

PIO L. PESTAÑO, PETITIONER, VS. P. G. CORNISTA, JUSTICE OF THE PEACE OF SANTA CRUZ, LAGUNA, AND THE CHIEF OF POLICE, PASIG, RIZAL, RESPONDENTS.

G.R. No. L-1995. October 07, 1948

Ponente: PARAS, J.

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PARAS, J.:

In this habeas corpus case, the petitioner is alleged to have been placed under confinement by the chief of police of Pasig, Rizal, in virtue of a warrant of arrest issued by the respondent justice of the peace of Santa Cruz, Laguna, as a result of petitioner's failure to appear at the preliminary investigation in connection with a complaint for theft of coconuts against the petitioner. The latter contends that his presence in the preliminary investigation was a personal right and, therefore, waivable by him, and such waiver, could not legally give rise to his arrest and detention.

In his answer the respondent justice of the peace simply averred that the petitioner had already been released upon the former's directive. This averment has not been denied by the petitioner.

Without passing upon the supposed illegality of the warrant of arrest issued by the respondent justice of the peace, we have to rule that the petition is now academic.

Petitioner's other allegations that have reference to the sufficiency of the facts stated in the criminal complaint against him, to the right of the respondent justice of the peace to proceed with the criminal proceeding, or to the cancellation of petitioner's bond, are obviously not proper subjects of inquiry herein. Moreover, the petitioner failed to substantiate his attempt to hold the respondent chief of police of Pasig guilty of contempt of this Court.

The petition is denied, without costs. So ordered.

Moran, C. J., Ozaeta, Pablo, Perfecto, Bengzon, Briones, Tuason, and Montemayor, JJ., concur.

Feria, J., took no part.

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