

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. MELECIO CERENA, DEFENDANT AND APPELLANT.

G.R. No. L-9648. November 28, 1959

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

This appeal had originally been taken to the Court of Appeals from a judgment of the Court of First Instance of Leyte, convicting the defendant-appellant of the crime of attempted rape with, physical injuries, and sentencing him to an indeterminate penalty of from four months and one day of arresto mayor to two years, four months and one day of prision correctional.

While the case was pending with the Court of Appeals, the defendant-appellant, thru counsel, filed a memorandum questioning the jurisdiction of the trial court over the subject matter, on the ground that the information did not bear the signature of the "offended party, or her parents, grandparents or guardian," as required for crimes against chastity, under the provisions of paragraph 3, article 344 of the Revised Penal Code. That jurisdictional question having been raised, and finding that the reasons advanced therefor deserve serious consideration, the Court of Appeals certified the appeal to us.

It appears that on August 12, 1955, a communication was sent by the office of the Solicitor General to the provincial fiscal of Leyte requesting information as to whether proper complaint signed by the offended party was in fact filed in the case and that, in response thereto, the provincial fiscal, by 1st Indorsement dated August 22, 1955, forwarded the original of pleadings filed with the Justice of the Peace Court of Tanauan, Leyte—(1) the complaint signed by one Aladdin M. Moreno, a corporal in the Philippine Constabulary and (2) the amended complaint signed by Fortunata Loviano, the complainant. Both pleadings have been attached to a motion filed before this Court by counsel for the Government and we have no reason to doubt their authenticity.

The record now before us reveals that while the information filed with the Court of First Instance was signed by the assistant provincial fiscal of Leyte, the amended complaint filed with the Justice of the Peace Court was signed by the offended party herself. Since article 344 of the Revised Penal Code requires the filing by the "offended party or her parents, grandparents or guardian" of the complaint, and not of the information, it is apparent that appellant's sole ground for attacking the jurisdiction of the trial court, that is, the absence of the signature on the information of either of the aforementioned persons, does not purport to be a true and valid ground.

Wherefore, the case should be, as it is hereby, certified back to the Court of Appeals.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Endencia, and Barrera, JJ., concur.

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