

**IN THE MATTER OF THE PETITION FOR THE HABEAS CORPUS OF
ALFREDO LADICA, PETITIONER-APPELLANT VS. THE PROVINCIAL
WARDEN OF LEYTE AND MAJOR GANTUANGKO,
RESPONDENTS-APPELLEE.**

G.R. No. L-2298. March 29, 1949

Ponente: MORAN, C.J.

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MORAN, C.J.:

From the records and the pleadings of the case, the undisputed facts appear as follows:

On the night of January 10, 1948, Alfredo Ladica, a soldier of the Philippine Army assigned to Headquarters Detachment, 9th Military District, AST, stationed at Base "K", Tacloban, Leyte, allegedly committed rape in or about the premises of said Base.

On the night of January 11, 1948, Major C.V. Gantuangko, the Assistant District Commander, who received a report of the alleged commission of the crime, ordered the arrest and confinement of Ladica and made a report to the District Commander regarding the action taken.

On January 12, 1948, and subsequent dates, charges were filed against Ladica before a Military Court and the case proceeded through channels. On the night of March 1, 1948,, while his case was pending in said military court, Ladica escaped from military custody. Upon his apprehension on the following day, he was transferred by authority of the Provincial Commander to the provincial jail for more secure confinement.

On May 22, 1948, Ladica prayed for a writ of habeas corpus from the Court of First Instance of Tacloban, Leyte, which was heard on May 26, 1948 and granted by the court, upon failure of the then respondents provincial warden and Major Gantuangko to appear after having been duly served with summons.

On June 1, 1948, Ladica was again apprehended and confined-at the military stockade of the 41st PC Co. at Tacloban, Leyte. Thereafter, he filed a motion for contempt against Major Gantuangko for ordering his rearrest over the writ of habeas corpus.

On June 2, 1948, Major Gantuangko filed a motion for reconsideration of the order of the lower court dated May 26, 1948, which granted the issuance of the writ of habeas corpus.

On June 9, 1948, the lower court denied Ladica's motion for contempt and granted Major Gantuangko's motion for reconsideration which prayed for the cancellation of the habeas corpus writ previously issued.

From this last order of the lower court dated June 9, 1948, Ladica appeals to this Court seeking to establish the invalidity of the lower court's order, and praying his discharge from confinement on the following grounds:

1. After the remedy of habeas corpus had been granted and the prisoner had been released from custody, he could not be rearrested and reconfined without the lawful order of the court having jurisdiction over the alleged crime.

2. That the rearrest and confinement of appellant by respondent is illegal because there was no valid charge or accusation whatsoever to justify this action.

While this appeal was pending before this Court, the following events transpired.

In an order dated July 9, 1948, Headquarters of the Philippine Army decided that the civil court had exclusive jurisdiction to try the offense allegedly committed by Ladica.

On August 9, 1948, C.V. Gantuangko, as parent of the offended party in the crime of rape allegedly committed by Alfredo Ladica, filed the corresponding complaint with the Court of First Instance of Tacloban, Leyte.

Trial was held on August 18, 1948 and September 22-24, 1948 and the trial court found Ladica guilty of the crime charged and Imposed the penalty of six (6) years and 1 day, to twelve (12) years of imprisonment. Accordingly, Ladica was duly committed to the custody of the Director of Prisons in. Muntinlupa, Province of Rizal, to serve sentence.

At the hearing of this case before this Court, there were no appearances by the parties,, and the case was deemed submitted.

This appeal from the order of June 9, 1948 of the Court of First Instance of Tacloban, Leyte, seeks to revive the writ of habeas corpus issued by said court on May 26, 1948 and prays for the discharge of Petitioner-Appellant from confinement. However, as can be seen from the recitation of facts,, soon after the habeas corpus proceedings in said Court of First Instance and pending this appeal, Alfredo Ladica' was duly' tried., convicted and imprisoned for the crime of rape by virtue of a valid and final judgment of the same Court of First Instance of Tacloban, Leyte.

If the confinement covered by this appeal still refers to that undergone by Ladica by virtue of the order of the Court of First Instance of Tacloban, Leyte, cancelling' its own issuance of the writ of habeas corpus, then such confinement no longer exist and hence, this appeal involves a moot question and is unnecessary.

Rule 102, Section 4 of the Rules of Court, specifically provides -

"When writ not allowed or discharge authorized.- If it appears that the person alleged to be restrained of his liberty is in custody of an officer under process issued by a court or judge, or by virtue of a judgment, or order of a court of record, and that the court or judge had jurisdiction to issue the process, render the judgment, or make the order, the writ shall not be allowed; or if the jurisdiction appears after the writ is allowed, the person shall not be discharged by reason of any informality or defect in the process, judgment, or order. Nor shall anything in this rule be held to authorize the discharge of a person charged with or convicted of an offense in the Philippines, or of a person' suffering Imprisonment under lawful judgment."

For all the foregoing, the appeal is dismissed with costs against Petitioner-Appellant.

Paras, Feria, Pablo, Perfecto, Bengzon, Briones, Tuason, Montemayor, and Reyes, JJ., concur.

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