

DANIEL GALANGI, COMPLAINANT, VS. HON. FRANCISCO MEN ABAD, DISTRICT JUDGE, COURT OF FIRST INSTANCE OF LAGAWE, TFUGAO, RESPONDENT.*A.M. No. 699-CFI. February 28, 1980*

Ponente: TEEHANKEE, J.

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This is an administrative case filed by complainant Daniel Galangi against District Judge Francisco Men Abad of the Court of First Instance of Ifugao for gross ignorance of the law, unwarranted detention and violation of his constitutional rights.

The facts of the case are as follows:

Sometime in May, 1973, Mayor Julian Dulawan of Kiangnan, Ifugao filed Adin. Case No. 5 against Vice-Mayor Daniel Galangi, complainant herein, for dishonesty, misconduct in office and oppression before the Provincial Board of Ifugao (Annex "B" of the Complaint, pp. 10-13, Rollo). The said Provincial Board composed of Governor G. Lumauig, Board Members D. Pamorca and N. Hangdaan convened on February 26, 1974 to hear the administrative complaint. When Galangi was called upon to subscribe to an oath before the commencement of the formal investigation, he steadfastly refused alleging that he had not received a copy of the charges filed against him (Exh. "7" — "7-C"). At the request of Galangi, the Board gave him up to March 8, 1974 to submit his written explanation to the charges (Exh. "7-B"). However, Galangi failed to appear or submit his written explanation or answer to the charges on March 8, 1974.

Thereafter or on March 12, 1974, the Provincial Board convened and issued Resolution No. 16 petitioning the proper court of justice to cite Galangi for contempt and for the Provincial Fiscal of Lagawe to file the necessary contempt proceedings (p. 8, Rollo). Upon the filing with the court of first instance of Ifugao (p. 5, Rollo) by Provincial Fiscal Macli-ing of the petition to declare the complainant in contempt herein respondent Judge Francisco Men Abad, presiding over the court, after a summary hearing, issued an Order, dated March 13, 1974 (Annex "B", p. 13, Rollo), declaring Galangi in direct contempt of the Provincial Board in session and imposed upon him the penalty of imprisonment for not more than ten (10) days as well as the Order for his arrest (Annex "C", p. 10, Rollo). Consequently, Vice-Mayor Galangi was detained on March 22, 1974 (Annex "D", p. 15, Rollo). On the same date, complainant requested respondent Judge for a copy of the complaint of the Provincial Board of Ifugao (Annex "E", p. 16, Rollo) and on March 27, he filed a Motion for Reconsideration of the Order of Contempt (Annex "F", pp. 17-20, Rollo) praying that he be released provisionally upon posting of a bail bond, which respondent judge denied in an order dated March 28, 1974 (Annex "G", p. 21-22, Rollo).

On March 28, 1974, complainant Galangi filed an Urgent Motion for Bail (Exh. "H", p. 23, Rollo) which respondent judge likewise denied in an order on the same day (Annex "I", p. 24, Rollo) for lack of legal basis stating that "x x x In view of the fact that the nature of the offense and the penalty imposed upon him is that of direct contempt and especially because he has almost served two thirds (2/3) of his sentence, the same is not

bailable,"

The record shows that complainant Galangi was cited in respondent's court for alleged disrespect and in disobedience of the Order of the Provincial Board of Ifugao which is a duly constituted body to hear and decide administrative cases against a local government official, but it may be noted without going into the merits of the charge that he was within his rights in demanding that he be furnished a copy of the charges against him. Assuming arguendo that he had committed a contumacious act, the same, however, was not committed "in the presence of or so near a court or judge as to obstruct or interrupt the proceedings before the same x x x" (Sec. 1, Rule 71 of the Rules of Court). Hence, the charge against complainant was an indirect contempt and not direct contempt as found by respondent judge. The correct proceeding should have been for indirect contempt and the petitioner's right to be informed of the charges against him as well as his right to be heard should have been observed in consonance with Sec. 3, Rule 71 of the Rules of Court which reads:

"Indirect contempts to be punished after charge and hearing. — After charge in writing has been filed, and an opportunity given to the accused to be heard by himself or counsel, a person guilty of any of the following acts may be punished for contempt:

"x x x

x x x

x x x"

Corollary to the aforequoted provisions is Section 4 of the same rule which provides that indirect contempt may be punished when committed against an administrative officer or any non-judicial person, committee or other body, to wit:

"Sec. 4. Charge; where to be filed. — Where the contempt, under the preceding section, has been committed against a superior court or judge, or against an officer appointed by it, the charge may be filed with such superior court. Where such contempt has been committed against an inferior court or judge, the charge may be filed with the Court of First Instance of the province or city in which the inferior court is sitting; but the proceedings may also be instituted in such inferior court subject to appeal to the Court of First Instance of such province or city in the same manner as is provided in section 2 of this rule. And where a contempt punishable under these rules has been committed against an administrative officer or any non-judicial person, committee or other body, the charge may be filed with the Court of First Instance of the province or city in which the contempt has been committed." (*Italics supplied*).

Verily, respondent judge erred in not assessing the fact that a judge may summarily declare a person in direct contempt only when the person committed the act or acts constituting the said offense, in the presence of or near a court or judge, who may have actually witnessed or perceived the commission of the punishable act or acts, such that there is indeed no need for another court proceeding to prove that the acts were actually committed. Logic dictates that when the judge himself witnesses the very act constituting direct contempt, he may summarily declare the culprit in direct contempt and punish him accordingly.

In the instant case, the contumacious act of herein petitioner was committed before the Provincial Board of Ifugao, which was, indeed, beyond the perception of respondent judge. Under such circumstances, the charge against complainant merely constituted indirect contempt which should be heard first as provided for in Section 3 of Rule 71 of the Rules of Court. The investigator, then Court of Appeals Justice Mariano Agcaoili, correctly held in his Report that:

"x x x Considering that herein petitioner refused to be sworn to before the Provincial Board and considering that the aforesaid Rule punishes for direct contempt a person who refuses to be sworn to when lawfully required to do so, respondent Judge believed that petitioner should be summarily punished for direct contempt. However, respondent Judge had erred in not assessing the fact that a Judge may summarily declare a person in direct contempt only when the person committed the acts constituting the said offense, before the presence of or near the Judge, who may have actually witnessed or perceived the commission of the punishable acts, such that there is indeed no need for another court proceeding to prove that the acts were actually committed. Logic dictates that when the judge himself witnesses the very act constituting direct contempt, he need not conduct a hearing to assess and resolve the same.

"In the instant case, however, the contumacious act of herein petitioner was committed before the Provincial Board, which was, indeed, beyond the perception of respondent Judge. Consequently, the act committed by Vice-Mayor Gaiangi was indirect contempt, which should be heard as provided for in Section 3 of Rule 71 of the Rules of Court."

The carelessness and lack of circumspection on respondent's part, to say the least, in peremptorily sentencing complainant to ten (10) days imprisonment without hearing and due process of law and in refusing to grant him bail to enable him to elevate the matter to the higher courts on the grossly erroneous ground that complainant "has almost served two-thirds (2/3) of his sentence (and) the same is notailable" warrant the imposition of a penalty on respondent as a corrective measure, so that he and others may be properly warned about carelessness in the application of the proper law and undue severity in denying a citizen's motion for bail and an opportunity to seek recourse from the higher courts against the summary penalty of imprisonment imposed by respondent. After all, if respondent were right in his view that the complainant had been guilty of direct contempt and was not entitled to any hearing, he would be sustained by the higher court and the penalty imposed by him would stand and would have to be discharged by complainant.

WHEREFORE, the Court imposes upon respondent a fine equivalent to his actual salary for one (1) month payable within thirty (30) days from the finality of this decision.

SO ORDERED.

Makasiar, Fernandez, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.

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