

BONIFACIO GARCIA, LORENZO AGUSTIN, CLEMENTE AGACETE AND PEDRO SANTIAGO, COMPLAINANTS, VS. ATTY. ABELARDO MILLA, RESPONDENT.

Adm. Case No. 611. May 25, 1965

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Petitioners Bonifacio Garcia, Lorenzo Agustin, Clemente Agacete and Pedro Santiago seek either the disbarment or the suspension of Atty. Abellardo Milla, upon the ground that "instead of using his good office" as Assistant Provincial Fiscal of Tarlac "for peace and avoidance of trouble and bloodshed," he has allegedly availed of it "as an instrument of revenge, hatred, coercion and allied crimes," to wit:

"(a) That during the last agricultural year, the said Cosme Valdez, Gaudencio Toledo and their representatives, through force and intimidation and with the aid of Assistant Provincial Fiscal of Tarlac Abelardo Milla, who is a son-in-law of Gaudencio Toledo, and armed men, took possession of the disputed real properties which are the subject of Civil Case No. 20, Court of First Instance of Tarlac; that presently, during the harvesting of the palay planted thereon, the said Cosme Valdez and Gaudencio Toledo, with the aid of Assistant Provincial Fiscal Abelardo Milla, Philippine Constabulary soldiers, and trucks and drivers of one Vicente Lu, a Chinese engaged in the logging business at San Clemente, Tarlac, have been taking away the palay harvested thereon, against the will and in spite of the protest of the undersigned petitioners;

"(b) That on several occasions, criminal acts of physical injuries, grave coercion and robbery had been committed against the undersigned petitioners and the corresponding criminal charges were filed in the Municipal Court of San Clemente, Tarlac, by the Chief of Police of the municipality; that our desire to vindicate our rights before the courts had been thwarted by the efforts of Assistant Provincial Fiscal Abelardo Milla of Tarlac; that when the criminal case of grave coercion and physical injuries were filed in the Municipal Court of San Clemente, Tarlac, we were surprised to find out that charges were being investigated against the undersigned petitioners in the Office of the Provincial Fiscal of Tarlac;

"(c) That on Tuesday, February 18, 1964 and on Wednesday, February 19, 1964, Assistant Provincial Fiscal Abelardo Milla, armed with a carbine rifle, personally supervised the trucks of the chinaman Vicente Lu and the Philippine Constabulary soldiers as guards, in carrying away the palay from the disputed real properties, in spite of the fact that on Tuesday, February 18, 1964, the said Assistant Provincial Fiscal Milla should have been appearing before the Court of First Instance of Tarlac to prosecute a case which originated in the Municipal Court of San Clement, Tarlac;

(d) That on Wednesday, February 19, 1964, in the presence of a Mr. Sabado and a Mr. Labasan, both Philippine Constabulary soldiers, Messrs. Ricardo Agacete, Clemente Agacete and Narciso Pascual were mauled by Alejandro Balneg, Rodolfo Olegario and Francisco Bugarin, and others who are representatives of Cosme Valdez and Gaudencio Toledo."

Upon the filing of the answer of respondent, who denied the main allegations in petitioners' complaint, the matter

was referred, for appropriate action, to the Department of Justice, which caused an investigation to be conducted by Senior State Prosecutor, Vicente Orendain. After due notice and hearing, the latter submitted his report, in which he found the facts to be as follows:

"Sometime in the month of August, 1944, Cosmo Valdez Civil Case No. 492 against the complainants herein, the witnesses, Ricardo Agacete, Clemente Agacete and Domingo Agustin and several more persons including Narciso Pascual who (occupied or tended to occupy and gather the produce of Lot No. 1 as described and defined in Transfer of Certificate Title No. 213413 which was and still is issued in the name of Cosme Valdez. None of the defendants (complainants and witnesses in the above-entitled case) had any better title than a tax declaration which none of them presented in the investigation of this case.

"Alejandro Balneg, Francisco Bugarin and Rodolfo Olegarro for a time worked as tenants for some of the complainants and others in league with them. However, in the palay season of 1961—1962 (there is no showing that they worked over the disputed areas before 1961-1962) Balneg, Bugarin and Olegario began to turn their produce over to the heirs or estate of Cosme Valdez, who had since died and to Gaudencio Toledo, father-in-law of the respondent, Abelardo Milla, who for a time before he became an assistant provincial fiscal, was a lawyer in Civil Case No. 492 defending the rights of Toledo.

"Infuriated, perhaps, because of the turn-coatism of Balneg, Bugarin and Olegario, the complainants, at first led by Ricardo Agacete (apparently the new leader is Bonifacio Garcia) and company sought ways and means by which they may regain the lost produce now being turned over to the Valdez heirs and to Gaudencio Toledo.

"So on February 14, 1964, Ricardo Agacete, Clemente Agacete, Lorenzo Agustin and Esteban Guiang went to Camilo Molacruz in Urbiztondo, Pangasinan. They had a proposition that they placed before Molacruz. If Molacruz and his men would gather or haul the harvest of palay in the disputed area in Doclong, San Clemente, Tarlac, they (Molacruz and his men) could keep two thirds of the haul and leave the remaining one third to Agacete and company.

"The proposition was inviting and Molacruz, apparently, readily agreed. On February 16, 1964, he went to the house of Ricardo Agacete. There he had a conference with Agacete and company. He made certain that 2/3 of the palay would go to him and his men. At the same time, he ascertained that they would be supplied with some firearms.

"The next day, on February 17, 1964, Molacruz and his men proceeded to Doclong where the palay in question was being harvested and threshed by the men of Valdez and Toledo led by Bugarin, Balneg, Olegario. They met with opposition as Bugarin his men refused to give the palay saying that the palay did belong to the men of Doclong. To scare them, either Molacruz or one of his men fired a shot. Bugarin then complained to the P.C. soldiers on the premises. Molacruz, Conrado Lomboy and Domingo Agustin together with Bugarin were taken to Camp Makabulos for investigation. After the investigation, because it was already late in the night and there was no transportation, Molacruz, Lomboy and Agustin were placed in the guardhouse to sleep. The next morning of February 18, 1964, the trio were released after they signed a paper on which was stated that they went to Makabulos and slept there voluntarily—a standard operating procedure of peace officers who are afraid that they may be held liable for one offense or another. The three had their breakfast and lunch in Makabulos after Atty. Napoleon Apostol and Ricardo Agacete came over to give each of them P5.00 for expenses and transportation.

"Due to the incident in the afternoon of February 17, 1964, Camilo Molacruz was charged for attempted murder by the Constabulary. Molacruz, scolded, went back to Urbiztondo. Conrado Lomboy passed by Doclong where he remained till the next day when he was seen on the premises in question together with Gregorio Arenas.

"In the morning of February 19, 1964, Fiscal Abelardo Milla who had heard that there were malefactors

("goons") from Urbiztondo led by Camilo Molacruz threatening the peace in Doclong, San Clemente, Tarlac proceeded to the area in question together with Atty. Panfilo Valdez in the jeep of the latter. There they saw some P. C. soldiers. The respondent conversed with Cpl. Alfredo Sabado briefly. Sabado told Milla that two men of Molacruz, Lomboy and Arenas, were still there. The fiscal accosted Lomboy and Arenas warning them with arrest for any trouble they would make and exhorting them to leave the premises. They left.

"It is easy to see that the complainants in the above-entitled case concocted a story to even up matters with the Valdez heirs? Gaudencio Toledo and the respondent. Frustrated in everything they tried to do to acquire the land under question and the benefits of its produce, they thought of using force and intimidation. The succession of events in the afternoon of February 17, 1964 proved favorable to them. By then, no one had yet come in the circumstances by which the men of Molacruz led by him had come into the scene. It was only after Molacruz revealed his story in March, 1964, that a connection was established between him and the defendants in Civil Case No. 402 of the CFI of Tarlac. Taking advantage of just such a situation, the complainants herein prepared affidavits accusing Olegario and company together with some P.C. soldiers for robbery. It was easy for them to do so in view of the practice obtaining in the Offices of Chiefs of Police throughout the country. Chiefs of Police usually, upon receipt of complaining sworn statements, draw up a complaint or complaints and forward the same to the Municipal Courts (formerly justice of the peace courts) for investigation and disposition, either to dismiss or issue a warrant of arrest. This is unlike the practice obtaining in Fiscals' Offices who have the power to investigate and dispose of a given case as provided by law.

"In this case it was no different; for the Chief of Police upon receipt of the affidavits of the complainants immediately filed Criminal Cases Nos. 120 and 121 with the Municipal Court of San Clemente, Tarlac. But before there cases could be dismissed or even without awaiting for the dismissal of the cases of robbery the complainants very astutely changed the charge to grave coercion in order to include Abelardo Milla, the respondent here. This was preparatory to the filing of the above-entitled case with the Supreme Court and administrative charges with the Department of Justice and the Office of the President against the respondent assistant fiscal.

"Unfortunately for Milla, the charges filed by Francisco Bugarin against Molacruz did not include those who were in league with him (the complainants) because of absence of evidence to link them with him at the time, otherwise the shoes would have been on the other foot.

"It is too clear to escape any notice that the witnesses of the complainants who executed their affidavits on February 20 and 22, 1964 (Annexes 'C' and 'D') attached to the complaint, of Ricardo Agacete and Clemente Agacete, did not state that Milla was on the promises with a gun or guns or that he was there at all. But those who executed affidavits on February 23, 1964, namely Adriano Agsaoa (a relative of Narciso Pascual), Domingo Agustin, Melecio Labiano and Larry Neri involved Milla one way or the other with the incidents. (See Annexes 'A', 'E' and 'F' of the Complaint).

"Narciso Pascual who executed an affidavit also on February 23, 1964, but who did not incriminate Milla in any way was carefully excluded from being a witness in (his investigation.

"In other words the involvement of Abelardo Milla in the incidents of February 17, 18 and 19, 1964 came to the so-called aggrieved parties as an afterthought when he had exercised his prerogatives as an assistant provincial fiscal in driving away alleged "goons" (who in reality were hired men of the complainants) from the premises in question. It is the duty of a public prosecutor to protect indent and law-abiding citizens from undue harassments and to maintain the peace over and above their powers to prosecute."

Accordingly, the investigator recommended dismissal of the charges.

Inasmuch as the foregoing findings and recommendations are supported by the record, the petition herein is

hereby dismissed. It is so ordered.

Bengzon, C.J., Bautista Angelo, Reyes, J.B.L., Barrera, Paredes, Dizon, Makalintal and Bengzon, J.P., JJ., concur.

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