

DIOSDADO B. PAALA, COMPLAINANT, VS. HON. ALBERTO REGINO, MUNICIPAL JUDGE OF PIO DURAN, ALBAY, RESPONDENT.

A.M. No. 791-MJ. August 27, 1981

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a verified complaint,[1] dated July 29, 1974 filed by Diosdado Paala against Municipal Judge Alberto Regino of the Municipal Court of Pio Duran, Albay, for (1) grave abuse of discretion; (2) ignorance of the law; (3) extortion; and (4) partiality allegedly committed as follows:

"That sometime in the month of December 1973, my brother Nicetas Paala, died in the barrio of Cuyaoyao within the jurisdiction of the Municipal Court of Pioduran. Due to bad roads the son of the deceased Nicetas Paala, named Ramon Paala was trying to negotiate a distance of about thirty (30) kilometers to his father's death bed, because there was no available transportation but by walking. On his way to visit his deceased father, Ramon Paala, who incidentally is my nephew was robbed of the money he was carrying representing the contributions of his relatives to defray the expenses of burial of his deceased father, some rice, personal necessities, and two (2) shirts and furthermore was manhandled and inflicted physical injuries on his body. The incident was promptly reported to the proper authorities and upon knowing the incident Judge Regino summoned the undersigned admonishing him not to file anymore the case as the Judge offered P750.00 to my nephew in exchange of the non-filing of the case in my presence. That the undersigned did not agree and so a case was filed before Judge Regino's sala. At first when complainant was presented before Judge Regino he examined the affidavits of the witnesses, and thereafter a warrant of arrest was issued. After two (2) weeks the said Judge recalled the warrant of arrest he issued, and again reiterated the offer to give my nephew and his mother the widow of my brother, the sum of P750.00 in exchange of their silence and withdrawal of the case and Judge Regino in making the same offer told them that if they will not agree to his proposal he will dismiss the case and even threatened my nephew and the widow that they might be the ones jailed. I made the appeal to Judge Regino who told me that he wanted the case settled because in his own opinion the evidence is weak, but I appealed to him again to just forward the case to the Court of First Instance which has jurisdiction of the case but instead of heeding my appeal he took advantage of my absence when I went to Manila for physical checkup, he set the case for preliminary investigation and eventually dismissed the same for the simple reason of the absence of the lawyer when the Chief of Police was always present and the offended parties and his witnesses. Copies of the affidavits are hereto attached and made part of this complaint, which shows the biasness and onesidedness of this Judge.

"That on several occasions during the pendency of Criminal Case No. 791 the Judge has sent several feelers for me to desist from continuing with the case and receive the P750.00 which according to him is the only money that the accused could procure and the money was already given to him (Judge Regino) by the accused, but being a Municipal Official as one of the Councilors of the Municipality of Pioduran, I did not accede to the wishes of Judge Regino and so the case was finally dismissed by him."

In compliance with our 1st Indorsement,[2] dated Sept. 16, 1974, respondent filed his comment, dated October 5, 1974,[3], claiming that there could be no grave abuse of discretion nor ignorance of the law on his part when he

issued his Resolution dated May 18, 1974 dismissing Criminal Case No. 791 filed by complainant in the Municipal Court of Pio Duran of Albay entitled, Ramon Paala vs. Jaime C. Madrigalejos, et al. for Robbery, for failure of the prosecution to establish a prima facie case, but, recommending the prosecution of accused Jaime C. Madrigalejos for the injuries he inflicted on complainant Ramon Paala.

Respondent denies the charge of extortion claiming that he had absolutely no knowledge of any overture from anyone, to settle the case, nor of any amount of money for transmittal to the offended party. He likewise denied the charge of partiality saying that he had no reason whatsoever such as relationship, expectation or return of a favor of pecuniary considerations to be partial to anybody. As a matter of fact, he recommended the prosecution of the accused for physical injuries which is hardly compatible with the theory of the complainant that respondent was bent on absolving the accused at any cost.

Moreover, he claims that if complainant believes that the resolution in question was wrong, then the proper remedy for the latter was to ask for its reinvestigation in the Office of the Provincial Fiscal, and not to harass, intimidate, degrade and besmirch him.

In reply to respondent's comment, complainant alleges, among others, that respondent, out of vindictiveness, filed fabricated charges against complainant with the Municipal Council of Pioduran where he is a member, as well as fabricated charges against complainant's son to stop the latter's ordination for deaconship preparatory to his being ordained as priest.

Significantly, respondent did not file any rejoinder denying the additional charges contained in the reply of complainant.

By resolution of the Court En Banc, dated March 3, 1981, this complaint was referred to the Executive Judge of the Court of First Instance of Albay for investigation, report and recommendation. The hearing was conducted on April 21, 1981 after which Honorable Romulo Untalan, the Inquest Judge, submitted a report, dated June 29, 1981, recommending the dismissal of the charges against respondent judge.

However, after a careful study of the case and a reading of the transcript of stenographic notes taken during the hearing, We found that respondent erred in issuing the Warrant of Arrest on January 30, 1974, without actually conducting a preliminary investigation but merely on the insistence of herein complainant for the reason that the accused was allegedly about to leave the following morning for Manila. The fact that respondent recalled the Warrant of Arrest when herein complainant failed to produce his nephew, Ramon Paala, before the respondent for a preliminary examination as required by respondent resulting in complainant's charge that "after two (2) weeks, the said Judge recalled the Warrant of Arrest he issued," should not justify complete condonation of this irregularity. As to the charge that respondent offered the complainant P750.00 not to file the criminal case, We are in full accord with the findings of the Inquest Judge that the same has not been proven, but instead, that it was the mother

of the offended party, Mrs. Pilar Vda. de Paala, who initiated the settlement of the case. The Inquest Judge said:[4]

"We find it difficult to stand mute at the undistinguished effort of the mother of the offended party, Mrs. Pilar Vda. de Paala to compromise the case by asking the amount of P1,500.00. This attitude of hers is a chisel-blow to the claim that the alleged proposal for compromise was actually initiated by respondent Judge. Reasonable inference conveys the sentiment that the greater probability and possibility leans on Mrs. Pilar Vda. de Paala, mother of offended party Ramon Paala, as having been the prime mover. We find no valid support to retreat from this conclusion.

"Worthwhile remembering, of course, is the attitude of Elena Madrigalejos, the mother of accused Jaime

Madrigalejos. Imperatively calling our attention is the circumstance that she testified in favor of the respondent Judge, when in fact her son was not exonerated in the preliminary investigation conducted by respondent as contained in the resolution issued by the latter on May 18, 1974. If indeed, there was no truth in the respondent's testimony, said witness would not be in the latter's side because the respondent even recommended her son to be prosecuted for the injuries inflicted by the latter against the offended party. Sound reason dictates that in the natural course of things, she will entertain grudge against the respondent judge. Significantly, however, if only to shed light on the instant suit, she came out into the open and pour out the truth of the matter."

Upon the other hand, we can not resist giving full accord to the Inquest Judge's appraisal that the dismissal of the criminal case filed by complainant's nephew, which is being questioned by herein complainant, was done with due observance by the respondent of the proper procedure. This is also true with the pronouncement of the Inquest Judge that no malice or bad faith can be validly imputed to respondent in his handling of the case. Even the charge that respondent filed fabricated charges against complainant with the Municipal Council of Pioduran and fabricated charges against complainant's son with the Bishop Council to stop the latter's ordination for deaconship preparatory to priesthood, (t.s.n., pp. 34-35, April 21, 1981 hearing), could not have been the motive for the actuation of respondent judge in the criminal case in question as the above charges came after the filing of this administrative case.

WHEREFORE, RESPONDENT JUDGE IS HEREBY ADMONISHED TO COMPLY WITH THE PERTINENT RULES ON THE ISSUANCE OF A WARRANT OF ARREST WITH A WARNING THAT A REPETITION OF SUCH FAILURE WILL BE DEALT WITH MORE SEVERELY. LET A COPY OF THIS RESOLUTION BE ENTERED IN HIS RECORD.

SO ORDERED.

Teehankee (Chairman), Fernandez, Guerrero and Melencio-Herrera, JJ., concur.

[1] p. 1, Rollo.

[2] p. 4, Rollo.

[3] pp. 5-7, Rollo.

[4] pp. 177-178, Rollo.

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