

CONSOLACION P. MANGILA, PETITIONER, VS. THE HON. JUDGE JOSE T. LANTIN, AND THE PROVINCIAL FISCAL OF TARLAC, TARLAC, RESPONDENTS.

G.R. No. L-24735. October 31, 1969

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

In this petition for certiorari and prohibition, we are asked to strike down respondent judge's order sustaining his jurisdiction to hear and determine a criminal case for serious slander in which petitioner is the accused.

The present case has its beginnings in a verified criminal complaint filed with the Fiscal's Office on October 8, 1963 by the spouses Naciensena Santos de Dazo and Mariano T. Dazo, charging petitioner Consolacion P. Mangila with serious slander. Two days thereafter, on October 10, 1963, Assistant Provincial Fiscal Fernando M. Bartolome, before whom the foregoing complaint was subscribed and sworn to, lodged an information signed by him for serious slander against Consolacion P. Mangila before the Court of First instance of Tarlac.[1] The fiscal later registered on February 15, 1965 an amended information attaching thereto the complaint of the offended spouses filed with the fiscal. The defamatory words claimed to have been uttered by Concepcion P. Mangila in Concepcion, Tarlac, on or about September 30, 1963 consist of the following: "BAYU CO MIYASAWA MAGLANDI CA PANG CANG DAZO, PUTANG MALANDING PACARAT", which translated into English reads as follows: "BEFORE YOU WERE MARRIED YOU HAD ILLICIT RELATIONS WITH DAZO. PROSTITUTE." Such defamatory words, it is averred, were directed against the spouses Dazo.

On February 12, 1965, petitioner herein, Consolacion P. Mangila, moved in the court below to quash the information. She claims lack of court jurisdiction because: (1) the crime of serious slander falls within the exclusive jurisdiction of the Municipal Court of Concepcion, Tarlac; and (2) the defamation charged consists in the imputation of a crime which cannot be prosecuted de oficio, and yet, the criminal action was not brought at the instance of and upon complaint expressly filed by the offended parties. Respondent judge's resolution of February 24, 1965 dismissed the information for lack of jurisdiction of the court to try the case.

However, on motion to reconsider filed by the prosecuting attorney, respondent judge, on May 10, 1965, reconsidered its order of dismissal, denied the motion to quash and set a date for petitioner's arraignment.

It was petitioner's turn to move for a reconsideration of the judge's May 10 order. Respondent judge, in his order of June 17, 1965, resolved to deny the motion.

Petitioner then came to this Court on certiorari and prohibition. On August 4, 1965, we issued a cease-and-desist order.

1. Petitioner's position is that the case of grave oral defamation below falls within the sole and exclusive jurisdiction of the Municipal Court of Concepcion, Tarlac. She cites Section 87(c) of the Judiciary Act of 1948, as amended by Republic Acts 2613 and 3828, the statute then in force. But we should not over-look another

provision of the same Judiciary Act of 1948, Section 44(f), which should be considered in connection with Section 87(c). It may perhaps aid understanding if we reproduce the two in parallel columns:

"SEC. 44. Original jurisdiction. - Courts of First Instance shall have original jurisdiction:

x x x

(f) In all criminal cases in which the penalty provided by law is imprisonment for more than six months, or a fine of more than two hundred pesos."

"SEC. 87. Original jurisdiction to try criminal cases. - Municipal judges and judges of city courts of chartered cities shall have original jurisdiction over:

x x x

(c) Except violations of election laws all other offenses in which the penalty provided by law is imprisonment for not more than three years, or a fine of not more than three thousand pesos, or both such fine and imprisonment."

The case before us presents another occasion for reaffirm-ing what has been elaborately discussed and repeatedly ruled upon in a number of cases.[2] For, the penalty for serious oral defa-mation ranges from arresto mayor in its maximum period to prision correccional in its minimum period - from four months and one day to two years and four months.[3] Which, in passing, is clearly within the area of the penalty - for jurisdictional purposes - prescribed in Sections 44(f) and 87(c) aforementioned.

Expositor of the law is *Esperat vs. Avila*, supra. It gives a direct answer to the question here posed. Mr. Justice J.B.L. Reyes, speaking for the Court, there said:

"The fallacy in petitioner's argument lies in his failure to consider section 44(f) of the same Judiciary Act of 1948, in conjunction with its section 87(c). Note that notwithstanding the various amendments received by section 87, section 44(f) remained unaltered, thereby indicating the inten-tion of the legislators to retain the original jurisdiction of the court of first instance in certain cases. The fact that the jurisdiction of the municipal or city courts was enlarged in virtue of the amendment of section 87(c), cannot be taken as a repeal or withdrawal of the jurisdiction conferred on the court of first instance. Not only is implied repeal disfavored by the law, but also, it is a car-dinal principle that a statute must be so construed as to harmonize all apparent conflicts, and give effect to all its provisions whenever possible." [4]

Indeed, we see no inconsistency between Sections 44(f) and 87(c), both of the Judiciary Act of 1948. The two can stand together. One does not displace the other. As we reconcile and harmonize, we find that the two can be given a conjoint, not a discordant, effect. As we have said in a previous case,[5] "[w]e have to take the thought conveyed by the statute as a whole; construe the constituent parts together; ascertain the legislative intent from the whole act; consider each and every provision thereof in the light of the general purpose of the statute; and endeavour to make every part effective, harmonious, sensible."

There is, indeed, parity of jurisdiction in the municipal court and in the Court of First instance over criminal cases - except violations of election laws - in which the penalty imposable is more than six months' imprisonment or a fine of more than P200, but not exceeding three years' imprisonment, or a fine of P3,000, or both such fine and imprisonment. Since Criminal Case 2923 for serious slander calls for a penalty (arresto mayor in its maximum period to prision correccional in its minimum period) which is clearly within the range just mentioned, the Court of First Instance of Tarlac may not be shorn of its juris-diction to try said case.

2. Petitioner decries the fact that the criminal prosecution was not brought at the instance of and upon the complaint expressly filed by the offended parties. This calls into focus the last para-graph of Article 360 of the

Revised Penal Code, as amended by Republic Act 1289, which reads: "No criminal action for defamation which consists in the imputation of a crime which cannot be prosecuted de oficio shall be brought except at the instance of and upon complaint expressly filed by the offended party."

A cursory reading of the statute just quoted will yield the conclusion that the present defamation case is outside the res-tricted area therein provided. The indictment alleges that petitioner uttered publicly and maliciously the defamatory words that the Dazos had illicit relations with each other before they were married, and that the wife, Naciensena Santos de Dazo, was a prostitute. This is not an imputation which cannot be prosecuted de oficio and which, by express provision in Article 360 of the Revised Penal Code, would require that the criminal action be brought "at the instance of and upon complaint expressly filed by the offended party." The crimes which cannot be prosecuted de oficio are with specificity enumerated in Title XI, Book Two, of the Revised Penal Code, thus - adultery, concubinage, seduction, abduction, rape, or acts of lasciviousness.[6] The slanderous imputation here certainly is not one of those just recited. The reason, we must say, is that prostitution is a crime. But it is a crime against public morals and can be prosecuted de oficio. The alleged premarital relations of the offended husband and wife could be a vice or defect. And again, Article 360 of the Revised Penal Code does not apply. Because, the law only exacts that a criminal action for defamation be filed at the instance of or upon complaint expressly signed by the offended party where the crime imputed cannot be prosecuted de oficio.

Having reached the conclusion that the criminal information filed by the Assistant Provincial Fiscal of Tarlac in Criminal Case 2923 (People of the Philippines, Plaintiff, versus Consolacion P. Mangila, Accused) heretofore mentioned does not suffer from the defects pointed out by petitioner, the petition herein is hereby dismissed, and the writ of preliminary injunction heretofore issued by this Court dissolved.

Costs against petitioner.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Castro, Fernando, Teehankee, and Barredo, JJ., concur.
Dizon, J., took no part.

[1] Criminal Case 2923, entitled "People of the Philippines, Plaintiff, versus Consolacion P. Mangila, Accused."

[2] *Esperat vs. Avila* (1967), 20 SCRA 597, 600-602; *Le Hua vs. Reyes* (1968), 23 SCRA 53, 55-57; *Andico vs. Roan* (1968), 23 SCRA 93, 98-100; *People vs. Doriquez* (1968), 24 SCRA 163, 168-169.

[3] Article 358, Revised Penal Code.

[4] Emphasis supplied.

[5] *Republic vs. Reyes* (1966), 17 SCRA 170, 173, citing *Crawford, Interpretation of Laws*, pp. 260-261.

[6] Article 344, Revised Penal Code.

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