

**PEOPLE OF THE PHILIPPINES AND GEORGE LITTON, SR.,
PETITIONERS, VS. HONORABLE FLORELIANA CASTRO-BARTOLOME,
IN HER CAPACITY AS JUDGE OF THE COURT OF FIRST INSTANCE OF
RIZAL, BRANC...**

G.R. No. L-45037. November 21, 1991

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

Time has left its mark on this case. Except for the alleged adulteress, the other dramatis personae have long since died. But the legal question presented for resolution must still be addressed. Should the prosecution in a criminal complaint for adultery be allowed to introduce additional evidence even after it has rested its case and both defendants have submitted their respective demurrers to evidence or motions to dismiss. Respondent Judge Castro-Bartolome ruled in the negative and the State and both the aggrieved husband have gone up to this Court on a petition for certiorari, prohibition and mandamus with preliminary injunction seeking the invalidation of the assailed Orders of August 11, 1976 and October 12, 1976 denying their motion to reopen the trial.

The antecedent facts are undisputed.

In a complaint dated January 23, 1973 filed before the then Court of First Instance of Rizal, Branch XV (Makati), presided by respondent Judge Castro-Bartolome, petitioner George Litton Sr. charged Leonor Sochayseng and Rogelio Paz with adultery.[1]

After the prosecution rested its case, respondents Sochayseng and Paz filed their respective demurrer to evidence (motions to dismiss) substantially raising similar grounds for the dismissal of the adultery charge:

1. That the prosecution failed to prove beyond reasonable doubt the existence of marriage between Litton, Sr. and Sochayseng during the alleged period of commission of adultery;
2. That assuming arguendo that said marriage did in fact exist and that both respondents committed acts of adultery during coverture, petitioner Litton, Sr. has condoned and pardoned the adulterous acts of his wife and Paz.[2]

On June 23, 1976, or nine (9) months after the prosecution rested its case and before respondent Judge could resolve the motions to dismiss submitted by Sochayseng and Paz, the private prosecutor (Atty. Estanislao Fernandez) filed a motion to reopen the case for the purpose of presenting the following additional evidence:

"1. A certified xerox copy of the Marriage Contract between George Litton, Sr., complainant herein, and his accused-wife, Leonor Trinidad Sochayseng, dated August 28, 1959 at Binan, Laguna. x x x ;

"2. A certified and duly authenticated xerox copy of the Marriage Certificate attesting to the marriage of George Litton, Sr., complainant herein, and the accused Leonor Sochayseng, celebrated on October 20, 1962 before the Justice of the Peace of Las Vegas, Nevada (USA) x x x ;

"3. A xerox copy of the affidavit of the accused Leonor S. Litton in the support case filed by her against George Litton, Sr., Civil Case No. 16795 of the Court of First Instance of Rizal, dated October 11, 1972 wherein said Leonor S. Litton stated, under oath, among others, that she and the defendant (George Litton, Sr.) were married on October 20, 1962 as per marriage certificate x x x." [3]

Atty. Fernandez, who replaced Atty. Dakila Castro as private prosecutor, justified the move, thus:

"These documents were not presented by the private prosecutor Dakila F. Castro at the close of the evidence of the prosecution in his belief that he had sufficiently proven the marriage between complaining witness George Litton, Sr. and the accused Leonor Trinidad Sochayseng, with the testimony, among others, of said George Litton, Sr., about said marriages. Granting that said opinion of Atty. Castro is erroneous, in the highest interest of justice, we are presenting this motion to enable us to present the above-mentioned documents to conclusively prove the fact of marriage between the complaining witness, George Litton, Sr. and the accused Leonor Sochayseng." [4]

In the Order dated August 11, 1976, respondent Judge Castro-Bartolome denied the motion to reopen trial, stating that:

"The Rules of Court do not provide for any reopening of criminal case, but provide in Rule 121 for new trial, wherein at any time before judgment, 'the court may on motion of the defendant, or on its own motion with the consent of the defendant, grant a new trial.' Section 2 thereof provides the grounds therefor:

""(a) That the errors of law or irregularities have been committed during the trial prejudicial to the substantial rights of the defendant;

""(b) That new and material evidence has been discovered which the defendant could not with reasonable diligence have discovered and produced at the trial, and which if introduced and admitted, would probably change the judgment. x x x.'

"Nowhere is it provided that it may be granted upon motion of the prosecution. Whatever caption the prosecution may give to the action it seeks to be granted, whether reopening or new trial, there is no specific provision of the Rules to back it, and is probably why the decisions cited by the prosecution are rife that the court *motu proprio* may, for its own clarification, allow the introduction of evidence to prove juris-diction, which would not be prejudicial to the substantial rights of the accused." [5]

An urgent motion for reconsideration by petitioner was similarly rejected in the Order of October 12, 1976. Hence, the present recourse assailing respondent Judge for gravely abusing her discretion in refusing to reopen trial. On November 23, 1976, this Court issued a temporary restraining order dated November 22, 1976 barring respondent Judge from resolving the motions to dismiss filed by the two accused in the Litton case.

Preliminarily, it must be stressed that there is no specific provision in the Rules of Court governing motions to reopen a case for the reception of evidence after a case has been submitted for decision but before judgment. Judicial action is controlled by no other rule than that of the paramount interests of justice and rests entirely on the sound discretion of the trial court. Its grant or denial by said court in the exercise of that discretion will not be reversed on appeal unless a clear abuse thereof is shown. [6]

Additional jurisprudence is to the effect that:

"x x x It is within the discretion of the court whether or not to admit further evidence after the party offering the evidence has rested, and this discretion will not be reviewed except where it has clearly been abused. (64 C. J. 160). More, it is within the sound discretion of the court whether or not it will allow the case to be reopened for the further introduction of evidence after a motion or request for a non-suit, or a demurrer to the evidence; and the case may be reopened after the court has announced its intention as to its ruling on the request, motion

or demurrer, or has granted it or has denied the same, or after the motion had been granted, if the order had not been written, or entered upon the minutes or signed. (64 C. J., 164).

"In this jurisdiction this rule has been followed. After the parties have produced their respective direct proofs, they are allowed to offer rebutting evidence only, but, it has been held, the court, for good reasons, in the furtherance of justice, may permit them to offer evidence upon their original case, and its ruling will not be disturbed in the appellate court where no abuse of discretion appears. (Siuliong & Co. vs. Ylagan, 43 Phil. 393; U.S. vs. Alviar, 36 Phil. 804). So, generally, additional evidence is allowed when it is newly discovered, or where it has been omitted through inadvertence or mistake, or where the purpose of the evidence is to correct evidence previously offered." (I Moran's Comments on the Rules of Court, 2d ed., 545; 64 C. J., 160-163, cited in Alegre vs. Reyes, *ibid.*, pp. 232-233; Agulto vs. Court of Appeals, G. R. No. 52728, January 17, 1990, 181 SCRA 80).

Under the factual milieu of the case at bar, we find that respondent Judge correctly rejected petitioner's motion to reopen the trial. Even the so-called paramount interests of justice cannot free petitioner from his self-imposed predicament. His counsel took a big gamble in not presenting the certificates attesting to the fact of marriage between petitioner and Leonor Sochayseng on the erroneous belief that said marriage had been amply established by the testimony of the aggrieved husband. Petitioner's counsel realized his folly when private respondents understandably moved for the quashal of the complaint on the material ground that coverture was not proven beyond reasonable doubt.

As wisely observed by respondent Judge in her August 11, 1976 denial order:

"x x x If the prosecution can be allowed to rectify a mistake pointed out in a demurrer to the evidence, what will be the court's reason to deny him a second or a third or a fourth reopening ad nauseam to rectify succeeding mistakes should the first reopening not serve the purpose? It is obvious that a reopening of the case to allow the intro-duction of additional evidence would be prejudicial to the substantial rights of the accused." [7]

Moreover, records show that petitioner had already consumed a great deal of the court's time, or about three (3) years and five (5) months, and presented eight (8) witnesses, and that it was only after nine (9) months from the date private respondents filed their separate demurrer to evidence that Litton's private prosecutor underwent a change of heart, or to be more accurate, a change of strategy in order to salvage what appeared to be a weak case for George Litton, Sr.

The question may be asked: what would prevent the prosecution from switching lawyers everytime it wants to upgrade its evidence in the guise of additional documents or new witnesses to be introduced. And in the meantime, the fundamental right of the accused to a speedy trial is gravely imperilled. It is rather unfortunate that for more than ten (10) years, this case has remained unresolved because of a procedural impasse, which has placed the rights of the affected parties in a state of suspended animation. It is imperative that proceedings in the main be resumed in the lower court with the least delay.

All considered, we hold that there was no abuse of discretion on the part of respondent Judge to warrant the corrective writ of certiorari.

WHEREFORE, the questioned orders of August 11, 1976 and October 12, 1976 denying the motion to reopen trial in Criminal Case No. 7394 are hereby **AFFIRMED**. Respondent trial court is directed to give priority to the final resolution of this case. This decision is immediately executory. No costs.

SO ORDERED.

Gutierrez, Jr., Bidin, Davide, Jr., and Romero, JJ., concur.

[1] Criminal Case No. 7394.

[2] Annexes B and C, Rollo, pp. 26-35, 35-79.

[3] Rollo, pp. 227-228.

[4] Rollo, pp. 228-229.

[5] Annex M, Rollo, pp. 275-276.

[6] Alegre v. Reyes, G.R. No. 56923, May 9, 1988, 161 SCRA 226, 231, citing Moran, Comments on the Rules of Court, 1979 Ed., Vol. 2, pp. 212-213.

[7] Rollo, p. 276.

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