

PASTOR T. BRAVO, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. L-48772. May 08, 1992

Ponente: NOCON, J.

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NOCON, J.:

This is a petition for review on certiorari filed by the accused Pastor Bravo of the decision[1] dated January 7, 1977 of the Court of Appeals modifying the decision of the Court of First Instance of Rizal, Quezon City, Branch XVIII in Criminal Case No. Q-2937 for LIBEL, the dispositive portion of which reads:

"WHEREFORE, the decision under review is hereby MODIFIED, as follows -

Appellant Pastor Bravo is hereby sentenced to suffer an indeterminate penalty of Four (4) months of arresto mayor, as minimum, to two (2) years of prision correccional, as maximum, for the crime of libel with the accessory penalties of the law, and with respect to his civil liability, said appellant is hereby ordered to pay Bibiano Viña the sum of P50,000.00 as moral damages; P6,600.00 as actual damages; and P5,000.00 as attorney's fees, at appellant's costs.

SO ORDERED."[2]

The information upon which this prosecution was based is as follows:

"That on or about the 23rd day of March, 1972, in Quezon City, Philippines, the above-named accused, without any lawful intention and justifiable cause, and with deliberate intent to defame and injure the reputation of one BIBIANO M. VIÑA and to expose him to public contempt, ridicule and dishonor, did, then and there, willfully, unlawfully, maliciously and publicly, submit a report to the Department of Justice, Manila; Chief of the Constabulary, Manila; Chief of Police, Naga City; Chief of Police, Tinambac, Camarines Sur, stating among other things, as follows:

‘The Provincial Commander

PC Headquarters

Naga City

Sir:

I wish to report, for purposes of records that the above-named persons which I accused for robbery, as evidenced by the caption of my complaint have given me several threats of my life and the life of the members of my family, threats to burn my residential house at Tinambac, Camarines Sur and threats to accuse me of several concocted crimes.

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Very truly yours,

(SGD) PASTOR T. BRAVO'

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"thus imputing upon said Bibiano M. Viña the commission of crimes, said accused knowing fully well that the same are absolutely false and without basis in fact, and as a matter of fact, said complaint was dismissed on March 27, 1972 by the Fiscal of Camarines Sur and the report mentioned above ordered archived for lack of evidence, thereby casting and causing dishonor, discredit and contempt upon the said Bibiano M. Viña, to his damage and prejudice in such amount as may be awarded under the provisions of the Civil Code."[3]

The prosecution's evidence upon which the trial court based its finding of guilt beyond reasonable doubt is as follows:

Private respondent Bibiano Viña instituted a civil suit against petitioner Pastor Bravo with the CFI of Camarines Sur which rendered a decision in favor of the former. When said decision was appealed to the Court of Appeals, a writ of execution pending appeal was issued by said court.[4] Petitioner, to forestall the execution, filed a motion to stay said execution with the appellate court, which the latter granted in a resolution dated August 17, 1971.[5] A copy of said resolution was furnished complainant's counsel on August 23, 1971. The latter did not do anything to stop further execution of said writ.[6]

However, since it appears that Sheriff Renato Madera was never notified of the order to stay the execution of the writ,[7] Sheriff Madera together with some members of the Philippine Constabulary proceeded to execute the writ in the absence of respondent Viña, by seizing the properties of petitioner and selling the same to private respondent Viña at a public auction held on September 10, 1971.[8]

As a result of the seizure of his properties by way of execution, petitioner filed a complaint on October 25, 1971 with the fiscal's office of Camarines Sur against private respondent Viña, and his other co-defendants for the crime of robbery with force upon things.[9]

While the complaint for robbery was still pending investigation with the fiscal's office, petitioner on or about March 8, 1972, furnished copies of said complaint together with his affidavit the following governmental agencies to wit: (1) Bureau of Internal Revenue Regional Office, Naga City; (2) Clerk of Court, Court of First Instance of Naga City; (3) Municipal Treasurer, Tinambac, Camarines Sur; (4) the Provincial Commander, PC Headquarters, Naga City; (5) the Chief of Police, Tinambac, Camarines Sur; (6) the Philippine Coconut Administration, Manila; (7) Bureau of Commerce, Manila; (8) Bureau of Labor Regional Office, Naga City; and (9) the Social Security System Regional Office, Naga City.[10]

The complaint and affidavit narrated the alleged commission of the crime of robbery on September 1, 1971 which gave rise to the filing of a complaint with the Fiscal's Office of Camarines Sur.

The circulation of the complaint and affidavit has for its purpose the ruining and damaging of private respondent's reputation; humiliating him and embarrassing him before his friends and business associates and to his former co-police officers of Quezon City, private respondent being a former Quezon City Police Chief.

Again, on March 23, 1971, petitioner sent a letter-report to the Provincial Commander of Naga City alleging that private respondent Viña, together with his co-accused in the robbery case have threatened petitioner and members of his family several times; that they even threatened to accuse petitioner of several concocted crimes and, as a matter of fact, they had already filed a complaint of illegal possession of firearm against petitioner.[11] Copies of said letter were furnished the Secretary of Justice, Manila; the Chief of Constabulary, Manila; and the Chief of

Police, Naga City.[12]

Upon receipt of the letter-report, the Secretary of Justice directed the provincial fiscal of Camarines Sur to investigate the alleged threats against petitioner.

On March 27, 1972, the complaint for robbery was dismissed by the provincial fiscal of Camarines Sur "for want of evidence to prove the existence of a prima-facie case of robbery against the respondents." [13] Private respondent Viña received a copy of the notice of dismissal on April 13, 1972.

On July 17, 1972, for lack of evidence, the complaint of petitioner against private respondent for threats was likewise archived by the provincial fiscal after conducting an investigation.[14]

On October 15, 1972, Sheriff Renato Madera delivered to private respondent a copy of the letter complaint of petitioner alleging threats made by the private respondent against the petitioner, causing private respondent to file a complaint for LIBEL against the petitioner on March 21, 1973.

After trial on the merits, a decision was rendered by the court below, the dispositive portion of which reads:

"WHEREFORE, the Court hereby finds the defendant Pastor T. Bravo guilty beyond reasonable doubt of two separate crimes of Libel and there being neither aggravating nor mitigating circumstance, hereby sentences said defendant to an indeterminate penalty of FOUR (4) months of arresto mayor, as minimum, to TWO (2) years of prision correccional, as maximum, for each of the two separate crimes of libel committed; to suffer the accessory penalties of the law and to pay the costs.

With respect to his civil liability, the Court further orders the defendant Pastor Bravo to pay Bibiano Viña the amount of P300,000.00 as moral damages, to pay P6,600.00 as actual damages and to pay P10,000.00 as attorney's fees." [15]

Not satisfied with the decision, petitioner sought appellate review by the Court of Appeals, which modified the decision of the trial court by dismissing the libel case arising from the robbery complaint on the ground of prescription and reducing the awards of moral damages and attorney's fees.

Petitioner's Motion for Reconsideration dated March 9, 1977 and his Supplemental Motion for Reconsideration dated March 19, 1977 having been both denied on July 20, 1978, petitioner now comes to Us with his petition for certiorari.

Petitioner's contention that his robbery-complaint necessarily partakes of the nature of an absolute privileged communication for which he could not be held criminally liable, has no leg to stand on as the criminal complaint for robbery never reached the status of a judicial proceeding, having been dismissed by the provincial fiscal of Camarines Sur "for want of evidence to prove the existence of a prima facie case against the respondents." [16] Consequently, there are none of the alleged "utterances made in the course of judicial proceedings, including all kinds of pleading, petitions and motions" to speak of, which the case of *Sison v. David* [17] cited by the petitioner, considers as belonging to the class of "communication that is absolutely privileged." Furthermore, said contention is already moot and academic as the libel charge based on the criminal complaint for robbery was already dismissed by the respondent Court of Appeals on the ground of prescription.

As to petitioner's contention that his letter-report is a qualified privileged communication and that no malice was established, We find the decision of the Court of Appeals refuting the same supported by the evidence on record showing that petitioner was motivated by actual malice in filing the robbery complaint and the letter-report of the alleged threats of private respondent Viña.

Firstly, petitioner gave unnecessary publicity to the fact that private respondent Viña was a defendant in a robbery

case which appeared in a three-column headline in the "Bicol Star".

Secondly, petitioner falsely accused private respondent of threatening him, knowing fully well that it was the group of private respondent and not private respondent personally who threatened him, a fact he admitted in open court, thereby imputing on private respondent the commission of a crime.

Likewise, petitioner's allegation that private respondent had threatened to accuse him of several concocted crimes and in fact had already filed a complaint of illegal possession of firearms against him, is simply not true, so much so that petitioner was forced to deny in open court that private respondent had anything to do with the filing of the complaint but that it was Sgts. Guerrero and Buendia who did so.

As correctly observed by the Court of Appeals in its decision:

"The evident falsity of appellant's letter-complaint is further proved by his unexplained failure to present not even one of the supposed five informants or sources of his beliefs that herein complainant Viña and his co-accused in the robbery case, is about to frame him up for the commission of several concocted crimes, etc., mentioned in said letter-complaint (Exh. C).

Finally on this score, there is this undisputed evidence on record to show the motivation which propelled appellant to harbor ill-feelings, hatred and revenge against herein complainant, which eventually triggered his filing the robbery complaint, and his letter-complaint, and in giving said imputations undue and unnecessary wide publicity. The Court refers to a civil case as We have said earlier where complainant Viña was the principal plaintiff and appellant the sole defendant where after trial an adverse decision was rendered against appellant and in favor of Viña. When the case was appealed by appellant to this court docketed as CA-G.R. No. 48042-R (Exhs.) or 3, p. 28, rec.) this Court ordered the execution of the appealed decision pending appeal (Exh. N, p. 25, rec.), resulting in the seizure of the appellant's goods, etc. and sold to herein complainant Viña in an auction sale (Exh. 2, p. 44, rec.) conducted therein. This execution impoverished appellant who was a prosperous businessman before the levy on his properties hence it is but naturally expected that from this time on there was instilled in appellants heart, a burning hatred, revenge and ill-feelings to even up with the complainant who had caused great misfortune to him and to his family and the net result are those questioned false written serious imputations of robbery, grave threats, and frame-up charges, etc. hulled against Viña.

The foregoing belies appellant's claim of having acted in good faith in authoring the questioned aspersions against Viña." [18]

Thus, even if said letter report was in the nature of a qualified privileged communication, such privilege is lost by proof of actual malice as in the case at bar. Moreover, said letter report lost its character as a qualified privileged communication the moment petitioner furnished copies thereof to several provincial and national government agencies which had no interest, right or duty in the prosecution of said charges and the general rule is that any written or printed statement falsely charging another with the commission of a crime is libelous per se.

Petitioner also contends that he was convicted of a libel charge which is at variance with the one specified in the information since he was being charged with libel allegedly to have been committed' in Quezon City and not in Naga City where said libel was allegedly committed.

Article 360, 3rd paragraph of the Revised Penal Code provides that:

"Art. 360. Persons responsible.-

x x x x x x x x

The criminal and civil action for damages in cases of written defamations as provided for in this chapter, shall be filed simultaneously or separately with the court of first instance of the province or city where the libelous

article is printed and first published or where any of the offended parties actually resides at the time of the commission of the offense. x x x"

The fact that the information alleged that the offense of libel was committed on or about March 23, 1972 in Quezon City is merely in compliance with the aforementioned provision of the law which allows the filing of a libel complaint at the place where any of the offended parties reside to establish the proper venue. In fact, there is no variance between the offense charged in the information and the offense proved during the trial since it was proved beyond reasonable doubt that the libel committed by the petitioner in Naga City is the very same offense charged in the questioned information which merely quoted verbatim petitioner's robbery complaint and letter-report. Furthermore, in the offense of libel, the place of its commission is not an indispensable element pursuant to the aforementioned law for a libel case may be filed where the libelous article was printed and first published or in the place where any of the offended party resides, and since complainant Viña resides in Quezon City at the time of the commission of the supposed libelous article, then it follows that the lower court had properly acquired jurisdiction to try said case.

Finally, petitioner contends that there was no fiscal who was physically present during the proceedings of the libel cases since the entire evidence for the prosecution was presented by a private prosecutor who had no express authority from the fiscal to represent the State, thereby rendering the entire trial invalid as enunciated in the case of *People vs. Beriales*.^[19]

Petitioner is in error. The case of *People vs. Beriales* is not applicable to the case at bar because in said case, the city fiscal did not appear in all of the trial court's proceedings, from the arraignment to the promulgation of the decision of conviction, due to the persistent failure and refusal of the city fiscal to submit to the trial court its resolution on the re-investigation of the criminal case, and it was only the private prosecutor who handled the case without the authority and active participation of the prosecuting fiscal. However, in the case at bar, it cannot be said that the trial fiscal never appeared during the trial of said case. As pointed out by the Solicitor General in its comment:

"“But in the case at bar, during the arraignment of appellant before the lower court (CFI of Rizal stationed in Quezon City, Branch XVIII in Crim. Case No. Q-2837), it is presumed that the prosecution was personally represented by a prosecuting fiscal since there is no showing in the records of the case of his absence thereto (pp. 21-22, Records). Then, on the first day of the trial on the merits of said case, which was on October 22, 1973 at 9:00 o'clock in the morning, Fiscal Modesto C. Juanson personally appeared and represented the prosecution. Although the transcript of the said proceedings is silent on the matter, the presence of Fiscal Juanson in court in effect gave authority to the private prosecutor, Atty. Benjamin Grecia, to handle the prosecution under his (fiscal's) direct control and supervision. And this implied authority granted by the said prosecuting fiscal to the private prosecutor continued for the succeeding proceedings as indicated by the stenographers concerned in their transcripts of the proceedings held on October 23, 1973 and February 4, 1974 when it is specifically stated therein: ‘For the prosecution: Atty. Benjamin Grecia, under the supervision and control of the City Fiscal’ (See Annexes ‘3’ and ‘5’, Motion for Reconsideration). The same implied authority granted by the said prosecuting fiscal to the private prosecutor was acknowledged by the defense counsel when, despite the absence of the prosecuting fiscal on October 24, 1973, which was but a continuation of the cross-examination of the prosecution witness Bibiano Viña, said defense counsel proceeded to ask questions of said witness, after which the private prosecutor offered the prosecution's exhibits and rested its case. The same is true during the hearing of February 4, 1974 when, despite the absence of the prosecuting fiscal, said defense counsel proceeded to present the appellant as a defense witness and thereafter allowed the private prosecutor to cross-examine the defense witness. By allowing the private prosecutor to present the evidence for the prosecution, and to cross-examine the prosecution witnesses, offering no objection nor questioning the absence of the prosecuting fiscal, the said defense counsel in effect acknowledged the authority granted by the

prosecuting fiscal to the said private prosecutor to handle the prosecution of the case based on the continuing authority granted by the prosecuting fiscal even at the start of the trial of this criminal case before the trial court. And finally, on the hearing of February 5, 1974, which was the last proceedings held in this case, Fiscal Modesto C. Juanson was personally present and actively handled the case for the prosecution, as shown by the fact that, after the defense offered its exhibits and rested its case, Fiscal Juanson interposed no objections to some of the defense exhibits and objected to the other exhibits and to the ‘remarks and interpretations’ of the defense counsel in offering his exhibits (pp. 27-28, tsn, Feb. 5, 1974). The presence of Fiscal Juanson during the last hearing of this criminal case and his active participation in the said hearing has the effect of confirming his previous authority granted to the private prosecutor for the latter to handle the prosecution of the case during some of his absences in court and further ratifying all the acts of the private prosecutor pursuant to such authority.’

(page 6-7, Comment dated April 29, 1977 filed by Appellee in CA-G.R. 16892-CR)"[20]

WHEREFORE, finding no reversible error in the assailed decision of the respondent Court of Appeals, the same is hereby **AFFIRMED** in toto, and the petition for certiorari dismissed for lack of merit.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] CA-G.R. No. 16892-CR entitled *People of the Philippines vs. Pastor T. Bravo*. Ponente: Justice Emilio A. Gancayco; Justice Mama D. Busran and Justice Samuel F. Reyes, concurring.

[2] CA’s decision, Rollo, p. 29.

[3] Annex “A”, pp. 14 and 16.

[4] Exhibit “N”.

[5] Exhibit “3”; Exhibit “O”.

[6] Exhibit “3-C”.

[7] Exhibit “O-1”.

[8] T.S.N., October 23, 1973, pp. 29-32.

[9] Exhibit “A” and “H”.

[10] Exhibit “I”.

[11] Exhibit “C”.

[12] Exhibits “C-4” and “C-6”.

[13] Exhibits “B” and “B-3”.

[14] Exhibits “D” and “D-1”.

[15] RTC’s decision, pp. 23-24; Records, pp. 114-115.

[16] Exhibits “B” and “B-3”; T.S.N., October 22, 1973, pp. 7-9.

[17] 1 SCRA 60.

[18] CA's decision, pp. l-m; Rollo, pp. 25-26.

[19] 70 SCRA 361 (1976).

[20] OSG's Comment, Rollo, pp. 55-56.

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