

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. SANTIAGO O. TAÑADA, JUDGE OF THE COURT OF FIRST INSTANCE OF CEBU (BRANCH V), RESPONDENT.

G.R. No. L-32215. October 17, 1988

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

We set aside the dismissal decreed in the Order dated May 4, 1970 of respondent judge Santiago O. Tañada in Criminal Case No. V-13048 entitled "People v. Postrero" of the then Court of First Instance (now Regional Trial Court) of Cebu, Branch V.

The information in Criminal Case No. V-13048 charging Romulo Postrero of rape was filed on September 17, 1968, by Assistant Cebu City Fiscal Jose Batiquin. It reads:

"The undersigned Assistant Fiscal of the City of Cebu, upon sworn complaint originally filed by the offended party, Victoria Capillan, attached hereto and made part hereof and marked as Annex "A" -- accused Romulo Postrero of the crime of RAPE, committed as follows:

"That in the evening of August 15, 1968, (sometime past 6:40 p.m. thereof) at the Queen Hotel of this city; and within the jurisdiction of this Honorable Court, the said accused did then and there willfully, unlawfully, and feloniously have carnal knowledge of, or sexual intercourse with the complainant Victoria Capillan, through the expediency and by means of depriving the latter of her reason and otherwise facilitating the carnal knowledge by rendering said complainant tired, weakened and semi-conscious the accused having previous thereto offered and given Victoria Capillan a beverage to drink (seven-up) and from the partaking of which said complainant felt physical weakness and still much later deprived of reason, thus the accused brought about this condition on the complainant to ravish the complainant with impunity.

"CONTRARY TO LAW."[1]

Annex "A" referred to in the information is the sworn letter-complaint for rape filed by Victoria Capillan with the Office of the City Fiscal, Cebu City, on September 16, 1968. Said letter-complaint reads:

"Sir:

"I am filing a criminal charge of RAPE against Romulo Postrero of 183-D B. Rodriguez Street, Cebu City committed as follows:

"That on or about 6:40 p.m. or so, on August 15, 1968, in the City of Cebu, one Romulo Postrero invited me for a snack at Quiapo Restaurant of this City and he ordered me to consume my soft drink (seven-up) at once and, thereafter, I felt sleepy, drowsy, dizzy and very weak. Then he brought me to Queen Hotel, and then and there raped me and have carnal knowledge with me and while I was still half conscious as if I was drugged, to my own damage and prejudice.'

"I hope that a preliminary investigation be conducted immediately preparatory to the filing of a criminal

complaint.

"Sincerely yours,

"(Sgd.) VICTORIA A. CAPILLAN

"SUBSCRIBED AND SWORN to before me this 16th day of September, 1968, at the City of Cebu, Philippines.

"(Sgd.) JOSE BATIQUIN

Asst. Fiscal, City of Cebu"[2]

On April 21, 1970, the accused filed a motion to dismiss the information on the ground that the court did not acquire jurisdiction over the offense charged, as the information filed by the fiscal is not a complaint signed by the offended party as required by the provisions of Article 344 of the Revised Penal Code and Section 4, Rule 110 of the Rules of Court to the effect that "the offenses of seduction, abduction, rape or acts of lasciviousness, shall not be prosecuted except upon a complaint filed by the offended party."

Over the opposition of the prosecution, respondent judge issued the Order dated May 4, 1970,[3] granting the motion and dismissing the case for lack of a valid complaint. The prosecution moved for a reconsideration, but the same was denied in an Order dated June 13, 1970. Hence, the present recourse.

As above intimated, we find the petition meritorious.

In granting the motion of the accused, respondent judge relied upon our decision in *People v. Santos*[4] to the effect that unless the same is filed in court, a "salaysay" or sworn statement of the offended party, which prompted the fiscal to conduct a preliminary investigation and then to file an information in court, is not the complaint required by Article 344 of the Revised Penal Code.

This ruling is not controlling in the case at bar. In the first place, the rule of "complaint-filed-in-court" enunciated therein has already been modified. In the 1966 case of *Valdepeñas v. People*[5] this Court, through then Associate, later Chief Justice Roberto Concepcion, clarified:

".... It is true that pursuant to the third paragraph of Art. 344 of the Revised Penal Code,

".... the offenses of seduction, abduction, rape or acts of lasciviousness, shall not be prosecuted except upon a complaint filed by the offended party or her parents ...

"The provision does not determine, however, the jurisdiction of our courts over the offenses therein enumerated. It could not affect said jurisdiction, because the same is governed by the Judiciary Act of 1948, not by the Revised Penal Code, which deals primarily with the definition of crimes and the factors pertinent to the punishment of the culprit. The complaint required in said Article is merely a condition precedent to the exercise by the proper authorities of the power to prosecute the guilty parties. And such condition has been imposed out of the consideration for the offended woman and her family who might prefer to suffer the outrage in silence rather than go through with the scandal of a public trial. (*Samilin v. CFI of Pangasinan*, 57 Phil. 298, 304)

"In the case at bar, the offended woman and her mother have negated such preference by filing the complaint adverted to above"[6]

This ruling was followed in the subsequent case of *People v. Babasa*[7] where the Court, citing the *Valdepeñas* case, ruled that "Art. 344 was not enacted for the specific purpose of benefiting the accused. When it is said that the requirement in Article 344 that there should be a complaint of the offended party or her relatives is

jurisdictional, what is meant is that it is the complaint that starts the prosecutory proceeding. It is not the complaint which confers jurisdiction on the Court to try the case. The Court's jurisdiction is vested in it by the Judiciary Law...."[8]

In *People v. Ilarde*[9] we again cited the *Valdepeñas* case in setting aside the orders which dismissed an information for adultery under Article 344 of the Revised Penal Code filed by the City Fiscal of Iloilo upon a sworn complaint originally lodged before the fiscal's office, charging the private respondents therein with the crime of adultery, which sworn complaint was attached to the information. In overruling the lower court's reliance on *People v. Santos*, supra, in dismissing the case, the Court, through Justice Venicio Escolin, correctly emphasized that the overriding consideration in determining the issue of whether or not the condition precedent prescribed in Article 344 has been complied with is the intent of the aggrieved party to seek judicial redress for the affront committed.

Secondly, as we pointed out in the *Ilarde* case, the "salaysay" executed by the complainant in *Santos* was not considered the complaint contemplated by Article 344 of the Revised Penal Code because it was a mere narration of how the crime of rape was committed against her. However, in the letter-complaint submitted by Victoria Capillan, the latter not only narrated the facts and circumstances constituting the crime of rape, but she also explicitly and categorically charged accused Romulo Postrero with the said offense. Thus --

"I am filing a criminal charge of RAPE against Romulo Postrero x x x."

Moreover, in *Santos*, the fiscal did not mention the offended party in the opening statement of the information. In the case at bar, the fiscal expressly stated that the information was instituted upon the sworn complaint of the offended party, and even attached and incorporated the complaint as follows:

"The undersigned Assistant Fiscal of the City of Cebu, upon sworn complaint originally filed by the offended party, Victoria Capillan, -- attached hereto and made part hereof and marked as Annex "A" -- accuses Romulo Postrero of the crime of RAPE, committed as follows: x x x "

Clearly, the letter-complaint filed by the offended party Capillan contains all the elements of a valid complaint as it "states the names of the defendants, the designation of the offense by the statute, the acts or omissions complained of as constituting the offense; the name of the offended party, the approximate time of the commission of the offense, and the place wherein the offense was committed." [10]

Upon these premises alone, it is evident that the respondent judge erred in finding that there was no valid complaint filed by the offended party in the charge of rape.

There is another cogent reason why the import of the appealed orders cannot be sustained.

As correctly pointed out by counsel for the People, to rule that the complaint for rape in the instant case, and in all other crimes covered by the third paragraph of Article 344 of the Penal Code should be filed in court, is violative of the Charter of Cebu City and contravenes our decision in *Balite v. People*[11] to the effect that all complaints must first be filed before the City Fiscal since he has the exclusive power to investigate all charges of crimes pursuant to the provision of the first paragraph, Section 37 of Commonwealth Act No. 58 (Cebu City Charter).

Accordingly, the procedure taken by the offended party in the instant case of filing first a complaint before the Office of the City Fiscal, which complaint was adopted by the fiscal and attached to and made part of the corresponding information filed after investigation, sufficiently complies with the requirement of Article 344 of the Penal Code and Section 4, Rule 110 of the Rules of Court in accordance with our pronouncement in the *Valdepeñas* case. Further, it was the proper procedure, and it remains so, pursuant to the Charter of Cebu City.

WHEREFORE, the petition is GRANTED. The orders of the Court of First Instance of Cebu, Branch V, in Criminal Case No. V-13048, dated May 4 and June 13, 1970, are hereby set aside, and respondent judge or the incumbent presiding judge is directed to proceed with the trial of the case on the merits without delay.

Considering the numbers of years that this case has been pending, and in the interest of justice, this decision is immediately executory. No costs.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

- [1] Annex "A", Petition; pp. 9-10, Rollo
- [2] Annex "A-2", Petition; p. 11, Rollo
- [3] Annex "D", Petition; p. 19, Rollo
- [4] G.R. No. 85220, June 29, 1957; 101 Phil. 798
- [5] G.R. No. L-20687, April 30, 1966, 16 SCRA 871
- [6] At pp. 876-877; emphasis supplied.
- [7] G.R. No. L-38072, May 17, 1980; 97 SCRA 672
- [8] At p. 680; emphasis supplied.
- [9] G.R. No. 58595, October 10, 1983; 125 SCRA 11
- [10] Sec. 5, Rule 110 of the Rules of Court
- [11] G.R. No. L-21475, September 30, 1966; 18 SCRA 280

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