

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. LUALHATI S. MACANDOG, DEFENDANT AND APPELLANT.

G. R. No. L-18601-2. January 31, 1963

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

Appeal on questions of law from an order dated 12 April 1961 of the Court of First Instance of Manila, to wit:

"These cases are before the court on appeal from an order of the Judge of the Municipal Court¹ denying- the motions to quash filed by counsel for the defendant. Taking into consideration that the order denying the motion to quash is interlocutory in nature, the appeal is hereby dismissed with costs against the appellant."

The records disclose that on 25 November 1960 , the City Fiscal's Office filed against appellant, in the Municipal Court of Manila, two informations for slander and for slight physical injuries.

On 20 and 30 January 1961, respectively, accused filed motions to quash both informations, which motions were denied "for lack of merit" on 10 February 1961. She appealed to the Court of First Instance of Manila, which, as has already been stated, dismissed the appeal.

The motion to quash in the slander case challenged the jurisdiction of the municipal court allegedly because a written complaint by the offended party therein is absolutely indispensable. With respect to the slight physical injuries, appellant claims that the same had already prescribed. The principal issue to be resolved is whether or not the order of the court denying the motions to quash both informations is appealable.

It has been held repeatedly by this Court that an order denying the motion to quash is merely interlocutory, and, therefore, not appealable (*Collins vs. Wolfe*, 4 Phil., 534; *People vs. Aragon*, G. R. No. L-4930, 17 February 1954 ; *People vs. Manuel*, G. R. Nos. L-6794 and L-6795, 11 August 1954). Section, 1, Rule 113, of the Rules of Court specifically provides that the accused "shall immediately plead" after the motion to quash is overruled. This means that trial shall go on, and if judgment is rendered against her, she can later on appeal and then raise again the same question which she is now seeking to be reviewed.

In support of her appeal, appellant cites the case of *Arches vs. Beldia*, G. R. No. L-2414, 27 May 1949. Apparently, as the Solicitor General pointed out, the decision is misconstrued. In that case, after the motion to quash was denied by the Justice of the Peace Court, the accused brought the issue, by certiorari and prohibition, to the Court of First Instance of Capiz, a step which this Court held to be erroneous, as "appeal in due time was the obvious and only remedy for the accused-petitioner" therein. The phrase "appeal in due time" implies a previous conviction as a result of a trial on the merits of the case, and does not refer to an interlocutory order denying a motion to quash.

Wherefore, the order appealed from is hereby affirmed, with costs against appellant.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador , Concepcion , Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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