

MARIA AIDA JAKOALEM, COMPLAINANT, VS. PRECIOSO B. CORDOVEZ, MUNICIPAL JUDGE OF MANOLO FORTICH, BUKIDNON, RESPONDENT.

A.M. No. 13-MJ. July 18, 1974

Ponente: CASTRO, J.

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CASTRO, J.:

The charges in this administrative case against Municipal Judge Precioso B. Cordovez of the municipality of Manolo Fortich, province of Bukidnon, are denominated by the complainant Maria Aida Jakosalem as "gross violations of the existing laws of the judiciary" and "gross if not total negligence of his duties."

The complainant specifically alleged in her complaint that when she went to the chambers of the respondent judge on January 5, 1973 for the purpose of filing a criminal complaint for grave oral defamation, the respondent was not in his office; that she was able to locate him only in the afternoon of the same day at his gasoline station; that he not only refused to sign the jurat to the complaint but as well thereafter gave her the "runaround;" that it was only much later, when the complainant's counsel (Atty. Rodrigo V. Lim, Jr.) intervened, that the respondent signed the jurat; that he thereafter refused to issue a warrant of arrest because "the accused is the niece of the cowboy of Judge Cordovez;" and that he could hardly be contacted in his office because he attended to his business interests during office hours.

By way of answer, the respondent explained that the complainant, together with her witnesses, went to him not on January 5, but on January 10, 1973; that instead of signing the jurat to the criminal complaint, he advised her to first proceed to the chief of police so that her complaint would, in his own words, "be duly entered in the police blotter, investigated and processed;" and that there was no delay in the issuance of the warrant of arrest, because on the very day that he conducted the required preliminary examination, that is, on January 30, 1973, he issued the warrant of arrest, as evidenced by court records, copies of which he attached to his April 16, 1973 comment on the administrative complaint against him. He further stated that although his wife, with the assistance of their son, maintains a "modest rice and cornmill business" and a gasoline station, he "is without a hand in the operation" of these enterprises.

This case was referred to District judge Abundio Z. Arrieta for investigation, report and recommendation.

On the day set for hearing, the respondent appeared, but the complainant did not, as she had not been served notice because she could not be located at her old address. The respondent, however, presented to the investigator an affidavit executed by the complainant on April 12, 1973, withdrawing her administrative complaint for the reason that "upon soul-searching deliberation, I have come to the conclusion that the filing of the aforesaid case was just the result of a simple misunderstanding and misappreciation of the facts and circumstances related thereto." Because of this development, Judge Arrieta recommends dismissal of this case.

Notwithstanding the investigator's recommendation, the complainant's desistance and the fact that no proof has been adduced by her in support of the charges, we nevertheless find the respondent, on the basis of the admissions

made by him in his answer to the complaint, guilty of a violation of Canon 2 of the Canons of Judicial Ethics.* This Canon reads as follows:

"The Public Interest. — The courts exist to promote justice, and thus to aid in securing the contentment and happiness of the people. Their administration should be speedy and careful. Every judge should at all times be alert in his rulings and in the conduct of the business of his court, so far as he can, to make it useful to litigants and to the community. He should avoid unconsciously falling into the attitude of mind that the litigants are made for the courts instead of the courts for the litigants."

The respondent deliberately refused to administer the oath of the complainant on the jurat of her criminal complaint when she went to him on January 10, 1973 for the purpose of filing the complaint, upon the baseless pretext that the complaint should first be referred to the chief of police for investigation and processing before it can be officially filed with the court. The respondent judges own words are hereunder reproduced:

"After listening to complainant's request to have her complaint subscribed and sworn, duly dated as . . . this 10th day of January, 1973. . . . which is not so in the affidavits submitted bearing no signature of the affiants neither the same typed date altho the affiants were with her, the undersigned explained to her (complainant) that what could be done in the premises was to administer her oath in her affidavit and that of her witnesses who were present; and that, she must proceed thereafter to the office of the Chief of Police and submit the ready made complaint including the affidavits in support thereof so that her complaint will be duly entered in the Police Blotter, investigated and processed in the usual manner. And so, what the undersigned have done on January 10, 1973, when complainant approached him in the latter's office was the accomplishment of the oath on the affidavits of complainant's witnesses and her own as shown in said Annexes 'B', 'C' and 'D'.

"As stated, with respect to the Complaint (Annex 'A'), the undersigned did not as yet sign the same for purposes of the oath because the office of the Chief of Police of the Municipality should first officially be given an opportunity to know the complaint of complainant for proper action x x x

"In short, the actuation of the undersigned on January 10, 1973 (not on January 5, 1973) when complainant and her witnesses made their first approach and appeared in the former's office, did not violate any existing laws of the judiciary, much less, did the undersigned neglect his duties because he (undersigned) failed to sign right then and there the complaint (Annex 'A') which complainant wanted to file. The Chief of Police of the municipality, is not the Chief of Police of the undersigned. Precisely, the undersigned advised the complainant to first submit her complaint (Annex 'A') and the affidavits duly subscribed and sworn to in support thereof, to the Chief of Police for proper investigation.. "x x x (Italics supplied)

This Court is not aware of any law, rule or regulation that requires prior reference of a criminal complaint to the chief of police of a municipality for entry in the police blotter, investigation and processing, before the filing thereof with the court may be authorized by the municipal judge. The complainant went to the respondent for the purpose merely of filing her criminal complaint — and section 2 of Rule 110 of the Rules of Court allows her, as an offended party, to commence a criminal action — but the respondent detoured her to the chief of police without justification in law. It is thus too plain that the respondent delayed the administration of justice, in violation of the above-cited Canon 2 of the Canons of Judicial Ethics.

Moreover, should the respondent's erroneous notion of criminal procedure be entertained, the delay in the filing of a criminal complaint, without fault on the part of the complainant, could bring about disastrous consequences where the period of prescription for the filing of the complaint is about to expire. Judges should never overlook this point when complaints are presented to them for filing.

It is also just as well, and this occasion is as good as any, for this Court to essay the reminder that pursuance by judges of other vocations is clearly circumscribed by well-known provisions of law and regulations prescribing

definite office hours for judges and other public servants. These provisions of law and regulations must be strictly and faithfully observed so that all parties who have official business to transact with judges (especially municipal judges who are magistrates of direct citizen exposure) would always know where and when to locate them.

ACCORDINGLY, the respondent judge is hereby censured, and warned that a repetition of the same offense or commission of a similar offense will merit heavier disciplinary sanction. He is further enjoined (1) to act with dispatch and in accord with law on all complaints presented to him for filing, and (2) to refrain, at all times, from any conduct that may well be regarded as not entirely free from the appearance of impropriety.

Let a copy of this decision be entered in the official record of the respondent.

Makalintal, C.J., Teehankee, Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

* Administrative Order No. 162, Department of Justice, promulgated August 1, 1946.

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