

JUANITO LLOBRERA Y BAYLON, PETITIONER, VS. THE DIRECTOR OF PRISONS, RESPONDENT.

G.R. No. L-3994. August 16, 1950

Ponente: REYES, J.

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REYES, J.:

This is a petition for habeas corpus.

It appears that petitioner was charged in the Municipal Court of Dagupan with a violation of article 155, paragraph 4, of the Revised Penal Code, which imposes the penalty of arresto mayor or a fine of not more than P200 upon any person "who, while intoxicated or otherwise, shall cause any disturbance or scandal in public places." Pleading guilty to the complaint, petitioner was sentenced to one month's imprisonment for the specific crime charged, and to an additional penalty of 2 years, 4 months and 1 day of prision correccional under the habitual delinquency law, on account of his two previous convictions for the same offense. Petitioner has already served the one month's imprisonment; but having been committed to the New Bilibid Prisons in Muntinlupa for the service of the additional penalty imposed upon him as an habitual delinquent, he now petitions for his liberty on the ground that this additional penalty is null and void, since the habitual delinquency law (article 62, Revised Penal Code, as amended by Republic Act No. 18) applies only to the crimes of "serious or less serious physical injuries, robo, hurto, estafa, or falsificacion," and not to the crime described in article 155 of the Revised Penal Code.

The Solicitor General, in his return, recommends approval of the petition on the ground relied upon by the petitioner as well as on the following ground:

"That the additional penalty of 2 years, 4 months and 1 day of prision correccional imposed by the municipal Court of Dagupan City to the petitioner, is a punishment in excess of the power of said court to impose and is therefore void (*Cruz vs. Director of Prisons*, 17 Phil. 269, 272) because the additional penalty for habitual delinquency must be taken into account in determining the jurisdiction of the court (*People vs. Costosa*, 40 Off. Gaz., [7th Supp., No. 11, p. 157])."

It being obvious that the additional penalty imposed upon petitioner is void for the reasons above stated, the petition for habeas corpus must be as it is hereby granted, and petitioner ordered released from custody unless lawfully held for some other reasons.

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

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