

TERESITA BELARMINO, PETITIONER, VS. HON. C.R. AYSON AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. L-48345. February 07, 1991

Ponente: BIDIN, J.

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BIDIN, J.:

This is a petition for review on certiorari seeking the annulment of the Order of the respondent judge dated May 26, 1978 in Criminal Case No. 849 of the then Court of First Instance of Isabela, Branch I entitled "People of the Philippines vs. Regidor Leon" ordering the provisional dismissal of the complaint for rape against Regidor de Leon "subject to the ruling of the case to enable the offended party to seek redress from a higher authority" (Rollo, p.71).

The facts of the case are as follows:

On August 8, 1977, petitioner filed a complaint for rape against Regidor de Leon with the Municipal Court of Ilagan, Isabela (Rollo, p. 29) upon which said court conducted a preliminary investigation. On August 16, 1977, it issued an order finding probable cause against de Leon and issued a warrant for his arrest and fixed bail for his liberty in the amount of P50,000.00 (Rollo, p. 43).

The accused waived his right to a preliminary investigation, whereupon the case was forwarded to the Court of First Instance (now Regional Trial Court) of Isabela, where it was docketed as Criminal Case No. 849 (Rollo, p. 103). An information for rape was filed on October 15, 1977 by Provincial Fiscal Josefino Draculan (Rollo, p. 44).

On January 19, 1978, de Leon pleaded not guilty upon arraignment, after which initial trial was scheduled for February 21, 1978 (Rollo, p. 104).

Unknown to petitioner, de Leon filed a motion for re-investigation after his arraignment interposing the defense of alibi (Rollo, p. 22).

On February 20, 1978, the Provincial Fiscal filed before the trial court a "Motion to Dismiss the Information" on the ground of insufficiency of evidence to establish the guilt of the accused (Rollo, p. 49).

On March 8, 1978, petitioner filed an "Opposition to the Motion to Dismiss" (Rollo, p. 50).

The respondent Judge, on May 26, 1978, granted the motion, the dispositive portion of which reads:

"WHEREFORE, the motion is granted. This case is hereby provisionally dismissed with costs de oficio.

This dismissal is provisional in character only subject to re-filing of the case to enable the offended party to seek redress from a higher authority like the Department of Justice, if she so desires.

SO ORDERED." (Rollo, p. 71).

On August 25, 1978, petitioner filed the instant petition before this Court (Rollo, p. 20).

While this case was pending in this Court, petitioner on May 26, 1979, submitted a true copy of the letter dated October 30, 1978 addressed to Provincial Fiscal Draculan by the then Acting Minister of Justice Catalino Macaraig, Jr. directing said fiscal to reinstate the information in Criminal Case No. 849 (Rollo, p. 153).

As correctly opined by the Solicitor General, petitioner has heeded the advice of respondent Judge and appealed the fiscal's ruling of dismissal to the then Ministry of Justice which resolved the appeal in her favor. Under the circumstances, the instant case has become moot and academic.

WHEREFORE, the petition is Dismissed for being moot and academic, and the records of this case is remanded to the trial court for further proceedings.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Feliciano, and Davide, Jr., JJ., concur.

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