sa harap ng ganyang filosofya. Simula sa kaibuturan ng aming puso sumisibol ang mataginting na sigaw laban sa ganyang mga palagay na bumabarat sa mga bagay na napakadakila sa tao at nagpapadakila sa sangkatauhan, ang mga saligang karapatan na sapul sa simula ay mga batayan ng pagkatangi ng mga tao sa kaharian ng kahayupan.

Aming ipinapasiya na dapat pahintulutan ang napinsala sa usaping ito na magpatuloy ng kanyang pakikialam sa kanyang habol laban sa pasiya ng hukumang unang dulugan, hanggang itong usaping ito'y humantong sa lubos ng katapusan.

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