

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS. FELIX FERNANDO, DEFENDANT-APPELLEE.

G.R. No. L-25942. May 28, 1968

Ponente: ANGELES, J.

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ANGELES, J.:

The Government has taken this appeal from the order of the Court of First Instance of Nueva Ecija dismissing for lack of jurisdiction a charge for grave threats filed by one Marina David against Felix Fernando.

The facts are not in dispute and the only issue posed is whether the said court has original jurisdiction to try the said case for grave threats which carries a penalty of *arresto mayor* and a fine not exceeding P500.00.[1]

Basis for the dismissal is that, in the opinion of the trial court, relying on the amendment to section 87(c) of the Judiciary Act, "the entire range of penalty of *arresto mayor*, or in other words, the maximum term of imprisonment provided by law for the offense, does not reach the minimum limit of the jurisdiction of the Court of First Instance."

The appellant contends, on the other hand, that, despite the amendment to section 87(c), and because the existing provision of section 44(f) of the Judiciary Act, the crime charged falls within the concurrent jurisdiction of the inferior courts and courts of first instance.

The appeal is well taken.

An analytic study of the existing provisions of the law pertinent to the concurrent jurisdiction of the courts of first instance and municipal courts was first made in the case of *Esperat vs. Hon. Avila*, G.R. No. L-25922, June 30, 1967,[2] the ruling of which We find to be controlling here. In that case, the conclusion was made that –

"x x x the exclusive original jurisdiction of the justice of the peace and municipal courts is confined only to cases where the prescribed penalty is imprisonment for 6 months or less, or fine of P200.00 or less, whereas, the exclusive original jurisdiction of the court of first instance covers cases where the penalty is incarceration for more than 3 years (or 6 years in the case of city courts and municipal courts in provincial capitals) or fine for more than P3,000.00 (or P6,000.00) in proper cases or both such imprisonment and fine. Between these exclusive jurisdictions lies a zone where the jurisdiction is concurrent. This is the proper construction to be placed on the provisions involved herein regardless of what may have been the prior rulings on the matter. x x x."

Such an inference has been reached from a joint construction of section 44(f) of the Judiciary Act, the provision governing the original jurisdiction of courts of first instance, which has never been amended; and section 87(c) of the same Act, governing that of the inferior courts and which, on the other hand, has received amendments. Said provisions are here-under quoted:

"Sec. 44. Original jurisdiction.- Court of First Instance shall have original jurisdiction:

x x x x x

"(f) In all criminal cases in which the penalty provided by law is imprisonment for more than six months, or a fine of more than two hundred pesos;"

"Sec. 87. Original jurisdiction to try criminal cases.- Justices of the peace and municipal courts of chartered cities shall have original jurisdiction over:

x x x x x

"(b) All offenses in which the penalty provided by law is imprisonment for not more than six months, or a fine of not more than two hundred pesos, or both such fine and imprisonment;

x x x x x[3]

"Sec. 87. Original jurisdiction to try criminal cases.- Municipal judges and judges of city courts of chartered cities shall have original jurisdiction over:

"(c) Except violations of election laws all other offenses in which the penalty provided by law is imprisonment for not more than three years, or a fine of not more than three thousand pesos, or both such fine and imprisonment.

x x x x x[4]

Since, notwithstanding the broadening of the original jurisdiction of municipal and city courts, that of the courts of first instance has remained unaltered, there is left an area where the jurisdictions of these courts seem to overlap and, therefore, are concurrent. But, as explained by Justice Jose B.L. Reyes in the *Esperat* case, *supra*, there is nothing irreconcilable between the two provisions, thus -

"As therein provided, the court of first instance was given original jurisdiction over cases where the penalty prescribed by law is imprisonment for more than 6 months or fine of more than P200.00; the justices of the peace and municipal or city courts of chartered cities, over cases where the penalty as imprisonment for not more than 3 years, and fine of not more than P3,000.00. In other words, where the prescribed penalty is imprisonment for more than 6 months, but not exceeding 3 years, or fine of more than P200.00 but not exceeding P3,000.00, the justice of the peace or municipal court only has concurrent (not exclusive) original jurisdiction with the court of first instance. And, it may be stated that this concurrent jurisdiction between the inferior courts and the court of first instance was not provided for the first time in Republic Act 3828. Under Republic Act 2613, crimes the penalties for which do not exceed 6 years, or fine for not more than P3,000.00, were specifically placed within the jurisdiction of the justice of the peace and municipal courts, concurrent with the court of first instance."

Upon this enlightening authority, there is no doubt that the crime of grave threats, punishable, as aforesaid, by arresto mayor and fine not exceeding P500.00, falls under the concurrent jurisdiction of the municipal court and the court of first instance, and which ever court first takes cognizance over it, acquires jurisdiction thereof exclusive of the other.

Thus, We hold that the Court of First Instance of Nueva Ecija has jurisdiction over the charge filed by the complainant in the instant case.

WHEREFORE, the order of dismissal is hereby set aside, and let the case be remanded to the lower court for trial on the merits. Order reversed.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, and Castro, JJ., concur.

[1] Par. 2, article 282, Revised Penal Code.

[2] Cited in the case of Andico vs. Roan, G.R. No. L-26563, April 16, 1968.

[3] Sec. 87(b), now 87(c), in its original form.

[4] As amended by Republic Act 3828.

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