

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. FERNANDO CARPIZO, DEFENDANT AND APPELLEE.

G.R. No. L-1424. February 27, 1948

Ponente: TUASON, J.

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TUASON, J.:

This is an appeal from an order of the Court of First Instance of Sulu dismissing an information for assault upon an agent of authority with slight physical injuries, on a motion to quash based on the ground that the facts alleged in the paid information do not constitute the crime charged.

The information recites as follows:

"That on or about the 20th day of April, 1946, in the municipality of Jolo, Province of Sulu, Philippines, and within the jurisdiction of this Court, the said accused being the husband of Mrs. Martina Carpizo, the creditor of provincial voucher No. A-2250, which voucher is on pre-audit in the possession of Eutiquio de la Victoria, clerk, duly appointed in the office of the Provincial Auditor of Sulu, and while the said Eutiquio de la Victoria was in the point of writing on the typewriter the tentative suspension of said voucher No. A-2250, for being defective, did then and there wilfully, unlawfully and criminally attacked the said Eutiquio de la Victoria and took hold of his neck with his left hand and at the same time inflicted upon him a fistic blow on his left cheek which produced a contusion thereon and scratches on the left arm, which injuries have required and will require medical attendance for a period of four days and have incapacitated and will incapacitate him in the customary performance of his official duties as such clerk for the same period of time."

The motion to quash is well taken. The alleged victim of the attack, a mere clerk in the provincial auditor's office, is not a person in authority or an agent of a person in authority. A person in authority, in the words of article 152 of the Revised Penal Code, is "any person directly vested with jurisdiction, whether as an individual or as a member of some court or governmental corporation, board or commission;" while an agent of a person in authority is one who, by direct provisions of law, or by appointment by competent authority, is charged with the maintenance of public order and the protection and security of life and property, or who comes to the aid of a person in authority. (U.S. vs. Fortaleza, 12 Phil., 472.)

Even if, as the Solicitor General says, it be possible that this particular clerk might be clothed with functions that bring him under the above definition of an agent of a person in authority, still such functions must be clearly shown in the information. Merely to say that a clerk is an agent of a person in authority is a conclusion of law. Jurisdictional facts must be alleged if courts are to entertain jurisdiction. Court jurisdiction is not made to depend on what might turn up in the course of the trial.

With the elimination of the charge for assault, the remaining offense does not fall within the original jurisdiction of the Court of First Instance. The offense of slight physical injuries, formerly a mere misdemeanor, is, upon the allegations of the information, punishable with *arresto menor*.

The order of the lower court granting the motion to quash is affirmed.

Paras, Perfecto, and Briones, JJ., concur.

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