

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. LUIS PADIOS AND FILEMON PADIOS, DEFENDANTS AND APPELLEES.

G.R. No. L-6963. May 13, 1955

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On January 28, 1952, the chief of police of Passi, Iloilo, filed a complaint with the Justice of the Peace Court charging Luis Padios and Filemon Padios with a crime of frustrated homicide expressly alleging therein, among others, that they committed it with "intent to kill."

Upon arraignment, defendants pleaded not guilty, and, on February 4, 1952, they waived their right to preliminary investigation and prayed that the case be transmitted to the court of first instance for trial on the merits. The justice of the peace court acted accordingly considering that the two defendants waived their right to present evidence and the case was beyond its jurisdiction.

On March 27, 1953, the provincial fiscal filed against the two defendants an information for frustrated homicide of the following tenor:

"The undersigned provincial fiscal accuses the above-named defendants of the crime of frustrated homicide, committed as follows:

"That on or about January 20, 1952, in the municipality of Passi, province of Iloilo, Philippines, and within the jurisdiction of this Court, the said accused, conspiring and helping each other, armed with, bolos, with deliberate intent, did then and there wilfully, unlawfully and feloniously assault, attack and bolo one Saturnino Padrones wounding him on the different parts of his body, said accused having performed all the acts of execution which would have produced the death of the former but which nevertheless did not produce it by reason of cause or causes independent of the will of the accused, that is, due to the timely medical assistance rendered to him; that the injuries suffered by the offended party will require two months and ten days to heal with medical assistance and will incapacitate the said offended party to engage in his customary labor for life and will produce permanent deformities of the hands."

Upon arraignment, both defendants pleaded not guilty. Subsequently, defendants filed a motion to quash contending that the facts alleged in the information do not constitute the offense of frustrated homicide and, therefore, the crime does not come within the jurisdiction of the court of first instance. The provincial fiscal objected in writing to said motion to quash but, in an order dated July 20, 1952, the court sustained the motion and ordered the return of the case to the justice of the peace for trial on the merits. The provincial fiscal brought the case directly to this Court apparently because the question involved therein are purely of law.

The only reason why the lower court sustained the motion to quash is that the information does not allege therein the words "intent to kill" which in its opinion are necessary to constitute the crime of frustrated homicide, and said words having been omitted the court considered that the crime charged is one merely of physical injuries which comes within the exclusive original jurisdiction of the justice of the peace court. A cursory reading of the

information does not justify this finding of the lower court.

In the first place, we find that the information is captioned as one for frustrated homicide. While it is true that the caption is not controlling and must give way to the body of the information, however, a perusal thereof would clearly show that what is described therein is none other than frustrated homicide, considering the averment therein that: "the said accused * * * with deliberate intent, did then and there willfully, unlawfully and feloniously assault, attack and bolo one Saturnino Padrones wounding him on the different parts of his body, said accused having performed all the acts of execution which would have produced the death of the former but which nevertheless ' did not produce it by reason of cause or causes independent of the will of the accused." This intent to kill can be clearly inferred from the words "which would have produced the death." There is no need to stretch the imagination to see that such is the meaning conveyed by that statement. And this conclusion becomes more apparent when we consider that when appellants were arraigned before the justice of the peace because of the information for the same crime filed against them by the chief of police they not only waived their right to preliminary investigation but prated that the case be forwarded to the court of first instance because it was beyond the jurisdiction of said justice of the peace. Appellants therefore cannot now allege that the crime charged is not that of frustrated homicide.

Even if it be granted that, under the law, "assaults where the intent to kill is not charged or evident upon the trial" come within the original jurisdiction of the Justice of the Peace Court, (section 87, paragraph C-2, Republic Act No. 296) still it may be said that the court of first instance has jurisdiction over the case, albeit concurrent with the justice of the peace court, it appearing that the information expressly alleges "that the injuries suffered by the offended party will require two months and ten days to heal with medical assistance and will incapacitate the said offended party to engage in his customary labor for life and will produce permanent deformities of the hands", which calls for the penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period (Article 263, paragraph 4, Revised Penal Code). In other words, even if the information alleges that the physical injuries inflicted upon the offended party are the result of an assault, if they come also under the jurisdiction of the Court of First Instance, such allegation does not place the case under the exclusive original jurisdiction of the Justice of the Peace Court. The case may come at best under the concurrent jurisdiction of both courts, as declared by this Court in a recent case. Thus, in *People vs. Palmon*, 86 Phil., 350, this Court held:

"The Solicitor General agrees with the trial judge that the crime in question resulted from an assault mentioned in section 87. But, whereas the trial judge holds that such a crime falls within the exclusive original jurisdiction of the justice of the peace, the Solicitor General contends that the Court of First Instance and the Justice of the Peace Court have concurrent original jurisdiction over the offense.

"We uphold the contention of the Solicitor General for the following reasons:

"1. Section 44 (f) of the Judiciary Act of 1948 expressly confers original jurisdiction on the Courts of First Instance over all criminal cases, like the present, in which the penalty provided by law is imprisonment for more than six months, or a fine of more than two hundred pesos. And section 87 of the same Act also confers original jurisdiction on justices of the peace and judges of municipal courts of chartered cities over all criminal cases arising under the laws relating to assaults where the intent to kill is not charged or evident upon the trial. The serious physical injuries charged in the information resulted from such assault. There is no inconsistency in giving two courts concurrent jurisdiction over the same offenses. To construe section 87 (c) as conferring exclusive original jurisdiction on justice of the peace and judges of municipal courts over all criminal cases therein enumerated would be to nullify *pro tanto* section 44 (f) of the same Act. A statute must be so construed as to harmonize and give effect to all its provisions whenever possible." (Re-affirmed in the cases of *People vs. Peñas and Ferrer et al.*, 86 Phil., 596 and *People vs. Salvacion Colisio*, 88 Phil., 196.)

And while the justice of the peace court has such concurrent jurisdiction, it does not follow, as the trial court did,

that the case should be returned to it for trial on the merits, to the exclusion of the court of first instance, because its prior assumption of jurisdiction was only for the purpose of preliminary investigation and not for trial on the merits. Thus, "It is said that when several courts have concurrent jurisdiction, the first court which acquires jurisdiction retains it to the exclusion of the others. This is a true principle, but in the present case the justice of the peace court acquired jurisdiction for the purpose of preliminary investigation and not for trial on the merits, for if by holding a preliminary investigation the Justice of the Peace necessarily acquires exclusive jurisdiction to try the case on the merits, the Court of First Instance would in fact and in effect be deprived of its concurrent jurisdiction on the merits in practically all cases of this kind." (*Nenaria, et al., vs. Veluz*, 91 Phil., 473.) (*Italics supplied.*) The action therefore of the lower court in returning the case to the justice of the peace for trial on the merits in the belief that the latter has exclusive jurisdiction over said case is not justified.

Wherefore, the order appealed from is revoked and the case is hereby remanded to the lower court for further proceedings, without pronouncement as to costs.

Pablo, Actg. C. J., Bengzon, Padilla, Montemayor, Labrador, Concepcion, and Reyes, J. B. L., JJ., concur.

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