

SEGUNDINA CORAL, COMPLAINANT, VS. MUNICIPAL JUDGE JOSE CONSOLACION-SERRANO, RESPONDENT.*A.M. No. 128-MJ. September 18, 1974*

Ponente: MUNOZ PALMA, J.

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In a letter-complaint dated March 18, 1973, filed by Segundina Coral against Judge Jose Consolacion-Serrano of the Municipal Court of Catanauan, Quezon, the latter is charged with having demanded from the complainant the sum of P250.00 as consideration for the release of her son, Winifredo Balimbing, and son-in-law, Lorenzo An, who at that time were detained in the municipal jail by virtue of a complaint for "Frustrated Murder" filed by PC Sgt. Narciso Anonuevo. Respondent was required to answer the complaint after which the case was referred to Hon. Juan B. Montecillo, Judge of the Court of First Instance of Quezon, Branch III, for investigation, report and recommendation. Judge Montecillo conducted several hearings and on the basis of the evidence adduced by the complainant and respondent, he submitted a Report of the investigation.

The Honorable Investigator briefly summarized the testimony of the complainant, Segundina Coral, a resident of Catanauan, Quezon, 43 years of age, married, as follows: she has eleven children, one of whom is Winifredo Balimbing, 23 years old, who in December of 1972 was involved in a stabbing incident which resulted in the filing of a complaint against the latter and her son-in-law, Lorenzo An, with Loreto Martinez as the offended party;[1] she tried to settle the case amicably and paid Felisa Pienza, mother of Loreto Martinez, the sum of P250.00 as evidenced by a receipt dated February 2, 1973, which is marked Exhibit A; notwithstanding this amicable settlement, Winifredo Balimbing and Lorenzo An were arrested on March 1, 1973, and detained in the municipal jail of Catanauan; upon the arrest of her son, she went to the house of respondent Judge and showed him an affidavit signed by Loreto Martinez for the dismissal the complaint, but respondent told her to bring the papers to PC Sgt. Anonuevo; she did not see Sgt. Anonuevo and it was one Gaudines who signed the document and instructed her to return it to the judge; she went back to respondent with the document but still respondent Judge refused to act on the motion and told her instead that he would not sign the papers unless she gave him P250.00; she pleaded that she had no money but the judge insisted, so she went home without the motion to dismiss having been approved by respondent; she sought the assistance of Mr. Baticolon and the latter accompanied her to the Judge but nothing came out of it; after three days, she went back to respondent to plead again and this time, the Judge became angry and scolded her stating: "PUTANG INA MO, BABAE KA, WALANG-HIYA KA, INUTIL, MANGMANG!" to which she replied "HUWAG KANG MAGSISISI, GAGAWIN KO ITONG PAGKAMANGMANG KO!"; before she left the residence of respondent, the latter took the papers from her; ten days elapsed and still the Judge did not take any action on the motion to dismiss and so she went to the Secretary of Justice in Manila before whom she filed her complaint dated March 18, 1973, to the effect that her son Winifredo Balimbing and son-in-law, Lorenzo An, were jailed notwithstanding the motion to dismiss filed by the mother of the offended party, Loreto Martinez, and that respondent Judge was asking P250.00 as consideration for the dismissal of the case; finally on April 17, 1973, her son was released; on April 18, 1973, she was summoned by respondent thru a policeman and was told to go to the PC barracks in town and when she

arrived at the place, she met respondent who asked her if she filed a complaint with the Department of Justice and she answered in the affirmative; respondent then talked to Sgt. Anonuevo who typed something on a piece of paper which she was asked to sign; she signed without however reading the contents of the document, and after she had signed she was told to go home; late in the evening of that same day, she was again called by a policeman and summoned to the house of Mayor Orfanel who showed her some papers and inquired if the signature thereon was hers; after she had identified her signature, the Mayor signed the documents and gave her a copy which she was told to bring to the Department of Justice, and that document turned out to be a retraction of her complaint.

On the other hand, respondent's explanation of the incident follows: On March 1, 1973, Segundina Coral went to see him with an affidavit allegedly signed by Loreto Martinez on the basis of which she asked that the criminal complaint for frustrated murder against her son and her son-in-law be dismissed; he asked for Loreto Martinez but Segundina replied that he had left Catanauan, and so he told Segundina that he could not affix his signature on the affidavit in the absence of the affiant, much less could he order the dismissal of the case; Segundina argued that she had fixed the case with Loreto Martinez and his mother, and that both agreed to dismiss the complaint, however, he explained that it was quite impossible for him to act on that affidavit without Loreto Martinez presenting himself to confirm its contents; Segundina left his house and after a couple of hours, she returned with Felisa Martinez, mother of Loreto; he inquired from the mother where her son was and she replied that he left town and she did not know his whereabouts; he explained to the mother that he could not dismiss the case because the affidavit was not signed in his presence; Felisa Martinez promised to contact her son, and he then assured her that he would dismiss the case as soon as the PC authorities would file the corresponding motion; after a day or two, Segundina returned and pleaded again for him to affix his signature on the affidavit and she even offered P50.00 for cigarettes; he lost his temper and told her: "Mrs., masasabi ng Catanauanin at nino pa man na sa aking panunungkulan hindi ako tumatanggap ng anomang uri ng consideration na may kaugnayan sa aking panunungkulan. Iisa lang ang ilong ko at ito ay pipilitin kong maging malinis,"; in the evening of that same day, the wives of the two prisoners, Winifredo Balimbing and Lorenzo An, came to his place to apologize for the action of their mother and on that occasion he explained to them the reason he could not dismiss the case in the absence of Loreto Martinez; the following day, he was again visited by the husband of Segundina, the mother of Lorenzo An, the mother of Loreto Martinez, and Felix Gonzales and they inquired if the presence of Loreto Martinez was really necessary for the dismissal of the case and he answered in the affirmative, and on that occasion he even offered P20.00 for their transportation to locate Loreto Martinez, but this was refused; he assured the parties that if Loreto Martinez would appear he would grant the motion to dismiss if filed by the PC; on April 16, 1973, around 8:00 o'clock in the morning, Loreto Martinez and his mother Felisa together with the father of Winifredo Balimbing and the father of Lorenzo An came to his residence and brought another affidavit of desistance; he asked some questions to Loreto Martinez after which the latter signed and swore to the truth and veracity of the contents of his affidavit; after the seal of the Court was affixed on the document, it was brought to PC Sgt. Anonuevo and the latter filed in the afternoon of that same day a motion to dismiss with the conformity of Loreto Martinez and the two prisoners Winifredo Balimbing and Lorenzo An; upon receipt of said motion he issued right there and then an order of dismissal and directed the immediate release of the accused and his order was implemented on that same day; however, in the evening of April 17, 1973, Felix Gonzales went to his house and informed him that Segundina Coral had filed a complaint against him; on April 18, 1973, he received a letter indorsement from the State Prosecutor requiring him to comment within seventy-two hours on the letter-complaint of Segundina Coral dated March 18, 1973; upon receipt of that indorsement, he immediately went to the PC Headquarters to inquire if Segundina had filed a complaint with the PC authorities and he was told by Sgt. Anonuevo that there was no such complaint; he requested Sgt. Anonuevo to invite Segundina because "he smell something fishy in this case,"; between 3:00 to 3:30 o'clock in the afternoon, Segundina and her husband and Felix Gonzales arrived at the PC Headquarters and after he had conversed with Segundina, the latter appeared

surprised that there was a complaint filed with the Department of Justice and she told him that the complaint was made by the lawyer of Fernando Gancayco, her landlord; Sgt. Anonuevo then asked Segundina if she was willing to execute an affidavit retracting her letter-complaint, and after Segundina was assured that nothing bad would happen to her, she agreed, in the presence of her husband and Felix Gonzales, to sign an affidavit of retraction which was sworn to before Mayor Orfanel that same night of April 18, 1973; he attached said affidavit of retraction to his Comment, but he found out later that Segundina Coral had gone to Manila and executed another affidavit before Atty. Teresita Guevara Santos disowning the affidavit taken by Sgt. Anonuevo; he believes that this complaint of Segundina Coral unfounded as it is was instigated by Fernando Gancayco who was a candidate for Mayor in Catanauan but lost in the last local elections because of the campaign of his family who supported Mayor Orfanel instead, and since then the Gancaycos nurtured ill-feelings against him.

The Investigator disbelieved the testimony of complainant Segundina Coral concerning the alleged demand of P250.00 and instead found the explanation of respondent satisfactory.

After an examination of the evidence submitted by the parties, We concur with the findings of the Investigator. First of all, let it be said that a crime is an offense against the State and society and for reasons of public policy its prosecution cannot be the subject of a compromise agreement between the offender and the victim or offended party,[2] and, therefore, respondent Judge could have rightly ignored the affidavit of desistance of the victim, Loreto Martinez, in the frustrated murder case, had he chosen to do so. Secondly, respondent correctly desisted from acting on the affidavit of Loreto Martinez until he had ascertained from the affiant himself the veracity of its contents and/or the circumstances leading to its execution, and until the proper motion to dismiss was presented by PC Sgt. Anonuevo, the peace officer who filed the complaint for frustrated murder against complainant's son and son-in-law. Thirdly, respondent's insistence on the appearance of the victim in the frustrated murder case was justified, nay, a matter of duty on his part, to avoid a possible miscarriage of justice considering the gravity of the offense charged in the complaint filed in his court. Fourthly, the evidence shows that respondent acted with dispatch on the dismissal of the frustrated murder complaint after the victim, Loreto Martinez, appeared before him on April 16, 1973, and a motion to dismiss was filed by the investigating PC authorities on that same day. That fact was neither denied nor rebutted by the complainant. Lastly, it is significant that none of the persons who were interested in the dismissal of the frustrated murder complaint such as, the mother of Loreto Martinez, the husband of complainant herein, the mother of one of the accused, Lorenzo An, Felix Gonzales, and Dionisio Baticolon, all of whom had occasion to see and talk with respondent concerning the matter, none of these persons, We repeat, testified to corroborate complainant's charge that respondent was asking for P250.00 as consideration for the dismissal of the complaint filed with him. If there was any truth to the accusation, surely that fact would have been known or sensed one way or the other by the above-named persons who at the instance of the complainant personally talked with respondent about the dropping of the frustrated murder case. What appears from the evidence of respondent is that the latter explained to the parties concerned that he could not dismiss the case without the victim, Loreto Martinez, appearing personally before him inasmuch as the supposed affidavit of desistance was not signed in his presence, which testimony of respondent was not rebutted by any of the persons mentioned above.

It may also be worthy to mention that the complaint for frustrated murder was obviously filed with the respondent for purposes of a preliminary investigation of the charge which is cognizable by the Court of First Instance. Inasmuch as accused therein, namely, Winifredo Balimbing and Lorenzo An, had been arrested, the case was presumably ready for the second stage of the preliminary investigation, that is, the accused to be informed of the complaint and of the evidence presented against them, and to present their defense if they so desired (Sec. 10, Rule 112, Rules of Court). The records before Us show however that said accused preferred not to introduce their evidence to exculpate themselves from the charge but instead relied on the supposed amicable settlement with the

victim, Loreto Martinez, to secure the dismissal of the complaint against them. If there was therefore any delay in their release, said accused and the herein complainant have only themselves to blame.

Complainant, a laundry-woman by occupation, could not understand however in her simple mind why respondent would not release her son after she had paid the victim P250.00, and she surmised that the judge was simply waiting for "grease money", so much so that in one of her visits to respondent she offered the latter "P50 for cigarettes". Of course complainant denied having made that offer, nonetheless it is a fact that, according to respondent, the wives of Winifredo Balimbing and Lorenzo An came to know that he scolded complainant for making the offer of P50.00 and they went to see him to apologize for the action of their mother, and this testimony of respondent was not denied by the wives of said accused during the investigation of this administrative case.

The Investigator found, and there is ample basis for his finding, that complainant was instigated by Fernando Gancayco to file this complaint against respondent. Fernando Gancayco was a candidate for mayor in the last local elections in Catanauan, Quezon, and was defeated, according to respondent, due to the active campaign of his family against him. When the Gancaycos were informed by their laundry-woman and tenant, Segundina Coral, that respondent refused to dismiss the frustrated murder case and release her son notwithstanding the supposed settlement with the victim, they saw an opportunity to retaliate and encouraged Segundina to file this complaint against respondent Judge. Segundina Coral admitted in the course of her testimony before Judge Montecillo that it was the wife of Fernando Gancayco who accompanied her to one Atty. Dimayuga and the latter prepared her complaint, and together with Mrs. Gancayco they went to the Department of Justice to file it, and again it was Mrs. Gancayco who accompanied her to report to said office the intervention of PC soldiers in making her sign a supposed letter of retraction. Strange to say that neither Fernando Gancayco nor his wife appeared during the investigation of this case to deny the existence of any bad motives on their part as charged by respondent or disclaim any undue interest in this case as unwittingly revealed by complainant herein.

Although respondent is to be exonerated of the specific charge that he demanded P250.00 as consideration for the release of complainant's son and son-in-law, there is, however, one aspect of this case which merits Our attention and calls for disciplinary action against respondent. The evidence shows that when respondent received on April 18, 1973 an indorsement from the Department of Justice requiring him to answer the letter-complaint of Segundina Coral he went that same day to the Philippine Constabulary headquarters in the town and told PC Sgt. Anonuevo: "Since this is martial law, could you invite Segundina Coral because I smell something fishy in this case, in this letter complaint." So in effect, Sgt. Anonuevo asked a policeman, Pat. Morales, to call Segundina Coral and late in the afternoon of that day Segundina arrived at the PC barracks and after she was interrogated by Sgt. Anonuevo she was asked to sign an affidavit of retraction of her complaint which was sworn to before the municipal mayor late in the evening of that day. (tsn, April 30, 1974, pp. 198-201, witness Judge Serrano; tsn, April 3, 1974, pp. 29-30, witness Segundina Coral). That letter or affidavit of retraction was then sent by respondent together with his answer to the complaint to the Department of Justice. Complainant claims that she was asked to sign said affidavit by Sgt. Anonuevo without her reading its contents and that when she was called late at night by the municipal mayor in connection with said affidavit all that she was asked was whether or not the signature on the paper was hers (tsn, April 3, 1974, pp. 28, 30). On the other hand, respondent declared that complainant signed her affidavit of retraction knowingly and voluntarily in the presence of her husband and Felix Gonzales, a relative of hers who had intervened in the dismissal of the frustrated murder case. What disturbs or rather shocks Us is the action of respondent in taking advantage as admitted by him of the martial law and asking the military authorities to summon Segundina Coral and secure from the latter a retraction of her complaint. The falsity of the complaint of Segundina Coral is beside the point, for even if the complaint were unfounded and "fishy" to use respondent's own words, nonetheless it was highly improper to say the least, for respondent Judge

to have gone to the military and asked the latter to call the herein complainant and interrogate her in connection with the complaint filed with the Department of Justice. Undoubtedly, the only possible reason for a recourse to the military was to instill apprehension and fear in the heart and mind of Segundina Coral which respondent succeeded to do as shown by the fact that Segundina signed an affidavit of retraction prepared by PC Sgt. Anonuevo, which she, however, subsequently disowned before the proper officials in the Department of Justice.

If all that respondent wanted was to clarify matters with Segundina Coral he could have simply called for her and in the presence of those persons who in one way or another intervened in the dismissal of the frustrated murder case, inquired why the complaint was filed when it was absolutely without basis. However, the proper and correct action would have been for respondent to have absolutely refrained from causing any such inquiry either on his own or by a third party in his behalf lest he be suspected of taking advantage of his position or exerting some pressure to secure a withdrawal of the complaint filed against him. In other words, respondent as a man of the law and a dispenser of justice should have relied on the merits of his defense rather than on a retraction of the complaint especially one that was obtained with the assistance of the military. By his action, respondent betrayed a "deficiency in prudence, discretion and judgment"[3] which a member of the judiciary must profess to a high degree if he is to be a symbol of law and justice in the community which he serves.

WHEREFORE, while there is no basis for the charge of extortion, We however severely reprimand respondent Judge for the course of action he took as described above, with a warning of a more drastic action should such deficiency in prudence and judgment be manifested in the exercise of his judicial functions. Let this decision be spread upon his record.

Castro, (Acting Chairman), Teehankee, Makasiar, and Esguerra, JJ., concur.

[1] also identified as Rogito Martinez

[2] U.S. vs. Ongtengco, 4 Phil. 144, 147; U.S. vs. Rodriguez, 9 Phil. 153; People vs. Miranda, L-16122, May 30, 1961, 2 SCRA 261

[3] Tuason vs. Zaldivar, et al., L-23476, August 31, 1965, 14 SCRA 1067, 1070

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