

JOSE P. CONCEPCION, COMPLAINANT, VS. HON. JOSE P. VELA, MUNICIPAL JUDGE OF PANGANIBAN, CATANDUANES, RESPONDENT.

A.M. No. 309-MJ. May 31, 1976

Ponente: MARTIN, J.

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MARTIN, J.:

On July 17, 1972, Jose P. Concepcion, President of the Association of Barrio Councils in Panganiban, Catanduanes, filed a verified complaint with the Secretary of Justice against the Honorable Jose R. Vela, Municipal Judge of Panganiban, Catanduanes, for malfeasance and dereliction of duties, allegedly committed as follows:

"Count I — That since January 1, 1971 up to the present, almost every Monday, Tuesday and the whole day of Saturday, the said Municipal Judge Jose R. Vela, is always out of his station but in his daily time record and/or certificate of service he causes it to appear therein that he was present during those days mentioned above — a clear falsification of public document;

"Count II — That whenever the said Municipal Judge Jose R. Vela, issues Warrants of Arrest, the persons accused in his Court, he sees to it by instructing serving Officers (policemen) that the warrants of arrest be served while he was out of his station and/or vacation; and

"Count II — That the said Municipal Judge Jose R. Vela has ordered the dismissal of Criminal Case No. 529, for Theft of Electric Wires, People vs. Guillermo Joven, Julio Cabañon and Juan Morales, filed in his Court for preliminary investigation, although there were written confessions and admissions made and executed by the two (2) accused Julio Cabañon and Juan Morales."

In his comment, respondent Judge denied the foregoing charges and claimed that the complaint was merely intended to harass him and not arising out of a sense of duty. He alleged that the complainant is a man who cannot be trusted because he is one with so many criminal charges pending against him in court, such as attempted murder, frustrated murder, illegal possession of firearms and many others.

On November 13, 1972, the Department of Justice referred the complaint against respondent Judge to District Judge Jose Nepomuceno of the Court of First Instance of Catanduanes (Branch I, Virac) for investigation, report and recommendation. After conducting a formal investigation, Judge Jose Nepomuceno recommended to the Department of Justice on January 22, 1973, the dismissal of the letter-complaint of complainant against respondent Judge for lack of merit.

On his investigation, the Investigating Judge found out that while in Count No. 1, the complaint alleged that almost every Monday, Tuesday and the whole of Saturday respondent Judge was always out of his station, the witnesses for complainant were able to specify only January 24, 25 and the morning of January 26, 1972 as the days when Judge Vela did not report to office; that even on this matter, their testimony was hazy; that witnesses engaged themselves in material contradictions in their declarations; and that, even the documentary evidences of complainant failed to prove the charges against respondent Judge regarding his alleged absences. Thus according

to the findings of the Investigating Judge, Jose Vallador made use of his pocket calendar wherein he made checks to indicate the alleged absences of respondent Judge on January 24, 25 and 26, 1972 (Exh. B-1) and also on June 5, 6 and 7, 1972 (Exh. B-2), but he admitted that those checks were made on his pocket calendar upon instructions of complainant. The latter also presented his diary book wherein he allegedly made entries of "Judy out", the supposed code name of Judge Vela, on January 24, 25 and 26, 1972 and on June 5, 6 and 7, 1972 to indicate the days when respondent Judge was absent from his office. However, the Investigating Judge noted that these entries of "Judy out" were not on the days respondent Judge was allegedly absent and that the entries of "Judy out" on June 5, 6 and 7, were written with a different writing instrument from the one used in the other entries appearing on the same days that respondent Judge was supposed to be absent. In the opinion of the Investigating Judge said entries were just placed there to suit the purpose of the complainant. Then in those days that respondent Judge was absent from office he made the following justifications:

Thus (a) in 1971 — January 1-2 (Saturday) were public holidays; May 1 (Saturday) Labor Day; June 1-20 (involving Mondays, Tuesdays and Saturdays), respondent Judge attended the 4th Judicial Conference at the U.P. Law Center; June 21-28, September 29-30 and October 1-7 (involving Mondays, Tuesdays and Saturdays) respondent Judge was on sick leave of absence as shown by his 201 file; November 30 (Tuesday) was a public holiday;

(b) In 1972 — January 1 (Saturday), was a holiday; March 17-27 (involving Monday, Tuesday and Saturday), respondent Judge attended the 7th Judicial Conference in Baguio City; June 17 (Monday), was a holiday; July 4 (Tuesday), was a holiday; July 7-11 (involving Saturday, Monday and Tuesday), respondent Judge was on sick leave of absence;

(c) In March 8-13, 1971; October 4-8, 1971; and May 9-12, 1972; respondent Judge was not in his official station in Panganiban, Catanduanes, as he was then acting as municipal Judge in either of the towns of Baganoc or Viga, Catanduanes, pursuant to the designation made by the District Judge of the Court of First Instance of Catanduanes.

It would thus appear from the evidence that if the respondent Judge was absent on the days indicated above it was because the day was an official holiday or he was attending judicial conferences or on sick leave or performing official duties in another town as per designation of the District Judge. After a careful study of the evidence on record, We are not prepared to disturb the findings of the Honorable Investigating Judge.

Likewise, the Investigating Judge found out that while in Count II, the complaint alleged that whenever the respondent Judge issues a warrant of arrest, he gives the corresponding instructions to the serving officer to effect the service of the warrants while he is out of his station and/or while he is on vacation, there is nothing in the record to substantiate the charge. According to the Investigating Judge complainant even admitted that he has no personal knowledge that the respondent Judge had given such instructions and that he was merely laboring under the impression that when arrests are made on Sundays, they are upon instructions of the respondent Judge. In the absence of a direct evidence to this effect, the presumption of regularity of official functions must have to prevail, that is, that said warrants are issued properly in accordance with law.

As to Count III, wherein the respondent Judge is charged of having dismissed Criminal Case No. 529, entitled *People of the Philippines vs. Guillermo Joven, Julio Cabañon and Juan Morales*, for theft of electric wires, despite the written confessions of the two accused, Julio Cabañon and Juan Morales, allegedly admitting to him the commission of the crime charged as he then helped in their apprehension and investigation pursuant to the request of the Mayor of Panganiban, the result of the investigation belies the allegation that the respondent Judge has ordered such dismissal. It appears on record that the original complaint for theft of electric wires valued at P575.00 was amended by reducing the value thereof to P185.00.[1] Later when the two accused pleaded guilty to

the amended complaint, the respondent Judge rendered a judgment of conviction[2] declaring Julio Cabañgon and Juan Morales, guilty and sentenced them” * * * to suffer the penalty of thirty (30) days of imprisonment and to pay the costs * * *.” So the truth of the matter is that the respondent Judge did not dismiss the criminal case in question but instead convicted the accused therein pursuant to the norm of judicial duty to which a judge should adhere.[3]

Viewed in their true perspective the charges filed against respondent Judge were not sufficiently substantiated by complainant who has the burden of proof in administrative proceedings. The proofs presented by complainant are not convincingly sufficient to compel this Court to exercise its disciplinary powers over respondent Judge.[4] Accordingly the complaint against respondent Judge should be dismissed for failure of complainant to substantiate the charges and the respondent Judge exonerated for want of substantial evidence.[5]

WHEREFORE, in view of all the foregoing, the administrative complaint against respondent Judge Jose R. Vela of Pangasinan, Catanduanes, is hereby dismissed for insufficient evidence and for lack of merit.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

[1] p. 123, Record.

[2] p. 133, Record.

[3] Adm. Case No. 279-J, Bondoc vs. Guzman, May 30, 1974.

[4] Go vs. Candoy, Adm. Case No. 736, Oct. 23, 1967.

[5] Del Castillo vs. Climaco, Adm. Case No. 141-J, August 31, 1970; Aagsalud vs. Ramos, Adm. Case No. 57, October 30, 1962.

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