

PEDRO G. PERALTA, PETITIONER, VS. COURT OF FIRST INSTANCE OF LA UNION, BRANCH I, PEOPLE OF THE PHILIPPINES, NAPOLEON S. ARRIETA, RESPONDENTS.

G.R. No. L-48011. January 29, 1988

Ponente: CORTES, J.

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CORTES, J.:

This is a petition for review of the Order dated October 13, 1977 of the then Court of First Instance of La Union, Branch I, dismissing the information for libel against the private respondent Napoleon S. Arrieta in Criminal Case No. 457, and the Order dated February 25, 1978, denying the motion for reconsideration of the dismissal.

The facts which gave rise to this case are not disputed:

In October of 1974, private respondent Arrieta filed before the Supreme Court a complaint for disbarment against petitioner for perjury, alleging among others, that petitioner -

- (a) showed himself to be unworthy of the profession of the law;
- (b) betrayed the noble profession of the law; and
- (c) from his moral and professional depravity, he tried to prostitute the noble profession of the law.

Before the Supreme Court could act on his complaint for disbarment, private respondent on October 7, 1978, distributed and circulated copies of his complaint in San Fernando, La Union. One of those who received a copy of said complaint was Atty. Manuel Sanglay, the counsel of petitioner as the plaintiff in the damage suit filed against respondent Arrieta. Thereafter, petitioner filed charges for criminal libel against private respondent before the Office of the Provincial Fiscal of La Union.

The Provincial Fiscal formed a panel of three fiscals to conduct the preliminary investigation. After hearing, which took place over a span of almost nine (9) months, the panel considered the case submitted for resolution and on July 23, 1975, it found a prima facie case against respondent and recommended the filing of an information for libel against him. [Petition, Annex "A", Rollo, pp. 35-37]. A motion for reconsideration was filed by the private respondent but the same was denied by the investigating panel. [Petition, Annex "B", Rollo, pp. 38-40].

An information for libel was filed against private respondent on September 25, 1975 before the Court of First Instance of La Union. [Petition, Annex "C", Rollo, pp. 41-42].

The private respondent, however, elevated the resolution of the investigating panel to the Secretary of Justice by way of a letter-appeal on October 6, 1975. On October 13, 1975, the Secretary ordered the Provincial Fiscal to comment, elevate the record to his office and suspend further proceedings pending the review.

After more than a year, the Secretary of Justice, finding the appeal to be meritorious, directed the Provincial

Fiscal to cause the dismissal of the libel case against private respondent. Pursuant to this directive, the Provincial Fiscal filed a Motion to Dismiss dated February 18, 1977.

In anticipation of the effect of respondent Secretary's directive on the libel charge, petitioner filed a special civil action for Certiorari, Prohibition and Mandamus with Preliminary Injunction (Civil Case No. 2774) before the Court of First Instance of La Union, Branch II for the annulment of the order of the Secretary of Justice. [Petition, Annex "F", Rollo, pp. 47-53]. The action also sought to enjoin the Secretary of Justice and the Provincial Fiscal from filing a motion to dismiss the criminal case. A writ of preliminary injunction ordering the Secretary of Justice and the Provincial Fiscal "to refrain from filing a motion to dismiss the complaint or information for libel against respondent, Napoleon S. Arrieta" was issued on February 21, 1977. [Petition, Annex "G", Rollo, p. 55].

The Provincial Fiscal, in obedience to the injunctive writ, filed an "Urgent Ex Parte Motion to Withdraw Motion to Dismiss" [Petition Annex "I", Rollo, pp. 57-58] to which respondent accused filed an opposition asking the court instead to grant the Fiscal's previous motion to dismiss [Petition, Annex "J", Rollo, pp. 59-62].

The respondent court dismissed the criminal case against respondent Arrieta on October 13, 1977. Petitioner sought a reconsideration from the order of dismissal but this was denied in a minute resolution dated February 25, 1978. [Petition, Annex "O", Rollo, p. 70]. The present petition for review seeks for a reversal and setting aside of said order of dismissal and for a remand of the case to the trial court for trial on the merits.

Specifically, this petition raises the question relative to the power of the Secretary of Justice under Pres. Dec. No. 911 to review the findings of the inquest fiscals after the complaint or information had already been filed and admitted in court.

Petitioner argues that once the fiscal has exercised his judicial power by conducting a preliminary investigation and finding a prima facie case, files the necessary information which a competent court admits, only the court, not the Secretary of Justice can review the exercise of judicial power. In support of this assertion, he points out that Pres. Dec. No. 911 does not give the Secretary of Justice additional power and control over the fiscal once the necessary information is filed and admitted in court.

In the recently decided case of *Crespo v. Hon. Mogul, et al.* (G.R. No. 53373, May 21, 1987), this Court upheld the trial court's power to grant or deny the motion to dismiss a criminal case filed by the Provincial Fiscal upon instructions of the Secretary of Justice to whom the case was elevated for review. In that case, the Court ruled, thus:

Whether the accused had been arraigned or not and whether it was due to a reinvestigation by the fiscal or a review of the Secretary of Justice whereby a motion to dismiss was submitted to the Court, the Court in the exercise of its discretion may grant the motion or deny it and require that the trial on the merits proceed for the proper determination of the case.

* * *

The rule therefore in this jurisdiction is that once a complaint or information is filed in Court any disposition of the case as (to) its dismissal or the conviction or acquittal of the accused rests in the sound discretion of the Court. x x x A motion to dismiss the case filed by the fiscal should be addressed to the court who has the option to grant or deny the same. It does not matter if this is done before or after the arraignment of the accused or that the motion was filed after a reinvestigation or upon instructions of the Secretary of Justice who reviewed the records of the investigation. (Underscoring supplied).

In the present case, the Provincial Fiscal filed the motion to dismiss upon recommendation by the Secretary of Justice and the trial judge in turn granted the motion to dismiss on the basis of the prosecution's admission that

there is no prima facie case against the accused of the crime charged. Although this Court disagrees with the trial court's finding that the information for libel was prematurely filed on the ground that the findings of a prima facie case against the accused by the Provincial Fiscal had not yet become final to warrant the filing of the information, the reinvestigation made by the Secretary of Justice shows that there is sufficient basis for the order of dismissal. It likewise appears that the filing of a criminal charge for libel was part of a series of cases brought by the petitioner against respondent Arrieta after the former's claim for commutation of vacation and sick leave credits with the Government Service Insurance System (GSIS) was denied. Arrieta was then the Acting Manager of the Personnel and Administrative Affairs Department of the GSIS who referred the petitioner's claim for opinion and decision to different offices and departments in and out of the GSIS.

This Court finds no reason to reverse the action taken by the trial court. Once an information or complaint is filed in court, the matter of the disposition of the case is left to the sound discretion of the court. When the trial court in the instant case granted the fiscal's motion to dismiss, it was within its prerogative to do so.

On the matter of the propriety of appeals to the Secretary of Justice for reinvestigation after the information or complaint has been filed in court, the pronouncement made by this Court in the Crespo case is applicable. In that case, the Court, although not entirely disregarding the power of review of the Secretary of Justice over the action of fiscals, imposed a limit on the exercise of such power, thus:

In order therefor to avoid such a situation whereby the opinion of the Secretary of Justice who reviewed the action of the fiscal may be dis-regarded by the trial court, such a review of or appeal from the action of the fiscal should no longer be entertained by the Secretary of Justice when the complaint or information had already been filed in Court. The matter should be left entirely for the determination of the Court.

In view of the foregoing, the Court deems it unnecessary to pass upon the other questions raised in this petition.

WHEREFORE, the petition is DISMISSED for lack of merit without pronouncement as to costs.

SO ORDERED.

Fernan, (Chairman), Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

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