

NARCISA TUL-ID, PETITIONER-APPELLANT, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT-APPELLEE.*G.R. No. L-46186. July 21, 1977*

Ponente: TEEHANKEE, J.

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The Court acting upon respondent People's recommendation modifies the penalty imposed by the Court of Appeals on petitioner-accused for the crime of slight oral defamation by removing the 11-day prison term and in lieu thereof imposing a P200. - fine.

The Court of Appeals in its judgment under review found petitioner-accused guilty of the crime of slight oral defamation, she having uttered insulting words against complainant Atty. Pedro T. Garcia in his office "in the heat of anger with some provocation on the part of the offended party"[1] and reduced the penalty imposed by the trial court for grave oral defamation (one month and one day of arresto mayor as minimum to four months and one day of arresto mayor as maximum with P1,500.00 as moral and/or consequential damages without subsidiary imprisonment in case of insolvency) to arresto menor in its medium period or eleven (11) days of imprisonment with P500.00 as damages without subsidiary imprisonment in case of insolvency on the basis of its findings, as follows:

"x x x The admitted antecedents of the incident in question and the subjective considerations involved all tend credence to the truth of the charge. Atty. Garcia was then in his law office preparing for the trial of a case. The appellant, accompanied by her daughter, arrived in said office to demand that Atty. Garcia give to her the sum of P150.00 which Atty. Garcia received from Araceli Escudero. The appellant was then in desperate need of money. She could not possibly understand why, although she was the agent who negotiated the sale of the properties of the Ando family to Virgilia Gamboa from which she expected a commission of P1,500.00, Atty. Garcia would be paid ahead, even partially. The appellant had not yet received a centavo of her expected commission, and she suspected that Atty. Garcia advised Araceli Escudero not to pay the appellant her commission until the transaction shall have been finally consummated. Claiming that the said sum was paid to him by way of attorney's fees, Atty. Garcia naturally denied the demand of the appellant for the delivery to her of the sum of P150.00. It is not denied that appellant's temper is easily aroused. It was aggravated by the admitted remark of Atty. Garcia, which he claimed to have been jokingly made but was evidently taken in a different light by the appellant, that the latter was evading the payment of the proper taxes due from her as a real estate broker. Under these circumstances, although the words shown to have been uttered by the appellant are indeed insulting in nature, the crime committed by the appellant is only that of slight oral defamation, they having been uttered in the heat of anger with some provocation on the part of the offended party (People vs. Doronila, [C. A.] 40 O.G. Suppl. 1, p. 231; People vs. Dominguez, [C.A.] 51 O.G. 2983). We agree with the Solicitor General that no mitigating circumstance attended the commission of the crime. The proper penalty should accordingly be in the medium period of arresto menor or eleven (11) days of imprisonment. We also reduce the indemnity to P500.00."[2]

The factual findings of the appellate court as supported by the evidence of record are beyond review by this Court,

but the Court issued its Resolution of June 6, 1977 requiring the Solicitor General on behalf of respondent People "to comment as to the proper penalty (fine instead of imprisonment) imposable on petitioner after considering all the circumstances and antecedents of the case as stated in the Court of Appeals' decision x x x." In compliance therewith, respondent thru Acting Solicitor General Vicente V. Mendoza filed the comment of June 29, 1977, wherein it is manifested that while the penalty imposed was "legally correct" and within the range of the penalty provided by law[3], "Petitioner's Age, Sex and Status Pre-dispose Towards Leniency - The petitioner is a woman who, in 1969 or thereabouts, appeared to have been 58 years old and a widow. Today, 8 years later, petitioner must be above 65 years of age. Although the respondent Court of Appeals legally imposed imprisonment of 11 days upon the petitioner, it could have legally imposed a fine not exceeding P200.00, instead of imprisonment. Considering the age, sex and status of the petitioner as a widow, and considering as well, the other circumstances recited in the above-quoted decision of the respondent Court, the undersigned counsel would have no objection to the imposition upon the petitioner of a fine not exceeding P200.00 instead of 11 days of imprisonment. This imposition of a fine would serve the ends of justice as well as the imposition of imprisonment in the instant case." Respondent People therefore submitted "that a fine not exceeding P200.00 may be legally imposed upon the petitioner instead of the 11 days imprisonment meted out on her by the respondent Court of Appeals."

The Court accepts the Solicitor General's recommendation of leniency and will eliminate the prison term and instead impose the lesser penalty of a P200. - fine within the range of the penalty provided by law, with the P500. - damages awarded by the appellate court. The Court further expresses the hope that petitioner may have mellowed with the passing of the years and learned better to hold her temper in check and stay out of trouble.

ACCORDINGLY, the Court modifies the penalty imposed in the judgment under review and sentences petitioner-accused to pay a fine of Two hundred pesos (P200.00), to indemnify the offended party in the amount of P500.00 as damages without subsidiary imprisonment in case of insolvency, and to pay the costs. SO ORDERED.

Makasiar, Muñoz Palma, Martin, Fernandez, and Guerrero, JJ., concur.

[1] Court of Appeals' decision, p. 9; Rollo, p. 19.

[2] Rollo, pp. 18-19.

[3] "ART. 358. Slander. - Oral defamation shall be punished by arresto mayor in its maximum period to prision correccional in its minimum period if it is of a serious and insulting nature; otherwise the penalty shall be arresto menor or a fine not exceeding 200 pesos".

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