

MARCIAL PUNZALAN, PETITIONER AND APPELLANT, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT AND APPELLEE.

G.R. Nos. L-8820-21. May 26, 1956

Ponente: JUGO, J.

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JUGO, J.:

We are asked to review on certiorari the decision of the Court of Appeals in these two cases, which were decided together by said Court, on the principal ground that the Court of First Instance of Quezon Province which tried the case had no original jurisdiction and, consequently, the Court of Appeals had no appellate jurisdiction over the crime charged.

The above two cases were commenced in the Court of First Instance of Quezon Province, Marcial Punzalan being the accused in both cases. In Case No. 11041, the offended party is Moises Escueta, and in Case No. 11041, the complainant is Isidro Capino. The information in Case No. 11041 is of the same tenor as that in Case No. 11041, with the difference as to the offended party. Said information reads as follows:

"The undersigned, Provincial Fiscal, accuses Marcial Punzalan of the crime of maltreatment with physical injuries, denned and punished under article 235 in connection with article 266 of the Revised Penal Code, committed as follows:

"That on or about the 14th day of November, 1951, in the Municipality of Tiaong, Province of Quezon, Philippines, and within the jurisdiction of this Hon. Court, the said accused, being the Municipal Mayor of said municipality, taking advantage of his official position as such, without any justifiable motive, and with evident purpose of extorting confession from one Moises Escueta did then itnd there willfully, unlawfully and feloniously illtreat the latter, by then and there assaulting, beating and striking the abdomen, face, breast and arms with an Automatic Pistol, caliber .45 and his fist, while said Moises Escueta was kept in the Camp of the Phil. Ground Force (PGF) located in the said municipality, thereby causing injuries in the different parts of his body which required medical attendance for a period of seven (7) days, and incapacitated the said offended party from performing his customary labor for the same period of time".

After joint trial, the appellant was found guilty of slight physical injuries only, and sentenced to suffer 30 days of arresto menor with the accessory penalties of the law, and to pay the costs.

During the trial, the defendant moved to quash the information on the ground that the allegations contained therein do not constitute the crime of maltreatment of prisoners, and that whatever offenses are charged therein do not fall within the jurisdiction of the trial court.

The trial court, in its decision, denied the motion to quash, but acquitted the appellant of maltreatment' of prisoners with physical injuries as defined and penalized in Article 235 in connection with Article 266 of the Revised Penal Code, and convicted him of slight physical injuries under paragraph 1 of Article 266 of said Code, sentencing him in each of the two cases to 3D days of arresto menor.

The defendant appealed to the Court of Appeals, which found him guilty of grave coercion, and, compensating the

aggravating circumstance of abuse of authority with the mitigating circumstance of passion and obfuscation, sentenced him to suffer 2 months and 21 days of arresto mayor to pay a fine of P150 with the corresponding subsidiary imprisonment in case of insolvency and to pay the costs.

In this Court, the appellant contends that the Court of First Instance had no jurisdiction over the crime alleged in the information, and, consequently, the Court of Appeals had no appellate jurisdiction and asks for his acquittal with costs de oficio.

The question at issue is whether the court of first instance had jurisdiction to take Cognizance of the case in view of the allegations of the information.

The first paragraph of the complaint accuses the appellant of a violation of Article 235 in connection with Article 266 of the Revised Penal Code. Under Article 235, it is necessary that the maltreated prisoner be under the charge of the officer maltreating him. There is no such allegation in the information above quoted. The prisoners, Moises Escueta and Isidro Capino, according to the information, were simply kept in the Camp of the Philippine Ground Force in the municipality of Tiaong; but it is not alleged therein that they were under the charge of Punzalan as Mayor of Tiaong. Hence, one of the essential elements of the offense under Article 235 was lacking. Had that allegation been made in the information, the punishment being arresto mayor in its medium period to prision correccional in its minimum period, the Court of First Instance of Quezon Province would have had jurisdiction, and, consequently, the Court of Appeals, appellate jurisdiction.

The allegation in the information that the physical injuries suffered by the offended party required seven days medical attendance with incapacity to work for the same period only qualifies the crime as slight physical injuries, which come under the jurisdiction of the justice of the peace court and not of the court of first instance. However, the appellant overlook the allegation in the information that the maltreatment was committed by the accused with evident purpose of extorting confession" from the offended party, while the latter was kept in the Camp of the Philippine Ground Force in Tiaong. This allegation amounts to grave coercion, which is within the jurisdiction of the court of first instance, as it is punished under Article 286 of the Revised Penal Code with arresto mayor and a fine not exceeding P500.

The appellant claims that the coercion was not consummated but frustrated only for the reason that the offended party did not confess the crime attributed to him. This conclusion is contrary to the doctrine laid down by this Court in *U. S. vs. Cusi*, 10 Phil, 413, which says:

"Coercion.—The fact that an individual was maltreated for the purpose of compelling to confess a crime which was attributed to him, constitute the crime of consummated coercion, even if the agents of the authorities who carried out the maltreatment did not accomplish their purpose to draw from him a confession, which it was their intention to obtain by the employment of such means".

This doctrine was reiterated in the case of *U. S. vs. Pabalan*, 37 Phil., 352, where it did not appear that the offended party acceded to the purpose of the coercion. It is unnecessary to say that inasmuch as the allegations in the information conferred jurisdiction on the court of first instance, the fact that the accused was convicted of a lesser crime included within those allegations did not deprive the court of its jurisdiction.

In view of the foregoing, the decision of the Court of Appeals is affirmed, with costs against the petitioner. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angela, Labrador, Concepcion, and Reyes, J. B. L., JJ., concur.

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