

IN THE MATTER OF THE PETITION FOR HABEAS CORPUS OF FELIX M. SULIT. FELIX M. SULIT, PETITIONER, VS. HONORABLE JOEL P. TIANGCO, JUDGE, CIRCUIT CRIMINAL COURT OF BATANGAS, AND JOSE...*G.R. No. L-35333. July 20, 1982*

Ponente: FERNANDO, C.J.

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The use of language characterized as "insolent, disrespectful, and contemptuous," resulting in respondent Judge, now deceased, being compelled to suspend the session, but not deterring, so the order for contempt recited, petitioner Felix M. Sulit, a member of the bar and private prosecutor in the case, from continuing to address the people present in Court "in a very loud voice," charging the presiding judge with proceeding in utter disregard "of the rules and law," was the basis for petitioner being "summarily adjudged in contempt of court." [1] The penalty imposed was imprisonment of ten (10) days. [2] Hence this application for the writ of habeas corpus, the principal allegation being that such order of incarceration was without legal basis. The petition alleged that there was no direct contempt, as such order was issued on [28 July] for an alleged contemptuous act that took place on [21 July]. In the language of the petition: "Direct contempt being summary in nature [the judge] can order the incarceration of your petitioner one (1) minute or two (2) minutes after commission of alleged contemptuous act. As it is, we can easily conclude from the lapse of time that no direct contempt had ever transpired." [3] There was also a denial of his being "insolent, disrespectful, and contemptuous." In support of such a view, he referred, moreover, to a citation for indirect contempt by respondent Judge which, according to him, was received by him four and one half hours earlier than the order for direct contempt, such indirect contempt charge arising from language used by him in a radio program Tayo'y Magsiyasat, which was on the air from 6:30 to 7:00 o'clock in the morning of July 28. [4]

This Court issued the writ requiring respondent Judge as well as respondent Chief of Police of Batangas City to make a return, to file an answer, and to release petitioner from custody and confinement upon depositing the amount of P200.00 bail.

In the answer submitted by respondent Judge, he justified the challenged order for direct contempt on the ground that petitioner "committed misbehavior in the presence of the court so as to obstruct and interrupt the proceedings before the same as indeed he obstructed and interrupted the trial of the case of *People v. Morales* in the afternoon of [27 July]" [5] thus compelling the Court to suspend the session. Insofar as the challenged order referred to petitioner continuing to use an unseemly and insulting language and loud voice, respondent Judge relied on the affidavit of the court interpreter. It was his submission, therefore, that he could summarily adjudge petitioner in contempt, the challenged order being "legal and binding in every respect." [6] The answer of respondent Judge included the transcript of the stenographic notes of the hearing, including that portion that led to the contempt order, [7] the affidavit of the other private prosecutor G. Beloso, [8] and the affidavit of the Court interpreter Mario Contreras. [9] They all tended to show that a contumacious act was committed.

His answer then went on to state: "After proceeding to determine whether the facts justify punishment, respondent judge wrote the order finding Atty. Sulit guilty of direct contempt, and then gave the handwritten order to a typist. [She] typed the order at about 6:00 P.M., after which she left. The respondent judge signed the order and then called for the Clerk of Court or the Deputy Clerk of Court. Their offices were already closed and all court employees had left the office. Naturally, the order of the respondent judge was transmitted to the Clerk of Court in the [next] morning. Inquiries were made during that morning to know whether Atty. Sulit could be located at his residence, but the court personnel received information that Atty. Sulit was in Lemery, Batangas and will return to Batangas City in the afternoon, for which reason, the police officers of Batangas City were able to arrest Atty. Sulit only at about 4:30 o'clock in the afternoon of [28 July]. That Atty. Sulit in the early morning of [that day] already knew that there is an order finding him guilty of direct contempt is evidenced by the fact that in his radio commentary, 'Tayo'y Magsiyasat' DZYQ, Batangas City, from 6:00 A.M. to 6:30 A.M., * * * declared "Anong contempt of court, hindi puede macontempt si Abogado Sulit. Lalabanan ko yan sapagka't yan ay illegal order." [10]

There is some conflict in the testimony given by petitioner and respondent Judge as to the precise nature of the incident that led to the contempt citation. It is clear, however, that there was resentment on the part of petitioner when respondent Judge praised the other private prosecutor, Attorney Beloso, which is obvious from this memorandum submitted to this Court. Thus: "It is to be noted that the Honorable respondent Judge, for four (4) times had embarrassed Your Petitioner without justification. First, when the Judge took from Atty. Sulit the right to re-direct the witness for the prosecution without the authority of the Fiscal; the Honorable Respondent Judge in this instance became the Fiscal and the Judge at the same time; second, when he declared "that is why we need good lawyers like Atty. Beloso, at the outset I thought that it was Atty. Beloso who would conduct the direct examination, but it was Atty. Sulit who conducted the direct examination;" third, when it required Atty. Sulit to confirm Atty. Beloso as a competent lawyer; and fourth, when the Court prevented Atty. Sulit several times from finishing what he is saying but cutting him short in his statement by means of the court's interference." [11] It is more than highly probable, therefore, that the tone which he addressed respondent Judge was less than courteous. Moreover, on the next day, at his radio program, Tayo'y Magsiyasat, he used language Intemperate and disrespectful which led to his citation for indirect contempt. The probability, thus becomes well-nigh a certainty. Parenthetically, it may be observed that it is to the credit of respondent Judge that notwithstanding the employment of words of the above character derogatory to him, petitioner was acquitted in the indirect contempt charge.

1. To go back to the challenged order for direct contempt, it is the holding of this Court that it was not vitiated by jurisdictional infirmity. From *Carag v. Warden of the Jail of Cagayan*, [12] a 1929 decision, to *Calo, Jr. v. Tapucar*, [13] decided fifty years later, this Court has accorded the utmost reliance on the appraisal of a respondent Judge in cases of this character. The *Calo, Jr.* decision cited a resolution in *Yangson v. Salandan*, [14] penned by Justice Aquino, where contempt in *facie curiae* could be summarily punished without hearing. [15]

2. The punishment, however, of ten days, is impressed with a rather severe character. *People v. Estenzo* [16] states the guiding principle in cases of this nature. Thus: "It cannot be denied either that unless exercised with restraint and judiciousness, this power lends itself to manifestations of whim, caprice, and arbitrariness. There is a compelling and exigent need therefore for judges to take the utmost care lest prejudice, innate or covert hostility to personality of counsel, or previous incidents lead them to characterize conduct susceptible of innocent explanation as slights on the dignity of the court. It is ever timely to remember how easy it is to overstep the dividing line that should separate the prosecutor from the judge, when both roles are merged in the same person. The infusion of personal element may go unnoticed. Even if such were not the case, objectively viewed, such an impression may be difficult to avoid by laymen. That is a consideration that cannot be

overlooked. It is important that public confidence in judicial impartiality and fairness be not impaired. * * * "The power to punish for contempt," as was pointed out by Justice Malcolm in *Villavicencio v. Lukban*, 'should be exercised on the preservative and not on the vindicative principle. Only occasionally should the Court invoke its inherent power in order to retain that respect without which the administration of justice must falter or the lower court, it clearly appears, failed to meet such a rigid but commendable test.'"[17] It does appear, therefore, that the incarceration of petitioner Sulit by virtue of the order for direct contempt lasted until this Court issued its resolution granting him liberty upon the posting of P200.00 bail, such resolution having been issued the day after this petition was filed. This detention ceased on the fifth day, the bail having been filed. That was more than enough punishment for such direct contempt.

WHEREFORE, this petition is dismissed. No costs.

Barredo, Aquino, Concepcion, Jr., Guerrero, Abad Santos, De Castro, and Escolin, JJ., concur.

[1] Petition, par. 5 and Annex A.

[2] Ibid.

[3] Ibid, 2.

[4] Ibid, 4, Annexes E and F.

[5] Answer, par. 3.

[6] Ibid.

[7] Ibid, Annex D.

[8] Ibid, Annex C.

[9] Ibid, Annex E.

[10] Ibid, Arguments, 8-9.

[11] Memorandum for the Petitioner, 3.

[12] 53 Phil. 85.

[13] L-47244, January 16, 1979, 88 SCRA 78.

[14] Adm. Case No. 1347, November 12, 1975, 68 SCRA 42.

[15] Ibid. The Court cited the following cases: *Salcedo v. Hernandez*, 61 Phil. 724 (1935); *De Joya v. CFI of Rizal*, 99 Phil. 907 (1956); *Malolos v. Reyes*, 111 Phil. 1113 (1961); *Sison v. Sandejas*, 105 Phil. 1279 (1959).

[16] L-24522, May 29, 1975, 64 SCRA 211.

[17] Ibid, 214-215. *Villavicencio v. Lukban* was reported in 39 Phil. 778 (1919).

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