

**RODOLFO GAMARA, CLODUALDO CASTRO AND IGNACIO FLORES,
COMPLAINANTS, VS. MUNICIPAL JUDGE GEMINIANO B. ALMEDA OF
SINILOAN, LAGUNA, RESPONDENT.**

A.M. No. 292-MJ. September 09, 1975

Ponente: AQUINO, J.

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AQUINO, J.:

In Criminal Case No. 1727 of the municipal court of Siniloan, Laguna, Patrolmen Rodoifo Gamara, Clodualdo Castro and Ignacio Flores, together with Modesto Gamara, were charged by an assistant provincial fiscal with double murder and atandado in connection with the killing of the chief of police and a councilor of that municipality.

Municipal Judge Geminiano B. Almeda, after conducting a preliminary examination wherein Patrolmen Tereso Adaro and Claudio Gemanel testified, ordered the arrest of the four accused. Adaro and Gemanel also testified for the prosecution at the hearing of the petitions for bail filed by Flores and Modesto Gamara. Judge Almeda denied the petitions in a resolution dated June 15, 1972.

On June 26, 1972 the fiscal filed an amended complaint. The amendment consisted of the inclusion of Patrolman Adaro (the aforementioned prosecution witness) as a new defendant. Judge Almeda conducted a preliminary examination on the amended complaint for the purpose of ascertaining whether there was a prima facie case against Adaro. In that preliminary examination the prosecution presented as sole witness Patrolman Gemanel who merely reiterated his statement at the hearing on the petition for bail. In that statement he did not finger Adaro as one of the killers of the chief of police and the municipal councilor.

On July 8, 1972 Judge Almeda ordered the fiscal to present 'some more evidence to substantiate the charge against Adaro. The fiscal manifested that he had no further evidence to prove the complicity of Adaro in the killing. He reintroduced the sworn statements of Concepcion Bernardo and the three accused policemen.

In an eight-page resolution dated July 27, 1972 Judge Almeda rejected the amended complaint and held that the prosecution's evidence did not warrant the inclusion of Adaro. He surmised that the three accused policemen wanted Adaro to be included as a defendant because Adaro had testified against them.

That resolution provoked the three accused policemen to file on October 10, 1972 with the Secretary of Justice the instant administrative complaint against Judge Almeda for supposed ignorance of the law, partiality and grave abuse of discretion. Judge Almeda submitted a verified answer to the charges which he characterized as baseless and as an act of harassment. (He is now an assistant provincial fiscal.)

District Judge Florentino M. Villanueva investigated the charges. He recommended the dismissal thereof and the exoneration of respondent Almeda. The Judicial Consultant concurred in that recommendation.

The issue is whether respondent Almeda committed any irregularity in holding that the prosecution had not established a prima facie case against Patrolman Adaro or whether he is liable to disciplinary action for his

actuations in the preliminary investigation.

After a careful perusal of the record, we find that the charges against the respondent are unfounded. There is no evidence that he was animated with malice and bias in not allowing the inclusion of Patrolman Adaro as a defendant in the double murder and Atentado case. Judge Villanueva found that the evidence was insufficient to warrant Adaro's indictment. According to the investigator, the fact that the complainants herein were willing to drop the charges if the fiscal would sustain the theory that Adaro was not implicated in the killing showed that they were only fishing for evidence and were not sincere in filing the charges.

It is relevant to state that although Judge Almeda did not admit the amended criminal complaint including Adaro as a defendant, the herein complainants could have asked the provincial fiscal to reinvestigate the case after the record was elevated to the Court of First Instance and renewed their petition for Adaro's prosecution (*People vs. Perez*, 110 Phil. 214). Such a reinvestigation was in fact conducted by the provincial fiscal.

WHEREFORE, the instant administrative case is dismissed.

So ordered.

Makalintal, C.J, Fernando, Barredo, and Martin, JJ., concur.

Antonio and Conception, Jr., JJ., are on leave.

Martin, J., was designated to sit in the Second Division.

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