

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. JULIAN MONTON, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. L-16772. November 30, 1962

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

In Criminal case No. 6923 of the Court of First Instance of Iloilo, defendants-appellee were charged with the offense of libel in an information filed by the Provincial Fiscal, the pertinent portion of which is as follows:

"That on or about the 7th day of May, 1956, in the municipality of Miagao, Province of Iloilo, Philippines, and within the jurisdiction of this Court, the said accused, with deliberate intent, conspiring together, confederating among themselves, and working and helping one another, with malicious intent and evil motive of attacking, injuring and impeaching the character, honesty integrity, virtue and reputation of one Jose J. Monteclaro, Second Assistant City Fiscal of the City of Iloilo, as a lawyer, as a professor of law, and as a private citizen of good standing and reputation in the community and with malicious intent of exposing the said Jose J. Monteclaro to public hatred, contempt, ridicule, discredit and dishonor, without any justifiable motive, did then and there willfully, maliciously and criminally prepare or cause to prepare, typewrite, sign and send a letter addressed to the President of the Philippines Ramon Magsaysay, wherein said letter the said accused did then and there defame and insult the undersigned Jose J. Monteclaro by branding and imputing upon the undersigned the follow-defamatory and libelous statements, to wit:

" 'However, Mr. President, one lamentable incident which happened to us was the Illegal and oppressive acts of one Jose J. Monteclaro, City Fiscal of Iloilo and his brother Agustin Monteclaro, Toll-keeper of Miagao, Bridge Iloilo, who because of the powers of their respective offices and their influence, over other public officials and other persons, they are now trying to obstruct the flow of water in the said irrigation system to the prejudice of other farmers whose small pieces of landholdings derive fater from said waterworks. * * *'

" 'Now, City Fiscal Monteclaro and his brother Agustin Monteclaro are closing the canal to the prejudice of the landowners along said water system.'

"The worst past of it, Mr. President is that the Justice of the Peace of Miagao, Iloilo, without even conducting a preliminary investigation of the case, issued a warrant of arrest thereby harassing the herein complainants with cases and bonds for our provisional release. By virtue of the power and influence of City Fiscal Jose J. Monteclaro, the Justice of the Peace of Miagao, has been conniving with him and does not reject a case filed by said Fiscal though the evidence is weak and flimsy. Fiscal Monteclaro sometimes issues subpoena in connection with land disputes outside of the City of Iloilo particularly, to residents of Miagao. Fiscal Jose J. Monteclaro is using his power and influence for his personal selfish interest and for the benefit of his close relatives who also want to profit by it.'

"Now the working season has already commenced, and we cannot get water from the aforesaid communal irrigation canal without facing charges of robbery being prepared against us unless your good offices intervene in order to stop the foregoing mentioned abuses and oppression.' * * * *"

which whole letter of the said accused is herein-below reproduced as follows:

* * * * *

which aforesaid defamatory, malicious and libelous words and statements have been read by the officials concerned in the office of the President of the Philippines, the PCAC, and office of the Department of Justice, and have been also read by the Provincial Fiscal of Iloilo, by the residents of the City of Iloilo, by the resident of the Municipality, of Miagao, and by the public in the other parts of Panay, and that those libelous and defamatory words and statements aforementioned are untrue, false and malicious tending to impeach the character, integrity, virtue and reputation of the said Jose J. Monteclaro as Second Assistant City Fiscal, as a professor of law, as lawyer and as a private citizen, thus placing and causing said Jose J. Monteclaro to public haired, contempt, dishonor, discredit and ridicule which acts are serious and insulting in nature."

On motion to quash filed by appellees the court a quo, on 10 June 1958, Issued the following order of dismissal:

"This is a case of libel. On May 7, 1956, the above-named defendants signed and sent a communication to President Ramon Magsaysay denouncing the alleged illegal and oppressive acts of the offended party. Article 354 of the Revised Penal Code provides:

"Requirement for publicity.—Every defamatory imputation is presumed to be malicious even if it be true, if no good intention and justifiable motive for making it is shown, except in the following cases:

"1. A private communication made by any person to another in the performance of any legal, moral, or social duty; and

"2. A fair and true report, made in good faith, without any comments or remarks, of any judicial, legislative, or other official proceedings which are not of confidential nature, or of any statements, report, or speech delivered in said proceedings, or of any other act performed by public officers in the exercise of their functions.'

"The said letter cannot be considereed libelous because it is a private communication made by the defendants to the highest magistrate of the land in the performance of their legal, moral or social duties.

"Motion to quash, being well taken, the same is hereby granted. Let this case be dismissed with costs de officio and the cancellation of the bond for the provisional liberty of the accused."

The Solicitor-General, in behalf of the prosecution, has appealed from the said order and poses, as the only issue to be resolved, whether or not the privileged character of an alleged libelous communication constitutes a legal basis for the dismissal of the information based thereon.

The letter reproduced in the information contains statements which on their face are defamatory in nature. They impute to the offended party, Iloilo City Fiscal Jose J. Monteclaro, the commission of illegal and oppressive acts by virtue of his office, the use of his official power and influence for "personal selfish interest and for the benefit of his close-relatives," and other acts of harassment against appellees. Appellees contend, however—and the contention has been sustained by the court below—that the subject-letter, being a private communication made by them to the President in the performance of their legal, moral or social duty, cannot be considered libelous in view of the exception provided in paragraph one, Article 354 of the Revised Penal Code.

The point is not well taken, and proceeds from a misapprehension of the provision just cited. The provision states: "Every defamatory imputation is presumed to be malicious even if it be true, if no good intention and justifiable motive for making it is shown, except in the following cases: (1) a private communication made by any person to another in the performance of any legal, moral, or social duty." Libel, as defined under Article 353, has three elements: the imputations must be defamatory, it must have been given publicity, and it must be malicious. A fourth element may also be considered implicit in the provision, namely, that the victim of the libel must be identifiable. The defamatory character of the imputation is shown by the recitals thereof. No evidence aliunde

need be adduced to prove it. With respect to the element of malice, the same is established either by presumption or by proof. If nothing but the defamatory imputation itself is laid before the court, malice is presumed from it, and to overcome this presumption there must be a showing of good intention and justifiable motive. In other words, the burden is upon the defendants to overcome the legal inference of malice. Under the doctrine of qualified privilege, however, this burden does not arise, for the occasion on which the communication was made, that is, in the performance of a legal, moral or social duty, rebuts the inference. But this does not mean that malice may not at all be shown; it simply puts the burden of doing so on the prosecution. As much has already been held and explained by this Court in the case of *People vs. Wenceslao Pascual*, 102 Phil., 503, thus:

"Said court likewise, erred in dismissing the case upon the ground that the letter and the article quoted in the information are qualifiedly privileged communications. As stated in *Lu Chu Sing vs. Lu Tiong Gui* (76 Phil. 669):

" 'Defendant's contention that the charge filed by him in the City Fiscal's Office was a privileged communication, is not a proper ground for the dismissal of the complaint. In the first place, it is a matter of defense. In the second place, the fact that a communication is privileged does not mean that it is not actionable; the privileged character simply does away with the presumption of malice, which the plaintiff has to prove in such a case. (See Article 354, Revised Penal Code.)' (Italics ours).

"The information in this case alleges that the accused have acted 'willfully, unlawfully and feloniously, and with malicious intent' and the prosecution is entitled to a chance to prove this allegation, apart from the fact that the truth hereof is deemed hypothetically admitted in the motion to dismiss."

Appellees invoke the case of *U.S. vs. Bustos, et al.*, 37 Phil. 731. That case is not here applicable, because the acquittal of the accused therein on the ground that the defamatory imputation was qualifiedly privileged was adjudged only after trial, wherein the prosecution tried to establish, although unsuccessfully, the element of malice.

It need only be added that in the instant case the information alleges that the defendants, appellees here, wrote and sent the subject-letter to the President "with malicious intent and evil motive of attacking, injuring and impeaching the character, honesty, integrity, virtue and reputation of one Jose J. Montecarlo * * * and with malicious intent of exposing (him) to public hatred, contempt, ridicule, discredit and dishonor, without any justifiable motive." Under the foregoing allegation, the prosecution is entitled to go to trial and present the necessary evidence to prove malice; and the denial to it of the opportunity to do so, upon defendants' motion to quash, constitutes reversible error.

In appellees' motion to quash in the lower court they alleged the additional ground that the information was filed by the Provincial Fiscal without preliminary investigation as required by law. This ground, however, involves a question of fact which does not appear in the record before us, and which was not resolved by the court below in the order sought to be reviewed.

The order appealed from is set aside and the case is remanded for further proceedings, without prejudice to such action as the lower court may take, after appropriate findings, on the additional ground relied upon by appellees in their motion to quash. Costs against defendants-apellees.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, and Regala, JJ., concur.

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