

THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. SALVADOR ABAD SANTOS, RICARDO NEPOMUCENO, AND JOSE P. VELUZ, ALL ASSOCIATE JUDGES CONSTITUTING THE SECOND ARCACHE, RESPONDENTS.

G.R. No. L-447. June 17, 1946

Ponente: DE JOYA, J.

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DE JOYA, J.:

From the petition filed in this case, it appears that respondent Joseph Arcache has been accused of the crime of treason before the People's Court, in Criminal Case No. 729; thereof; that in counts 2 and 3 contained in the information, specifying the different kinds of properties alleged to have been sold by him to the Japanese Imperial Forces, in the City of Manila, during the enemy occupation, was also added the phrase "and other similar equipments"; that on March 8, 1946, said respondent was duly arraigned before the respondent judges of the People's Court, and entered a plea of not guilty, and the case was set for trial commencing April 8, 1946; that when the case was actually called or trial, on April 8, 1946, counsel for respondent Joseph Arcache verbally petitioned the respondent judges that the prosecution should make more specific said phrase "and other similar equipments" set forth in counts two (2) and three (3) of the information or have stricken therefrom, unless the prosecution should furnish a bill of particulars specifying what those other similar equipments were; that the special prosecutor objected to said petition, on the ground that it was out of time, since respondent Joseph Arcache had already entered a plea of not guilty to the charge; that on the same date, April 8, 1946, considering that the allegation objected to was too broad and too indefinite to enable the accused to properly defend himself, the respondent judges granted the petition, and, at the request of the prosecution, postponed the trial of the case to April 10, 1946, to give the special prosecutor time to prepare the bill of particulars, which he agreed to submit not later than April 31, 1946; that on the same date, April 9, 1946, instead of submitting a bill of particulars, the special prosecutor filed a motion for reconsideration of said order of court, on the ground that it was contrary to law that the court had acted in excess of its jurisdiction and/or with abuse thereof, which motion for reconsideration was denied on April 10, 1946, on the ground that the alleged defect in the information could be cured by amendment, which might be properly ordered, in the interest of justice, so that the accused might be clearly informed of the charges against him, and thus avoid any possible surprise, without necessity in the part of the accused to plead anew to the amended information.

On April 26, 1946, the respondent judges filed their answer to the petition for certiorari filed in this case, relying upon the reasons already stated, in their order dated April 10, 1946.

On April 30, 1946, respondent Joseph Arcache filed his answer to said petition, alleging that the special prosecutor was estopped to question the legality and validity of the two orders complained of as he had expressly agreed to submit the specifications or bills of particulars called for, and that it was precisely at the request of the special prosecutor that the trial of the case was postponed to April 10, 1946, to give him ample time to prepare and submit said bill of particulars; that the filing of specifications or bills of particulars may be ordered in

criminal cases, in accordance with, existing law and American judicial precedents; that the defendant merely wanted to know specifically what the alleged "other similar equipments" were, without amending the information, in the strict sense of the term, which would require him to withdraw his previous plea of not guilty; and that the question whether to order the filing of a bill of particulars or not is purely discretionary on the part of the lower court.

As already stated by this Court long ago, there is no specific provision of law, in this jurisdiction, expressly authorizing the filing of specifications or bills of particulars in criminal cases. (*United States vs. Schneer*, 7 Phil. 523, 525). But it is also true that, in a subsequent case, this Court held that a detailed complaint or information cannot be properly objected to, and that the details contained therein may be properly considered as specifications or bills of particulars. (*United States vs. Cernias*, 10 Phil. 682, 690). It is thus evident that, in the absence of specific provisions of law prohibiting the filing of specifications or bills of particulars in criminal cases, their submission may be permitted, as they cannot prejudice any substantial rights of the accused. On the contrary, they will serve to apprise the accused clearly of the charges filed against them, and thus enable them to prepare intelligently whatever defense or defenses they might have.

Furthermore, in criminal cases, any defect in the accusation other than that of lack of jurisdiction over the subject-matter may be cured by good and sufficient evidence introduced by the prosecution, and admitted by the trial court, without any objection on the part of the defense, and the accused may be legally convicted of the crime or offense intended to be charged and so established by the evidence. (*Serra vs. Mortiga*, 11 Phil. 762; 204 TJ. S. 470; *U. S. vs. Destrito et al.*, 23 Phil. 28, 30).

Of course, it is to be expected that the defense will object to any question, which is not based upon the allegations made in the complaint or information; but this does not preclude the possibility that immaterial evidence might be admitted, although not supported by such allegations, due to inadvertence on the part of the defense. And inasmuch as in criminal cases not only the liberty but even the life of the accused may be at stake, it is always wise and proper that the accused should be fully apprised of the true charges against them, and thus avoid all and any possible surprise, which might be detrimental to their rights and interests; and ambiguous phrases should not, therefore, be permitted in criminal complaints or informations; and if any such phrase has been included therein, on motion of the defense, before the commencement of the trial, the court should order either its elimination as surplusage or the filing of the necessary specification, which is but an amendment in mere matters of form.

Considering that the two orders complained of are legal and valid, and that they were issued by the respondent judges, in the exercise of sound judicial discretion, for the protection of the rights and interests of respondent Joseph Arcache, the petition for certiorari filed in this case is, therefore, hereby denied and dismissed, without costs. So ordered.

Moran, C.J., Paras, Pablo, Perfecto, and Bengzon, JJ., concur.

FERIA, J.:

I concur in the result.

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