

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. LYDIA PADILLA, DEFENDANT AND APPELLEE.

G. R. No. L-11575. January 24, 1959

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On March 28, 1955, Ernesto A. Bernabe, special counsel of Pasay City, accused Lydia Padilla of a violation of Article 364 of the Revised Penal Code before the Municipal Court in an information which reads as follows;

"That on or about or during the period of February 2 and 3, 1955, in Pasay City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Lydia Padilla, with the principal purpose of blemishing the honor and reputation of one Fausta Bravo, a married woman, did then and there willfully, unlawfully and feloniously utter, circulate and spread gossips, rumors, or stories highly offensive and defamatory to her honor, virtue and reputation, by then and there telling some people in the neighborhood that said Fausta Bravo was a paramour of one Sangalang, a man not her husband,"

The accused filed a motion to quash on the grounds (1) that the special counsel has no authority to file the information; and (2) that more than one offense is charged therein, This motion was opposed by the special counsel. On April 25, 1955, the court-issued an order dismissing the information for the reason that the case was not initiated by a complaint filed by the offended party pursuant to paragraph 4, article 360 of the Revised Penal Code. On appeal to the Court of First Instance, the latter sustained the order, whereupon the special counsel took the present appeal.)

While the information filed by the special counsel of Pasay City states that the accused is,'charged with a violation of Article 364 of the Revised Penal Code, however, the information avers facts which constitute a different offense. In other words, while said Article 364 penalizes any intrigue which has for its purpose to blemish the honor or reputation of a person, the in formation avers facts which do not merely constitute an incriminatory machination or a defamatory intrigue but go as far as accusing a married woman of having illicit relations with a man not her husband which in effect constitutes the crime of adultery, Thus, the information alleges that "with the principal purpose of blemishing the honor and reputation of one Fausta Bravo, a married woman, (the accused did) circulate and spread gossips, rumors or stories highly offensive and defamatory to her honor, virtue and reputation, by then and there telling some people in the neighbor hood that said Fausta Bravo was a paramour of one Sangalang, a man not her husband," (Underlining supplied) The import of this allegation cannot be mistaken. It charges Fausta Bravo with committing adultery pure and simple.

Considering that under article 360, paragraph 4, of the Revised Penal Code, no criminal action for defamation which consists in the imputation of a crime which cannot be prosecuted de oficio can be brought except upon the complaint filed by the offended party, and the crime of adultery is one that cannot be prosecuted de oficio (Article 344, Idem.) , it is obvious that the information filed in this case is insufficient to confer jurisdiction upon the court of origin. The trial court was therefore correct in quashing the information.

Wherefore, the order appealed from is affirmed,
without pronouncement as to costs.

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

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