

ESTEFANIA DE GUZMAN, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND COURT OF APPEALS, RESPONDENTS.

G. R. No. L-19075. November 23, 1966

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Review of the decision of the Court of Appeals promulgated on August 21, 1961 affirming the judgment of the Court of First Instance of Manila finding petitioner guilty of slander under Article 358 of the Revised Penal Code and sentencing her to pay a fine of P100.00 and to indemnify the offended party in the amount of P1,000.00.

The facts found by the Court of Appeals are as follows:

“ ... it appears that at about 10:00 a.m. of October 31, 1958, the complainant, Lourdes A. Tagle, a job analyst of the Philippine National Bank, Manila, received a phone call from Estefania de Guzman, defendant-appellant, section chief of the auditing department of the same bank, asking the former to repair to the office of the latter at the fourth floor of the said building, Escolta, Manila. The offended party immediately went to the office of the accused and there she was asked by the latter to pay the indebtedness which she owed her. They later agreed that the complainant would deliver to the accused certain pieces of jewelries as security for the payment of said loan, after which Mrs. Tagle returned to her office at the third floor of said building. At this precise moment, the accused noticed that her cash money in the amount of P90.00 was missing from her table and suspected that Mrs. Tagle was the one who has taken the same as she was the only one who approached her at her table. She requested Conrado Austria another employee of the same office to call again Mrs. Tagle, which was done. Mrs. Tagle again went to the office of the accused and upon inquiry what she wanted, the latter told her that she lost her money in the amount of P90.00. Mrs. Tagle told the accused to look and search for it in her drawers to which the latter replied that she did it already. At this juncture, Mrs. Tagle asked the accused if she was suspecting her of getting the money, and the accused replied that she was the only one who approached her table, to which Mrs. Tagle remarked that she did not get the money, to which appellant said "who knows". The accused continuing said that if the offended party did not take the money why was it that when the first came to see her she was bringing along her wallet, while at the second time she was no longer with the wallet, and then asked Mrs. Tagle to allow herself to be searched to which Mrs. Tagle agreed and started crying. However the search was not made, and Mrs. Tagle sent Conrado Austria to get her wallet and when it was shown to the accused, Marina Reyes arrived and heard the argument between the complainant and the accused. The wallet was opened in the presence of other persons who were attracted by the commotion, but the money was not found in the wallet.”

Petitioner avers that the Court of Appeals erred (1) in holding that her utterances were slanderous; (2) in holding that malice in law and/or in fact existed; and (3) in sentencing petitioner to a fine of P100.00 and damages in the amount of P1,000.00.

In denying the defamatory character of the utterances petitioner maintains that she was acting within her rights in confronting the complainant with the loss of her money, and that it was a natural impulse for anybody to do what she did under the circumstances. Petitioner also points out that she did not call the offended party a thief, nor did

she directly accuse her of having stolen her money.

The contention is without merit. While it is true that the accused did not directly call the offended party a thief, yet the implication of her acts and statements was clearly to that effect. When she confronted the complainant regarding the loss of the money she said that the latter was the only one who had approached her table and that as soon as the complainant left the money had disappeared. When the complainant denied having taken the money, petitioner replied, "who knows?", and then asked why the complainant had her wallet the first time she came but was not carrying it anymore on her return. Finally, petitioner suggested to the complainant that she should allow herself to be searched. All these statements were made in a loud voice in the presence of many persons. To be sure, petitioner had the right to make inquiries, but she went beyond that and practically accused the offended party of the theft, subjecting her to embarrassment and ridicule before other bank employees.

Petitioner also claims that there was no malice in law and/or in fact in the utterances in question which would give rise to the crime of slander. It was her well-grounded belief, she says, that the offended party was the one who took her money and her motive in confronting her with the loss was merely to locate it, a motive that was obviously justified.

The circumstances surrounding the case should be taken into consideration to determine whether or not malice was present in petitioner's utterances. It is an undisputed fact that she was irked when the offended party failed to comply with her promises regarding the payment of her indebtedness. Petitioner was insisting on such payment, although after realizing that the offended party had no money to pay, she agreed to accept the security of the latter's jewelry in the meantime. It was then that petitioner discovered that her money in the amount of P90.00 was missing, and forthwith sent for the complainant to ask her about the loss. The ensuing remarks of petitioner, particularly the suggestion that the complainant submit to a search of her person, show the existence of malice in fact. Otherwise the inquiry should have been done discreetly and not in the form of imputations within the hearing of other employees.

We are convinced that neither the trial court nor the Court of Appeals committed the errors assigned in petitioner's brief. We believe, however, that the amount of indemnity adjudged in favor of the complainant should be reduced to P500.00. With this sole modification the judgment of the Court of Appeals is affirmed, with costs against petitioner.

Concepcion, C.J., Reyes, J. B. L., Barrera, Dizon, Regala, Bengzon, J. P., Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

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