

RAMON S. MILO, IN HIS CAPACITY AS ASSISTANT PROVINCIAL FISCAL OF PANGASINAN, AND ARMANDO VALDEZ, PETITIONERS, VS. ANGELITO C. SALANGA, IN HIS CAPACITY AS JUDGE OF THE COURT OF F...

G.R. No. L-37007. July 20, 1987

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

This is a petition for review on certiorari of an order of the Court of First Instance of Pangasinan, Third Judicial District, in Criminal Case No. D-529 entitled "The People of the Philippines versus Juan Tuvera, Sr., et al.," granting the motion to quash the information filed by accused Juan Tuvera, Sr., herein respondent. The issue is whether a barrio captain can be charged of arbitrary detention.

The facts are as follows:

On October 12, 1972, an information for Arbitrary Detention was filed against Juan Tuvera, Sr., Tomas Mendoza and Rodolfo Mangsat, in the Court of First Instance of Pangasinan, which reads as follows:

"The undersigned Assistant Provincial Fiscal accuses Juan Tuvera, Sr., Tomas Mendoza and Rodolfo Mangsat alias Rudy, all of Manaoag, Pangasinan, of the crime of ARBITRARY DETENTION, committed as follows:

That on or about the 21[st] day of April, 1972, at around 10:00 o'clock in the evening, in barrio Baguinay, Manaoag, Pangasinan, Philippines and within the jurisdiction of this Honorable Court, accused Juan Tuvera, Sr., a barrio captain, with the aid of some other private persons, namely Juan Tuvera, Jr., Bertillo Bataoil and one Dianong, maltreated one Armando Valdez by hitting with butts of their guns and fists blows and immediately thereafter, without legal grounds, with deliberate intent to deprive said Armando Valdez of his constitutional liberty, accused Barrio captain Juan Tuvera, Sr., Cpl. Tomas Mendoza and Pat. Rodolfo Mangsat, members of the police force of Mangsat (sic) Pangasinan, conspiring, confederating and helping one another, did, then and there, willfully, unlawfully and feloniously, lodge and lock said Armando Valdez inside the municipal jail of Manaoag, Pangasinan for about eleven (11) hours. (Italics supplied.)

CONTRARY TO ARTICLE 124 of the R.P.C.

Dagupan City, October 12, 1972.

(SGD.) VICENTE C. CALDONA
Assistant Provincial Fiscal"

All the accused, including respondent Juan Tuvera, Sr., were arraigned and pleaded not guilty.

On April 4, 1973, Tuvera filed a motion to quash the information on the ground that the facts charged do not constitute an offense and that the proofs adduced at the investigation are not sufficient to support the filing of the

information. Petitioner Assistant Provincial Fiscal Ramon S. Milo filed an opposition thereto.

Finding that respondent Juan Tuvera, Sr. was not a public officer who can be charged with Arbitrary Detention, respondent Judge Angelita C. Salanga granted the motion to quash in an order dated April 25, 1973.

Hence, this petition.

Arbitrary Detention is committed by a public officer who, without legal grounds, detains a person.[1] The elements of this crime are the following:

1. That the offender is a public officer or employee.
2. That he detains a person.
3. That the detention is without legal grounds.[2]

The ground relied upon by private respondent Tuvera for his motion to quash the information which was sustained by respondent Judge, is that the facts charged do not constitute an offense,[3] that is, that the facts alleged in the information do not constitute the elements of Arbitrary Detention.

The Information charges Tuvera, a barrio captain, to have conspired with Cpl. Mendoza and Pat. Mangsat, who are members of the police force of Manaoag, Pangasinan in detaining petitioner Valdez for about eleven (11) hours in the municipal jail without legal ground. No doubt the last two elements of the crime are present.

The only question is whether or not Tuvera, Sr., a barrio captain, is a public officer who can be liable for the crime of Arbitrary Detention.

The public officers liable for Arbitrary Detention must be vested with authority to detain or order the detention of persons accused of a crime. Such public officers are the policemen and other agents of the law, the judges or mayors.[4]

Respondent Judge Salanga did not consider private respondent Tuvera as such public officer when the former made this finding in the questioned order:

"Apparently, if Armando Valdez was ever jailed and detained more than six (6) hours, Juan Tuvera, Sr., has nothing to do with the same because he is not in any way connected with the Police Force of Manaoag, Pangasinan. Granting that it was Tuvera, Sr., who ordered Valdez arrested, it was not he who detained and jailed him because he has no such authority vested in him as a mere Barrio Captain of Barrio Baguinay, Manaoag, Pangasinan." [5]

In line with the above finding of respondent Judge Salanga, private respondent Tuvera asserts that the motion to quash was properly sustained for the following reasons: (1) That he did not have the authority to make arrest, nor jail and detain petitioner Valdez as a mere barrio captain; [6] (2) That he is neither a peace officer nor a policeman; [7] (3) That he was not a public official; [8] (4) That he had nothing to do with the detention of petitioner Valdez; [9] (5) That he is not connected directly or indirectly in the administration of the Manaoag Police Force; [10] (6) That barrio captains on April 21, 1972 were not yet considered as persons in authority and that it was only upon the promulgation of Presidential Decree No. 299 that Barrio Captains and Heads of Barangays were decreed among those who are persons in authority; [11] and that the proper charge was Illegal Detention and Not Arbitrary Detention. [12]

We disagree.

Long before Presidential Decree 299 was signed into law, barrio lieutenants (who were later named barrio captains and now barangay captains) were recognized as persons in authority. In various cases, this Court deemed

them as persons in authority, and convicted them of Arbitrary Detention.

In *U.S. vs. Braganza*,^[13] Martin Salibio, a barrio lieutenant, and Hilario Braganza, a municipal councilor, arrested Father Feliciano Gomez while he was in his church. They made him pass through the door of the vestry and afterwards took him to the municipal building. There, they told him that he was under arrest. The priest had not committed any crime. The two public officials were convicted of Arbitrary Detention.^[14]

In *U.S. vs. Gellada*,^[15] Geronimo Gellada, a barrio lieutenant, with the help of Filoteo Soliman, bound and tied his houseboy Sixto Gentugas with a rope at around 6:00 p.m. and delivered him to the justice of the peace. Sixto was detained during the whole night and until 9:00 a.m. of the next day when he was ordered released by the justice of the peace because he had. not committed any crime, Gellada was convicted of Arbitrary Detention.^[16]

Under Republic Act No. 3590, otherwise known as The Revised Barrio Charter, the powers and duties of a barrio captain include the following: to look after the maintenance of public order in the barrio and to assist the municipal mayor and the municipal councilor in charge of the district in the performance of their duties in such barrio;^[17] to look after the general welfare of the barrio;^[18] to enforce all laws and ordinances which are operative within the barrio;^[19] and to organize and lead an emergency group whenever the same may be necessary for the maintenance of peace and order within the barrio.^[20]

In his treatise on Barrio Government Law and Administration, Professor Jose M. Aruego has this to say about the above-mentioned powers and duties of a Barrio Captain, to wit:

"Upon the barrio captain depends in the main the maintenance of public order in the barrio. For public disorder therein, inevitably people blame him.

"In the event that there be a disturbing act to said public order or a threat to disturb public order, what can the barrio captain do? Understandably, he first resorts to peaceful measures. He may take preventive measures like placing the offenders under surveillance and persuading them, where possible, to behave well, but when necessary, he may subject them to the full force of law.

"He is a peace officer in the barrio considered under the law as a person in authority. As such, he may make arrest and detain persons within legal limits."^[21] (Italics supplied.)

One need not be a police officer to be chargeable with Arbitrary Detention. It is accepted that other public officers like judges and mayors, who act with abuse of their functions, may be guilty of this crime.^[22] A perusal of the powers and function vested in mayors would show that they are similar to those of a barrio captain^[23] except that in the case of the latter, his territorial jurisdiction is smaller. Having the same duty of maintaining peace and order, both must be and are given the authority to detain or order detention. Noteworthy is the fact that even private respondent Tuvera himself admitted that with the aid of his rural police, he as a barrio captain, could have led the arrest of petitioner Valdez.^[24]

From the foregoing, there is no doubt that a barrio captain, like private respondent Tuvera, Sr., can be held liable for Arbitrary Detention.

Next, private respondent Tuvera, Sr. contends that the motion to quash was validly granted as the facts and evidence on record show that there was no crime of Arbitrary Detention;^[25] that he only sought the aid and assistance of the Manaoag Police Force;^[26] and that he only accompanied petitioner Valdez to town for the latter's personal safety.^[27]

Suffice it to say that the above allegations can only be raised as a defense at the trial as they traverse what is alleged in the Information. We have repeatedly held that Courts, in resolving a motion to quash, cannot consider facts contrary to those alleged in the information or which do not appear on the face of the information. This is

because a motion to quash is a hypothetical admission of the facts alleged in the information.[28] Matters of defense cannot be proved during the hearing of such a motion, except where the Rules expressly permit, such as extinction of criminal liability, prescription, and former jeopardy.[29] In the case of U.S. vs. Perez,[30] this Court held that a motion to quash on the ground that the facts charged do not constitute an offense cannot allege new facts not only different but diametrically opposed to those alleged in the complaint. This rule admits of only one exception and that is when such facts are admitted by the prosecution."[31]

Lastly, private respondent claims that by the lower court's granting of the motion to quash jeopardy has already attached in his favor[32] on the ground that here, the case was dismissed or otherwise terminated without his express consent.

Respondent's contention holds no water. An order granting a motion to quash, unlike one of denial, is a final order. It is not merely interlocutory and is therefore immediately appealable. The accused cannot claim double jeopardy as the dismissal was secured not only with his consent but at his instance.[33]

WHEREFORE, in view of the foregoing, the Petition for certiorari is GRANTED. The questioned Order of April 25, 1973 in Criminal Case No. D-529 is hereby set aside. Let this case be remanded to the appropriate trial court for further proceedings. No pronouncement as to costs.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Paras, JJ., concur.

[1] Art. 124, Revised Penal Code.

[2] Supra; U.S. vs. Braganza, et al., 10 Phil. 79; Reyes, The Revised Penal Code, Book Two, 1981 Ed., p. 39.

[3] Under Rule 117, Sec. 3 of the Rules of Court, the following are the grounds on which an accused may move to quash a complaint or information on any of the following grounds.

- (a) That the facts charged do not constitute an offense;
- (b) That the court trying the case has no jurisdiction over the offense charged or the person of the accused;
- (c) That the officer who filed the information had no authority to do so;
- (d) That it does not conform substantially in the prescribed form;
- (e) That more than one offense is charged except in those cases in which existing laws prescribe a single punishment for various offenses;
- (f) That the criminal action or liability has been extinguished;
- (g) That it contains averments which, if true, would constitute a legal excuse or justification; and
- (h) That the accused has been previously convicted or in jeopardy of being convicted, or acquitted of the offense charged.

Respondent Tavera set forth another ground in his motion to quash which is not included in the above enumeration and will therefore not be discussed in this decision.

[4] Reyes, The Revised Penal Code, Book II, 1981 ed., p. 39.

[5] Page 23, Rollo.

[6] Page 46, Rollo.

[7] Page 16, Rollo.

- [8] Page 19, Rollo.
- [9] Page 43, Rollo.
- [10] Pages 43-44, Rollo.
- [11] Page 43, Rollo.
- [12] Page 19, Rollo.
- [13] 10 Phil. 79.
- [14] See Aquino, The Revised Penal Code, 1976 Ed., Vol. 2, p. 822.
- [15] 15 Phil. 120.
- [16] See Aquino, The Revised Penal Code, 1976 Ed. Vol. 2, pp. 822-823.
- [17] Sec. 14c, R.A. 3590.
- [18] Sec. 14, R.A. 3590.
- [19] Sec. 14a, R.A. 3590.
- [20] Sec 14f, R.A. 3590.
- [21] 1968 Ed., p. 71.
- [22] Reyes, The Revised Penal Code, Book Two, 1981 ed., p. 40; Aquino, The Revised Penal Code, 1976 ed., Vol. 2, p. 821.
- [23] Sections 88 and 171 of the Local Government Code.
- [24] Page 46, Rollo.
- [25] Page 51, Rollo.
- [26] Page 46, Rollo.
- [27] Ibid.
- [28] People vs. Lim Hoa, 103 Phil. 1169; See also Regalado, Remedial Law Compendium 1085 ed., Vol. 2, p. 684.
- [29] Sections 2 and 3, Rule 117, Rules of Court; supra 1985 Rules on Criminal Procedure; Moran, Comments on the Rules of Court, 1980 ed., Vol. 4, p. 236.
- [30] 1 Phil. 203.
- [31] People vs. Navarro, 75 Phil. 516.
- [32] Page 52, Rollo.
- [33] Section 8, Rule 117, Rules of Court; now Section 7, Rule 117, 1985 Rules on Criminal Procedure; Andres vs. Cacdac, Jr., 113 SCRA 216.

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