

FLORENTINO GALLEGO, PETITIONER VS. PEOPLE OF THE PHILIPPINES AND THE COURT OF APPEALS, RESPONDENTS.

G.R. No. L-18247. August 31, 1963

Ponente: REGALA, J.

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REGALA, J.:

Petitioner was sentenced by the Court of First Instance of Iloilo to pay a fine of P10 and the costs and, in case of insolvency, to suffer subsidiary imprisonment, following his conviction of slight disobedience of an agent of a person in authority. He appealed to the Court of Appeals which affirmed his sentence. He now appeals to this Court.

The Court of Appeals found the facts as follows:

"* * *That in the morning of March 10, 1957, appellant and his companions were about to hold a meeting of the Jehovah's Witnesses in front of the public market of Lambunao, Iloilo. The chief of police, Avelino Larrosa, approached appellant and inquired of him whether he had a permit to hold said meeting. As appellant could not produce any, the chief of police enjoined him from so proceeding with the meeting but instead of desisting in obedience to the chief of police's intimation, appellant, in a challenging vein, addressed his followers, 'You must continue that, we will see what they (referring to the chief of police and his policeman) can do for us.'

"Whereupon the chief of police warned appellant if he continued with the meeting, he was to place him under arrest. However, appellant, disregarding the warning, continued the meeting for at least 30 minutes more—whereupon, he was arrested and charged accordingly."

In holding petitioner guilty of slight disobedience, the Court of Appeals stated:

"That there was disobedience on appellant's part is self-evident from his immediate reaction to the chief of police' warning for him to discontinue the meeting—his exhorting his followers 'to continue the meeting as they were prepared to see what can the police do for them. 'And these words were followed by the overt act of continuing the meeting for at least 30 minutes as sufficiently established by the evidence. And it appears that, contrary to appellant's contention, there was an existing municipal ordinance at the time (Ordinance No. 2, Series of 1957) providing for a previous permit for the holding of religious meeting in public places."

Article 151 of the Revised Penal Code provides:

"The penalty of *arresto mayor* and a fine not exceeding 500 pesos shall be imposed upon any person who not being included in the provisions of the preceding articles shall resist or seriously disobey any person in authority or the agents of such person, while engaged in the performance of official duties.

"When the disobedience to an agent of a person in authority is not of serious nature the penalty of *arresto menor* or a fine ranging from 10 to 100 pesos shall be imposed."

There is no question here that petitioners, in defiance of the order of the chief of police, held a meeting of his

religious sect. He contends, however, that he cannot be convicted of slight disobedience because, according to him, there is no proof of the existence of an ordinance in force on March 10, 1957, requiring a permit for the holding of a meeting. For this purpose, petitioner assails the Court of Appeals for taking judicial notice of Ordinance No. 2, series of 1957 of Lambunao, Iloilo, when the trial court itself allegedly did not take cognizance of the ordinance.

There is no merit in the defense. There is nothing in the law that prohibits a court, like the Court of Appeals, from taking cognizance of a municipal ordinance. On the contrary, Section 5 of Rule 123 of the Rules of Court enjoins courts to take judicial notice of matters which are capable of unquestionable demonstration. This is exactly what the Court of Appeals did in this case in holding that "contrary to appellant's (petitioner's) contention, there was an existing municipal ordinance at the time (Ordinance No. 2, Series of 1957) providing for a previous permit for the holding of religious meeting in public places."

Besides, it is not true, as claimed by petitioner, that the trial court did not take notice of the ordinance in question. For the lower court mentioned petitioner's "failure to secure the necessary permit" with obvious reference to Ordinance No. 2, Series of 1957. In *People vs. Gebune*, 87 Phil. 727, We held that courts of first instance should take judicial notice of municipal ordinances within their respective jurisdictions. It must be in compliance with this ruling that the trial court took notice of Ordinance No. 2, Series of 1957 of the Municipality of Lambunao.

It is also contended that the order of the chief of police was illegal and, therefore, not entitled to obedience because the ordinance applies only to meetings held in places where the traffic is heavy. Here, it is claimed there is no proof that the traffic where the meeting was held was heavy. Petitioner adds that he was given a permit by the mayor although at the time he could not produce it because it was given orally.

It should not be lost of sight that this is a prosecution for slight disobedience, not for violation of the ordinance. Although petitioner may have legitimate reason to protest the order of the chief of police, he was not justified in disobeying him and in assuming a "bellicose attitude by exhorting his followers to proceed with their meeting, as in fact the latter, did. As Justice Malcolm once said, "To authorize resistance (also disobedience) to the agents of the authority, the illegality of the invasion must be clearly manifested. Here, there was possibly a proper case for protest. (But,) there was no case of excessive violence to enforce defendant's idea of a debatable legal question." (*People vs. Veloso*, 48 Phil. 169).

Lastly, petitioner invokes the constitutional guaranty of free assembly to justify his act. The rights to freedom of speech and to peaceably assemble and petition the government for redress of grievances are fundamental personal rights of the people recognized and guaranteed by the constitutions of democratic countries. But it is a settled principle growing out of the nature of well-ordered civil societies that the exercise of these rights is not absolute for it may be so regulated that it shall not be injurious to the equal enjoyment of others having equal rights, nor injurious to the rights of the community or society. The power to regulate the exercise of such and other constitutional rights is termed the sovereign "police power," which is the power to prescribe regulations to promote the health, morals, peace, education, good order of safety and the general welfare of the people. This power is exercised by the government through its legislative branch by the enactment of laws regulating those and other constitutional and civil rights and it may be delegated to political subdivisions, such as municipalities and cities, by authorizing their legislative bodies called municipal and city councils to enact ordinances for the purpose. (*Primicias vs. Fugoso*, 80 Phil., 71).

The ordinance in this case is a reasonable regulation of the use of public streets. There is no claim that it gives the authorities arbitrary power to grant or deny permit; in fact there is no claim that petitioner was arbitrarily denied a permit.

Wherefore, the decision of the Court of Appeals is affirmed, costs against the petitioner.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Paredes, Dizon, and Makalintal JJ., concur.

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