

**RAMON LOSEO, PETITIONER-APPELLANT, VS. ENRIQUE INTING,
JUDGE OF THE CITY COURT OF DAVAO, THE PEOPLE OF THE
PHILIPPINES AND/OR THE CITY ATTORNEY OF DAVAO AND
RICARDO ALDEVERA, RE...**

G.R. No. L-22654. June 10, 1971

Ponente: DIZON, J.

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DIZON, J.:

Petition for certiorari against the Hon. Enrique Inting, Judge of the City Court of Davao, the City Attorney of Davao and Ricardo Aldevera.

Petitioner Ramon Loseo was charged in the City Court of Davao with slight physical injuries (Criminal Case No. 844-B). On the day set for the trial thereof, because of the Fiscal's failure to appear, the case was dismissed "without prejudice to the filing of a separate civil action" by the offended party. The following day, on motion of the Fiscal, the order of dismissal was lifted and the case was reset for trial in the morning of August 29, 1963. Three days before that date, counsel for petitioner (the accused) filed an urgent motion for postponement. The same having been granted, the court reset the case for trial on September 18, 1963. On that date, petitioner was duly arraigned and pleaded not guilty. Immediately thereafter, the trial was commenced, the petitioner, through counsel having cross-examined all the prosecution witnesses. On that same date, after the prosecution had rested its case, the court reset the case for the continuation of the trial on October 14, 1963. Again, six days before that date, petitioner, through counsel, moved to postpone the continuation of the trial, in view of which the court reset it on November 5 of the same year.

On October 18, 1963, that is, 64 days after the court had lifted the order of dismissal, petitioner filed a motion for reconsideration of said order. This was denied by the court on October 22, 1963.

When the case was again called for the continuation of the trial on November 5, 1963, petitioner, instead of presenting his evidence, moved that the continuation of the trial be suspended on the ground that he had filed a petition for certiorari against the respondent judge in connection with the case. In view thereof, the respondent judge suspended the continuation of the trial until after the resolution of the Court of First Instance of Davao on the petition for certiorari filed with it. It is not disputed that subsequently that court dismissed the action for certiorari already mentioned for lack of merit. Hence this appeal.

It is petitioner's contention that the respondent judge erred in not holding that the dismissal of the case on August 14, 1963 was immediately final and executory, and that, as a consequence, His Honor no longer had authority to lift the order of dismissal, nor to reinstate the case.

It is not denied that the order of dismissal mentioned heretofore was issued before petitioner, accused in Criminal Case No. 844-B of the City Court of Davao, had been arraigned. The dismissal, therefore, cannot be invoked to support the plea of double jeopardy.

Petitioner's contention in this appeal that the City Fiscal of Davao, instead of asking the City Court of Davao to set aside the order of dismissal, should have allowed it to stand, without prejudice to his re-filing the case with the same court immediately, is a technicality that does not promote the speedy and inexpensive administration of justice. We have heretofore repeatedly held that technicalities, when instead of promoting the speedy administration of justice delay it, are not looked with favor. More so in this case where it appears that the setting aside of the order of dismissal caused petitioner no substantial prejudice admitting as he does that he could have been made to face the same charge all over again in a separate action.

WHEREFORE, the present appeal being entirely without merit, the same is dismissed, with costs, and the City Court of Davao is hereby ordered to immediately proceed to reset its Criminal Case No. 844-B for continuation of trial.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

Ruiz Castro, J., took no part.

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