

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT VS. MIGUEL LASALA, DEFENDANT AND APPELLEE.

G.R. No. L-12141. January 30, 1962

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Miguel Lasala was accused of the crime of serious slander by deed with less serious physical injuries and damages committed, according to the amended information dated December 10, 1956, as follows:

"That on or about the 11th day of September, 1956, in the municipality and province of Surigao, Philippines, and within the jurisdiction of this Honorable Court the said accused with the deliberate intent to expose to public ridicule, cast dishonor and public contempt on one Wenceslao Andanar incumbent municipal mayor of Sapao, Surigao, did then and there willfully, unlawfully and feloniously in a public place use personal violence by attacking, assaulting and using fistic blows on said Wenceslao Andanar thereby exposing the latter to public ridicule, contempt and dishonor and inflicting injuries in the different parts of his body which required 14 days medical treatment and incapacitated him from the performance of his customary labors for 12 days, thereby exposing the said Wenceslao Andanar to public contempt, dishonor and special humiliation, purposely committed in the cockpit where there were many people present.

"That on the same date, place and on the same occasion, the herein accused did then and there willfully, unlawfully and feloniously attack and assault the said Wenceslao Andanar with, fistic blows, causing bruises and contusions in the different parts of his body which required 14 days medical treatment and incapacitated him from the performance of his customary labors for 12 days.

"That by reason of all these acts alleged and described in the preceding paragraphs the offended party suffered mental anguish, wounded feelings, besmirched reputation, physical and mental torture and social humiliation causing him great damage and prejudice in the total sum of P30,000 as actual, exemplary, and moral damages."

Before his arraignment, the accused filed a motion to quash on the ground that the act he has committed, if any, is not the complex crime of serious slander by deed defined in Article 359 of the Revised Penal Code and of less serious physical injuries but the single offense defined in paragraph 2 of Article 265 for the reason that said act has happened in the same place, on the same occasion, and had been impelled by the same intent. So he prayed that the information be quashed or amended by eliminating the charge of serious slander by deed. Notwithstanding the opposition interposed thereto by the prosecution, the trial court sustained the motion granting the fiscal 5 days within which to amend the information charging therein the proper offense in line with its suggestion. His motion for reconsideration having been denied, the prosecution instituted the present appeal.

The grounds on which the lower court predicated its order requiring the prosecution to amend the information by setting forth therein only the single offense of less serious physical injuries as prescribed in paragraph 2 of Article 265 of the Revised Penal Code, are as follows:

"The accused in this case filed a motion to quash the information, dated February 8, 1957, on the ground that two crimes have been charged in the information which constitute, according to the accused, only one single

crime, and that the offense allegedly committed by said accused is the one denned and penalized under the second paragraph of Article 265, of the Revised Penal Code. The prosecution objected to said motion contending that the crime committed is a complex crime of slander by deed with less serious physical injuries defined and penalized under Art. 48 of the Revised Penal Code.

"The Court, after considering the matter and hearing the arguments on both sides, holds and declares that this is the crime specifically defined and penalized under the second paragraph of Art. 265 of the Revised Penal Code. The Court is of the opinion that the crime committed is less serious physical injuries with the manifest intent to insult and offend the complaining witness and tile same acts cannot constitute the complex crime of slander by deed with less serious physical injuries, because such complex crime only exists in cases where the Code has no specific provision penalizing the same with definite specific penalty."

Article 265, paragraph 2, of the Revised Penal Code provides:

"Whenever less serious physical injuries shall have been inflicted with the manifest intent to insult or offend the injured person, or under circumstances adding ignominy to the offense, in addition to the penalty of arresto mayor, a fine not exceeding 500 pesos shall be imposed."

An analysis of the provisions of the article above-quoted reveals that whenever an act has been committed which inflicts upon a person less serious physical injuries with the manifest intent to insult or offend him or under circumstances adding ignominy to the offense, the offender should be prosecuted under that article and, if convicted, should be sentenced to the penalty therein prescribed. This specific provision should be considered as an exception to the rule contained in Article 48 of the Revised Penal Code relative to complex crimes. Of course, we cannot deny that Article 359 considers as slander by deed any act "which shall cast dishonor, discredit, or contempt upon another person", and if said act results in the infliction of physical injuries it may also be covered by any of the articles comprised in Chapter Two, Title Eight, of the Revised Penal Code, relative to physical injuries, but if such eventuality happens the act cannot come under Article 48 of the Revised Penal Code which considers as complex crime a single act that constitutes two or more grave or less grave felonies for the simple reason that in this particular case that act is specifically covered by paragraph 2 of Article 265 already abovementioned. In this respect, we agree with the following comment of the lower court: "The Court is of the opinion that the crime committed is less serious physical injuries with the manifest intent to insult and offend the complaining witness and the same acts cannot constitute the complex crime of slander by deed with less serious physical injuries, because such complex crime only exists in cases where the Code has no specific provision penalizing the same with definite specific penalty."

The acts alleged in the information as constituting the crime of slander by deed with the infliction of physical injuries on the body of the offended party fit well into Article 265, paragraph 2, of the Revised Penal Code, for it is there alleged that the assault upon said offended party was committed in the cockpit where at the time there were many people present. In other words, it may be said that the act was committed with the manifest intent to insult or offend the offended party, or under circumstances adding ignominy to the offense, it appearing that said offended party was then the incumbent municipal mayor of the place. The lower court, therefore, was justified in ordering the amendment of the information.

Wherefore, the order appealed from is affirmed, without pronouncement as to costs.

Bengzon, C. J., Padilla, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, and De Leon, JJ., concur.

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