

HILARION SARCEPUEDES, PETITIONER-APPELLANT, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT-APPELLEE.

G. R. No. L-3857. October 22, 1951

Ponente: BENGZON, J.

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BENGZON, J.:

This is an appeal by certiorari from a decision of the Court of Appeals convicting the appellant of direct assault upon a person in authority.

On September 2, 1947, in the municipality of San Enrique, Negros Occidental, Hilarion Sarcepuedes laid hands on Lucrecia L. Bustamante, a teacher-nurse, in the school building of the town by hitting her twice on the face with his raincoat and violently pushing her to the window. The assault took place because Lucrecia had ordered the closing of a pathway across her land thru which Hilarion and his wife used to pass in going to and from the school, closing which Hilarion deeply resented. It seems that Hilarion Sarcepuedes sought Lucrecia Bustamante at the school premises to demand an explanation. One word led to another and to the criminal employment of force already described.

Articles 148 and 152 as amended, of the Revised Penal Code were applied to the matter by the Court of Appeals. Said provisions of law read as follows:

"ART. 148. Direct Assaults.— Any person or persons who, without a public uprising, shall employ force or intimidation for the attainment of any of the purpose enumerated in defining the crimes of rebellion and sedition, or shall attack, employ force or seriously intimidate or resist any person in authority or any of his agents, while engaged in the performance of official duties, or on occasion of such performance, shall suffer the penalty of prision correccional in its medium and maximum periods and a fine not exceeding 1,000 pesos, when the assault is committed with a weapon or when the offender is a public officer or employee, or when the offender lays hands upon a person in authority. If none of these circumstances be present the penalty of prision correccional in its minimum period and a fine not exceeding 500 pesos shall be imposed.

ART. 152. Person in authority.—Who shall be deemed as such.—In applying the provisions of the proceeding and other articles of this Code, any person directly vested with jurisdiction, whether as an individual or as a member of some court or governmental corporation, board or commission, shall be deemed a person in authority.

In applying the provisions of articles one hundred forty-eight and one hundred fifty-one of this Code, teachers, professors, and persons charged with the supervision of public or duly recognized private schools, colleges, and universities, shall be deemed persons in authority. (As amended by Com. Act No. 576.)"

The appellant contends that the offended party was not a person in authority. According to the Court of Appeals Lucrecia L. Bustamante was, on the day of the commission of the offense, a teacher-nurse of the San Enrique Elementary Public School, among her official duties being to give health instruction to the pupils, to instruct teachers about how to give first aid treatment in the school clinic and to look after the sanitary facilities of the

school. The contention must consequently be overruled, since a teacher is expressly included in article 152 among the officials deemed to be persons in authority.

Again it is argued on behalf of the defendant that the articles do not apply, because Lucrecia L. Bustamante was not assaulted while engaged in the performance of her official duties. It appearing that at the time of the illtreatment she was about to pierce an earring hole on the ear-lobe of a school child in the school clinic and that such work was included in her mission of giving treatment to the school pupils, the appellate court did not make a mistake on this particular issue. It is unquestioned that this defendant knew Lucrecia was a teacher-nurse.

Explaining that the motive for the offense was a dispute totally foreign to Lucrecia's educational labors, the appellant insists that he may not be punished under Article 148 because the attack was not "on occasion" of Lucrecia's performance of her official work. However, inasmuch as we have found that Lucrecia was hurt while performing her ordinary Government tasks, the motive for the aggression becomes immaterial. (U.S. vs. Baluyot 40 Phil. 385) She was pounced upon "while engaged in the performance" of her official duties, within the meaning of Article 148.

The penalty imposed, i.e., from one year, eight months and one day to four years nine months and eleven days of prision correccional plus a fine of P500, is in accordance with law, inasmuch as the offense was attended by the aggravating circumstance of disregard of the sex of the offended party. Like the Court of Appeals we feel that the penalty is rather excessive for this sudden outburst of temper; but the remedy lies in the hands of the Executive.

Finding no legal error in the appealed decision, we have to affirm it, with costs against the appellant. So ordered.

Paras, C. J., Feria, Pablo, Padilla, Tuason, Reyes and Jugo, JJ., concur.

Bautista Angelo, J., took no part.

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