

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. CONCEPCION FLORENDO, DEFENDANT AND APPELLE. RESOLUTION ON MOTION TO DISMISS APPEAL

G.R. No. L-627. August 12, 1946

Ponente: FERIA, J.

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FERIA, J.:

This case is now pending in this Court on appeal by attorneys for the offended party from an order of the Court of First Instance of Ilocos Sur dismissing the information filed against the accused Concepcion Florendo, who was charged with the offense of serious threat committed against her own mother, in accordance with the motion filed by the Fiscal dated May 9, 1946, after the death of the offended party on February 17, 1946, based on the ground that there is a reasonable doubt as to the guilt of the defendant, the complaint of the offended party having been filed nearly one year after the alleged crime was committed.

The attorney for the defendant filed, on July 27, a motion with this Court to dismiss the appeal taken by the attorneys for the deceased offended party on the ground that the latter, having died on February 17, 1946, as per certificate of death issued by the Civil Registrar of Vigan, Ilocos Sur, attached to Ms motion as Exhibit I, the right of the private prosecutors to represent the offended party automatically ceased and terminated upon the latter's death.

To this motion for dismissal of appeal, the so-called attorneys for the offended party filed their opposition contending that criminal action is not extinguished by the death of the offended party.

We are of the opinion that the private prosecutors have no right to appeal from the order of dismissal rendered by the lower court upon motion of the provincial fiscal, for two reasons: First, because the provincial fiscal has, according to section 4, Rule 106, of the Rules of Court, the direction and control of the prosecution of criminal actions; and secondly because the attorneys for the offended party as agents of the latter ceased to be the attorneys for the deceased upon the death of the latter, the principal.

Appeal is therefore dismissed with costs against the party appellant. So ordered.

Moran, C.J., Bengzon, Briones, and Tuason, JJ., concur.

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