

EDUARDO R. SANTOS, COMPLAINANT, VS. HON. UNION KAYANAN AND MELITON ANGELES, RESPONDENTS.*Adm. Case No. 115. August 31, 1971*

Ponente: MAKALINTAL, J.

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This is an administrative case filed on March 29, 1967 by Atty. Eduardo B. Santos against Hon. Union Kayanan and Meliton Angeles, Judge of the Court of First Instance and Assistant Provincial Fiscal of Quezon, respectively, charging them with improper and unethical acts in connection with their official functions.

Respondents filed their answers to the complaint, after which the case was assigned to Hon. Antonio Cañizares, Associate Justice of the Court of Appeals, for investigation, report and recommendation.

Complainant was counsel for the defense in a criminal case (No. 15403) in the Court of First Instance of Quezon, wherein - three brothers - Natalio, Eligio and Iluminado, all surnamed Pornobi - were charged with murder for the fatal stabbing of one Nicanor Valdez. The case was assigned to Branch II of said court, pre-sided by Judge Manolo L. Maddela. Strangely enough, the administrative complaint was lodged as a result of a motion by respondent Fiscal for the dismissal of the criminal case and of the order granting the motion issued by respondent Judge, who had taken over the case from Judge Maddela. Ordinarily it should be the relatives - in this case the widow particularly - of the victim of the alleged murder who would feel aggrieved by the dismissal, and not the lawyer for the accused. But the widow has not seen fit to complain; indeed it was at her behest that the dismissal came about.

The investigation report of Justice Antonio Cañizares reads as follows:

"At the trial, the defense tried to establish that the mortal wounds sustained by the victim were inflicted solely by Natalio Pornobi in legitimate self-defense. Upon the other hand, the prosecution maintained that the slaying was participated in by the aforementioned three brothers, and that the killing was plain murder and not justifiable homicide as alleged by the defense.

In the lower Court, the prosecution rested its case with the presentation of the following witnesses and the submission of the following exhibits:

1. Lydia Abracia, wife of the victim Nicanor Valdez (pages 3 to 10, Exhibit B, notes of Federico Enriquez).
2. Joaquinito Portes, alleged ocular witness to the killing (pages 11 to 46 of the said Exhibit "B");
3. Quirino Carlos, police officer of Pagbilao Quezon (pages 62 to 77, id.);
4. Regino Cabrera, Chief of Police of Pagbilao, Quezon (pages 77 to 85, id.);
5. Dr. Cipriano Elloso, medical pathologist of the Quezon Memorial Hospital, who conducted the autopsy, declared that the nature of the wounds of the victim Nicanor Valdez seemed to show that he was killed by several men (pages 46 to 62, id.);

6. Exhibit "A", portion of the affidavit of Joaquinito Portes, was admitted in evidence as part of Portes' testimony, Portes in said affidavit declared that Eligio Pornobi and Iluminado Pornobi held the victim while Natalio Pornobi was stabbing him;
7. Exhibit "B", medical certificate of the victim;
8. Exhibit "C", death certificate of the victim;
9. Exhibit "D", balisong or fan knife allegedly used in the killing by Natalio Pornobi;
10. Exhibit "D-1", wrapper containing the diagram of the balisong knife; and,
11. Exhibit "E", amended complaint for murder against the accused.

Upon conclusion of the submission of the evidence for the prosecution, the defense adduced evidence tending to prove its theory of self-defense, as it was admitted that Natalio Pornobi was the one solely responsible for the death of Valdez. To this end the following persons were presented as witnesses for the defense before Judge Maddela:

1. Regino Cabrera (pages 89 to 96, Exhibit "C", notes of Armando Ignacio);
2. Eugenio Piñol (pages 96 to 123, id.);
3. Angel Martinez (pages 3 to 15, id); and;
4. Rustico Deriquito (pages 15 to 29, id).

After these witnesses had testified, Judge Maddela issued an order in this tenor:

"On motion of defense counsel and without objection on the part of the prosecution, the continuation of the hearing of this case is ordered post-poned to April 20, 1966 at 8:30 o'clock in the morning. It is to be understood that the setting of this case on said date is non-transferable in character and that the court will not countenance further postponement as the court noticed that everytime this case is set for hearing new witnesses are being mentioned by defense counsel. The defense counsel is ordered to give a list of witnesses they will present and if the defense is not yet ready on the date this case is set for continuation of hearing, the court will consider the defense to have rested their case as the court has already given sufficient time to the defense to prepare for its defense.' (Exhibit C-6)".

On April 18, 1966, the herein complainant received an order from the clerk of court postponing the case until further assignment. The said order was issued two (2) days before the date scheduled for the final hearing of the case.

On April 20, 1966, apparently without notice to all the parties and their lawyers, respondent Assistant Fiscal Meliton Angeles moved for the dismissal of the said murder case before respondent Judge Union C. Kayanan (who in the meantime had taken over the duties of Judge Maddela who went on leave), on the ground that the witnesses were no longer interested in testifying for the Government.

On the very same date, that is, April 20, 1966, respondent Judge Union C. Kayanan granted the said motion to dismiss.

The complainant has instituted the present administrative case on the theory (1) that respondent Fiscal Meliton Angeles acted improperly in filing the motion to dismiss considering that the prosecution had already rested its case; and (2) that respondent Judge Union C. Kayanan did not have the inherent authority and discretion to dismiss a murder case heard and tried by another Judge of equal rank.

As to the first question:

Complainant contended that since the prosecution had already rested its case, the filing of the motion to dismiss by respondent fiscal Meliton Angeles was highly irregular and improper, more so, as the grounds therefor were allegedly false. Thus, in his sworn statement the complainant alleged that the mother of the three (3) accused had told him that she had already reached an agreement with the Judge and Fiscal Angeles for the dismissal of the case if he (complainant) would just file a motion to dismiss.

In reply to this charge the respondent fiscal averred that he never talked to the mother of the accused, nor did he even know the said accused. He admitted that while it was Assistant Fiscal Jose Veluz who appeared for the prosecution during the trial, nevertheless he was present at the trial of the case, and had knowledge of the evidence adduced for he was the one assigned to prosecute all criminal cases in Branch II of the Court of First Instance of Quezon. As a matter of fact after the prosecution had rested its side, he took over the active prosecution of the case, cross-examining the witnesses for the defense, which circumstance appears in the transcript of the stenographic notes (Exhibit 1-A). Respondent Fiscal likewise stated that since he was assigned to prosecute all criminal cases in Branch II he, therefore, had full control and supervision of said cases, and this implies the authority to file the aforesaid motion to dismiss, especially so, since at the time he filed the said motion the provincial fiscal was absent. More importantly, he honestly believed that the evidence for the State was insufficient to sustain the conviction of all the accused, contending that the failure of Wilfredo Bautista, the other ocular witness for the prosecution to testify, had left the testimony of Joaquinito Portes uncorroborated. Furthermore, the complaining widow, Lydia Abracia and the aforementioned eyewitness Joaquinito Portes approached him and told him that they were no longer interested in prosecuting the case and that they would not appear as rebuttal witnesses. He further declared that the witness Portes in particular asseverated that except for the stabbing of the victim he knew nothing of the circumstances surrounding the killing. On account of this development he asked them to execute an affidavit of retraction but they refused to do so, saying that they were afraid that they might be held liable for some crimes instead, they signified their intention to consult their lawyer, Atty. Cayo Desembrano, the private prosecutor in the case. And on April 15, 1966, the said witnesses did execute their affidavits before special counsel Celso Florido, which affidavits embodied the circumstances hereinbefore related. Confronted with these circumstances, respondent fiscal claimed he was left with no other alternative but to file the motion to dismiss in question.

As to the second issue:

Complainant maintained that the aforementioned criminal case was "lifted" from the sala of Judge Manolo Maddela by the herein respondents and that the said act was highly irregular and unethical.

The foregoing charge, according to respondent Judge Union Kayanan, is malicious, because the complainant admitted that the latter learned of the dismissal of the case some four or five months after April 18, 1966, and that the complainant never cared to inquire whether Judge Maddela was actually on duty on April 20, 1966, or who were the judges on duty in the Court of First Instance at Lucena City at the time; and that moreover after April 15, 1966, the presiding Judge of Branch II, Court of First Instance of Quezon, Judge Maddela, went on leave for two months (Exh. 7), as a result of which the Department of Justice, by administrative order No. 425 (Exhibit 6), assigned herein respondent Judge Kayanan "to hold court in Lucena City effective December 1, 1965 or as soon thereafter as practicable for the purpose of trying all kinds of cases and to enter judgment therein," and that this authority included the dockets of Branches I and II of the said Court of First Instance.

Furthermore, Judge Maddela testified that before he took his leave of absence on the second half of April 1966, he requested respondent Judge Kayanan to "please hear those incidents which are important in nature, especially those involving detained prisoners because I was leaving, there may be petitions or motions, or incidents pending in my Sala which needs immediate action."

From these incontrovertible facts, it seems quite clear that respondent Judge was not guilty of "lifting" the said

criminal case from the sala of Judge Maddela. On the contrary, it is clear that the respondent Judge had the authority to act on the said case and to enter judgment thereon pursuant to Administrative Order No. 25 and considering further that Judge Maddela himself had personally requested him to act on petitions, motions or incidents pertaining his Sala which needed immediate action, particularly those involving detained prisoners, which the accused were.

Let it be conceded that the proper course of action which the respondent Judge should have taken in the premises was to render a judgment of acquittal on the merits, that is, if he in fact believed, as indeed he believed, that the evidence at bar could not maintain a judgment of conviction, instead of dismissing the case, in view of the fact that the prosecution had already rested its case and the defense was almost through with the presentation of its evidence. This error, however, is an error of judgment, to which any judge, human that he is, may at times fall. The basic thing to remember -- and here the record speaks for itself -- is that there is not a shred of evidence to show that the respondents were bribed or promised anything in money, goods or favor, to betray their trust. Be that as it may -- because of the semblance of negligence in their actuations -- respondent Judge and respondent fiscal should be advised to show more caution, prudence and circumspection in dealing with like or similar cases in the future to the end that nothing may ever destroy the popular faith and confidence in the integrity of our courts of justice which, as we all know, are the last shield and shelter of our civil liberties."

A number of additional circumstances may be mentioned in order to place the present administrative complaint in proper perspective.

1. The order of respondent Judge dismissing criminal case No. 15403 was issued on April 20, 1966. The complaint in the instant administrative case was filed on March 29, 1967, or some eleven months later. It appears that on January 26, 1967, respondent Judge subscribed to an affidavit wherein, referring to certain administrative charges likewise lodged by Atty. Eduardo R. Santos, the same complainant here, against Judge Manolo L. Maddela, the affiant stated: ". . . upon knowing that Atty. Eduardo R. Santos filed charges against Judge Manolo L. Maddela, I had occasion to talk with Atty. Santos in my chamber and asked him why he filed charges against Judge Maddela and Atty. Santos, in answer to me said: 'Judge, I only have two (2) paying cases, and Judge Maddela has ignored and humiliated me.'" This affidavit tends to explain why: (a) this administrative case was initiated only after a considerably long period of time had elapsed since the order of respondent Judge complained of was issued; and (b) why the defense counsel filed the case notwithstanding the fact that his own clients had been favored by the said order.

2. Respondent Judge evidently found himself faced with a dilemma in the criminal case which he sought to resolve in accordance with what he considered as the imperatives of ultimate justice. Thus he alleges in his answer to the complaint:

"Before the herein respondent dis-missed the case, knowing that the prosecution already rested and the defense was almost through in the presentation of its witnesses, Co-Respondent Fiscal Meliton Angeles for the first time approached us in chamber and unveiled his dilemma. He represented that after the widow (Lydia Abracia Vda. de Valdez) and supposed government eye-witness (Joaquinito Portes) heard the four (4) defense witnesses, their conscience bothered them and realized that what the influential relatives of the victim (Nicanor Valdez) prodded upon them to testify in Court was absolutely false, and considering that the vital and material eye-witness (Wil-fredo Bautista) who was listed as the first witness in the Information refused to appear in Court, they pleaded to said Fiscal to dismiss the case; that they did not want to be a party in the miscarriage of justice; that the widow wanted the accused to feel indebted to her if she took the initiative to dismiss the case, instead of waiting for the uncertainty of acquittal; that both witnesses refused to sign affidavits retracting their testimony in Court for fear they might be prosecuted for perjury; and that the widow pitied the accused who were then languishing in jail for more than (3) years, because they are so poor and

could not even afford to put up bail bonds for their provisional liberty.

After a cursory examination of the records, the herein Respondent came across the Motion to Dismiss (ANNEX "IV") filed by Complainant on Dec. 10, 1963 before the Municipal Court of Pagbilao, Quezon for co-accused Eligio and Iluminado Pornobi, which however, was denied."

3. A similar situation confronted respondent Fiscal. He alleges in his answer:

"a- Lydia Abracia, widow of the late victim Nicanor Valdez, and the lone eye-witness to the incident, Joaquinito Portes, approached the herein respondent at his office and revealed that, after they had heard defense's witnesses in Court, they verified the truth of latter's testimony from other witnesses, having actual knowledge of the occurrence, but who, for some reasons unknown to them have not appeared, as witnesses in the case, and they were finally convinced of defendants' innocence, and consequently, they decided to desist from appearing at the continuation of Hearing, as state's rebuttal witnesses, and in view thereof, they requested that a Motion for the dismissal of the case be submitted.

b- After studying the records of the case, he told those two who came to this office that, since the prosecution had already rested, and the defense was in the process of adducing evidence, he could not move to dismiss the case, until and unless they retracted their testimony on record. They informed him that they would think the matter over, and consult their lawyer, the private prosecutor, Atty. Cayo F. Desembrana. They returned later, and because he was, busy then, they executed and signed their respective Affidavits before Special Counsel Celso B. Florido.

c- Subsequently, Atty. Cayo F. Desembrana came to see him in Office, bringing the above-mentioned Affidavits of his clients. This private prosecutor told him that, after learning from his clients that they themselves were convinced of accused's innocence and after consultation with victim's other relatives, he could no longer continue the prosecution of the case, and, therefore, urged him to submit a petition to dismiss. He asked such private prosecutor why it appeared in the cited Affidavits that the complainant and her witness were just no longer interested in prosecuting the case instead of making a stronger stand and citing their belief in defendants' innocence. Atty. Desembrana explained that, if his clients would recant outright their previous declaration, they might be liable for perjury. He told Atty. Desembrana to return and bring to him the affiants for conference, and so, all three appeared a little later, re-affirmed their previous request to dismiss the case, reiterated their belief in accused's innocence, and restated their determination not to appear anymore at the continuation of Trial. In view thereof, he told them that he would further deliberate on the matter, and see if it would be possible for him to request the dismissal of the case."

4. Any suspicion that respondent Fiscal, in proceeding as he did, was inspired by other motives than to do justice to the parties concerned, is dispelled by the fact that the complainant in the criminal case was represented by a private prosecutor, who could be expected to act only in the interests of his client, the widow of the deceased. Not only did he not object to the Fiscal's motion for dismissal, but it was he himself who proposed that it be filed after understandably rejecting the suggestion that the widow sign an affidavit retracting her testimony in court.

The error of respondents, as pointed out by the investigator is in the procedure adopted: in terminating the case upon motion to dismiss instead of through a judgment on the merits, considering that the evidence-in-chief for the prosecution was already in and the evidence for the defense could soon be completed. The turnabout of the two principal witnesses for the prosecution in their affidavits was not made on the witness stand in the course of the trial, and merely referred to their unwillingness to testify further in the case (presumably as rebuttal witnesses). It was at best of dubious sufficiency to overcome the testimony they had already given. Their protestations of belief in the innocence of the accused, as voiced by them to respondents, were not made a matter of record; and if respondents were convinced of the truth thereof that conviction was strictly in pectore, which accounts for the fact that it is now ere mentioned in the motion to dismiss and in the order of dismissal.

Respondents may have served the ultimate ends of justice in this particular case - there is nothing in the record to show otherwise - but the procedure they followed failed to take into consideration its possible adverse effect on the people's faith and confidence in the courts. For the case was not a litigation between two private parties but one in which the in-terests of society were involved; and to avoid any doubt as to the correctness of the verdict of acquittal it should have been on the merits, upon due consideration of the evidence already of record and, if need be, of such other evidence as might still be taken.

Wherefore, respondents are hereby strongly admonished to be more careful in the performance of their duties in the light of what has been stated in this decision.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

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