

DOMINGO MABUTAS, COMPLAINANT, VS. PILAR P. NABLE, AND ASSISTANT CITY FISCAL OF MANILA, RUFINO G. MADARANG, RESPONDENTS.

A.C. No. 1827. April 25, 1978

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

Administrative complaint against the respondents, Atty. Pilar P. Nable and former Assistant City Fiscal of Manila, now Judge of the City Court of Manila, Rufino G. Madarang, for harassment.

In his sworn complaint dated September 10, 1977, the complainant, Domingo Mabutas, a retired court stenographer, alleged that the herein respondent Pilar P. Nable, in an affidavit filed with the Office of the City Fiscal of Manila, had maliciously charged him with the crime of Falsification of Public Document in that on July 3, 1968, he had, as court stenographer of the Court of First Instance of Oriental Mindoro, falsified his daily time record by stating that he rendered service from 7:30 a.m. to 12:00 noon and from 1:00 p.m. to 4:05 p.m. on that day when in truth and in fact he was in the Municipal Court of Calapan, Oriental Mindoro attending to Criminal Case No. 2846, *People vs. Alfonso Dinglasan*, for estafa, which charge the herein respondent, Rufino G. Madarang, then Assistant City Fiscal of Manila, gave due course to and relative thereto issued a subpoena for the herein complainant to appear at the preliminary investigation of the case, thus constraining the complainant to travel to Manila from Calapan, Oriental Mindoro despite his advanced age and weak condition and notwithstanding the fact that the alleged falsification was allegedly committed in Calapan, Mindoro; and that the charge against him was unfounded and intended to harass and prejudice him, as well as in retaliation for his having filed a damage suit against respondent Pilar Nable with the Court of First Instance of Oriental Mindoro and seven (7) cases against her husband and son, Carlos Nable, Jr., with the Fiscal's Office, for violation of the Public Service Act.

The respondent Rufino G. Madarang denied having acted with malice or wittingly lent himself as a tool for the harassment of the complainant Domingo Mabutas. He claims that he acted regularly and in accordance with the dictates of official duty when he summoned the herein complainant Domingo Mabutas to appear before him for the preliminary investigation of the case as he believed in good faith that, upon the facts before him, the case filed by the respondent Pilar Nable for falsification was triable in Manila since the complainant's falsified daily time record was submitted to the Department of Justice, which office exercised administrative supervision at the time over the lower courts in Manila.

The respondent Pilar Nable, upon the other hand, stated that she filed the charges of falsification of public documents against the herein complainant Domingo Mabutas in good faith since Domingo Mabutas was absent from his job as court stenographer on July 3, 1968, although his daily time record shows that he was present, and to call the attention of the proper authorities to the commission of an offense. But, upon learning that the City Fiscal of Manila had no jurisdiction over the case, she abandoned the case filed before then Assistant Fiscal

Madarang and filed it with the Provincial Fiscal of Oriental Mindoro.

An overall view of the case does not warrant disciplinary action against the respondents. There was no perversion of the truth in the narration of facts made by the respondent Pilar Nable in her affidavit charging the complainant Domingo Mabutas with falsification of public document such as to show a lack of personal honesty or good moral character to render her unworthy of public confidence. She stated in her affidavit that Domingo Mabutas falsified his daily time record by making it appear that he was present at his job as court stenographer on July 3, 1968 when in truth and in fact he was attending to a criminal case before the Municipal Court of Calapan, Oriental Mindoro, which fact is admitted by Domingo Mabutas who stated that he was there to testify. Since the complainant admitted that he was not physically present at his job as court stenographer on the date referred to, it cannot be said that there was no ground for the filing of the criminal case for falsification and that the case was filed just to harass him. The fact that complainant was in the Municipal Court of Calapan in order to give testimony as a prosecution witness is a matter of defense, which had yet to be determined whether justified or not, considering that no subpoena was issued to him to appear in the Municipal Court.[1]

The explanation of the respondent Rufino G. Madarang is also satisfactory. Good faith is always presumed and from the records there is no sufficient evidence to overcome. While the respondent fiscal may have committed a mistake in considering that the case is within the jurisdiction of the Court of First Instance of Manila despite the allegation of Pilar Nable in her affidavit that the offense of falsification of public document was committed by a court stenographer of the Court of First Instance of Oriental Mindoro, thus implying that the falsification was committed in Oriental Mindoro, his act should not subject him to an imputation of bad faith or malice in view of his honest belief that the case was within the competence of the Court of First Instance of Manila since the falsified daily time record was ultimately filed with the Department of Justice in Manila. "Mistake upon a doubtful or difficult question of law may be made the basis of good faith." [2]

WHEREFORE, the administrative complaint filed by Domingo Mabutas against the respondents Pilar P. Nable and Rufino G. Madarang is hereby dismissed.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, and Santos, JJ., concur.

Aquino, J., concurs because there is no prima facie case for disbarment against the respondents.

[1] Rollo, p. 32.

[2] Art. 526, Civil Code.

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