

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. JUAN REGINALDO, ET AL., DEFENDANTS. PEDRO PADRON, DEFENDANT AND APPELLEE.*G.R. No. L-15960. April 29, 1961*

Ponente: REYES, J.B.L., J.

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From the order of the Court of First Instance of Ilocos Norte, dated August 10, 1959, dismissing the information in Criminal Case No. 3195 of said Court as against Pedro Padron, and the order of August 18, 1959, denying the motion for reconsideration, the State has appealed to this Court on points of law.

The following facts are not disputed: On January 13, 1959, a complaint for "Double Murder with Assault upon the Person of an Agent in Authority" was filed against Carlos Dacuycuy, Juan Reginaldo and Pedro Padron in the Justice of the Peace Court of Bacara, Ilocos Norte. The complaint was amended twice, after which, preliminary investigation was conducted by the Justice of the Peace. Counsel for accused Pedro Padron thereafter filed a motion dated February 21, 1959, for the discharge of said accused on the ground that the preliminary investigation failed to show his participation in the offense charged. Conformably, the Justice of the Peace discharged Padron from the complaint in an order dated February 25, 1959. A motion for reconsideration, captioned "Manifestation" and dated February 28, 1959, was denied on March 3, 1959. A memorandum thereafter also filed by the private prosecutor was denied by an order dated March 9, 1959.

The records were remanded to the Court of First Instance of Ilocos Norte, whereupon, after conducting his own preliminary investigation, the Provincial Fiscal filed Criminal Case No. 3195 for "Double Murder with Assault upon the Person of an Agent in Authority", not only against Reginaldo and Dacuycuy but also against Pedro Padron, who, however, was charged this time only as an accomplice.

On July 8, 1959, the Provincial Fiscal moved for the issuance of a warrant of arrest for Pedro Padron, which, by order of even date, was denied by the lower court, based on the fact that the Justice of the Peace had dismissed the case as against Padron on February 25, 1959. On July 10, 1959, the Provincial Fiscal manifested to the lower court that he was not agreeable to the findings of the Justice of the Peace as to the discharge of Pedro Padron, for which reason he conducted his own preliminary investigation on July 2, 1959, as a result of which he found that a prima facie case exists against Padron, whom he cited to appear in said investigation. The manifestation reiterated the prayer for the issuance of a warrant for Padron's arrest.

Arguments and memoranda, of parties were received, and the lower court, in the order dated August 10, 1959, dismissed the information-, as against Pedro Padron, at the same time denying the motion to issue a warrant for his arrest. The order of August 18, 1959 subsequently denied the motion for reconsideration of the order of dismissal. In issuing the above orders, the lower court acted on the belief that—

"* * * the Provincial Fiscal cannot conduct a preliminary investigation of his owe under the provision of Republic Act 732 of the present case originally filed in the Justice of the Peace Court, and thereafter, include in

the information an accused discharged from the complaint by said court for lack of evidence."

Prominently cited for the above rule are *Villanueva vs. Gonzales, et al.*, 99 Phil., 679; 52 Off. Gaz., [12] 5497 and *People vs. Magbanua, et al.*, CA-G. R. No. 19544-R, 54 Off. Gaz., 4500.

The trial court erred in issuing the orders appealed from. Only recently, and based on a practically identical background (*People vs. Pervez*, 110 Phil., 214), we sustained the action of the Provincial Fiscal in conducting a preliminary investigation, and afterwards, filing an information against an accused who had previously been discharged by the Justice of the Peace. There, we made the following observation—

"* * * we see no substantial distinction between those cases originally investigated by the Justice of the Peace, and dismissed by him, and those originally investigated by the Provincial Fiscal (as in the *Villanueva* and *Napagao* cases, with respect to some of the Accused), in both of which, before filing an information in court, the Provincial Fiscal has to rely on the result of his own investigation. If, in the latter cases, the Provincial Fiscal may conduct the investigation without the accused who did not request to be present, we see no reason for changing the rule where a Justice of the Peace, in a preliminary investigation, had previously dismissed the charge, when, as aforesaid, the findings of the Justice of the Peace do not bind the Provincial Fiscal (Of course, where a Justice of the Peace forwards a case to the Court of First Instance with the finding that there is a prima facie case, the Fiscal cannot, on his own authority, dismiss the case, but should file with the court, a motion to dismiss)."

Construing the *Villanueva* case invoked by the Court below, we said—

"In that case, this Court ruled that—

'Republic Act 732 governs preliminary investigations conducted by provincial fiscals in cases originally instituted by them in courts of first instance. It does not apply to cases begun in Justice of the Peace Courts and thereafter forwarded to the corresponding Court of First Instance * * *'

Obviously, the ruling refers to those cases where the Justice of the Peace conducted the second stage of preliminary investigation, and found a prima facie case, or where the accused waived preliminary investigation therein. In such cases, the Provincial Fiscal may rely on the evidence presented in the Justice of the Peace, and is under no obligation to conduct an entirely new preliminary investigation. But certainly, there is nothing in said decision to justify the conclusion that after a previous dismissal by the Justice of the Peace, the Provincial Fiscal may not conduct a separate independent investigation of his own, and this, without the presence of the accused, if the latter did not so request. In fact, the *Villanueva* case upheld the legality of the preliminary investigation conducted by the provincial fiscal with respect to one of the accused who was not among those originally investigated by the Justice of the Peace, and who was not given notice by the provincial fiscal in his own investigation." (*People vs. Pervez*, supra).

The operative rule, therefore, is now that—

"In resumé, We reiterate our previous rulings that if the charge for a crime cognizable by the Court of First Instance is filed by a competent party or officer in the Justice of the Peace Court, and the accused waives preliminary investigation therein, or the Justice of the Peace, after regular preliminary investigation, finds that a prima facie case exists, and consequently, elevate the records to the Court of First Instance, the Provincial Fiscal is not called upon to conduct another preliminary investigation, and may forthwith file the information in the Court of First Instance. Republic Act 732 does not apply in such a case. But if the Justice of the Peace, after due investigation, dismissed the charge, then, the case stands as if no charge had been made, and the Provincial Fiscal may thereafter conduct his own investigation of the same charge under the aforesaid Republic Act 1799 (amending R.A. 732), making it in the presence of the accused if and when the latter so requests." (*People vs. Pervez*, supra.)

Wherefore, the orders appealed from are reversed, and the case is ordered renjanded to the lower court for further proceedings in accordance with this decision. Costs against defendant-appellee Pedro Padron.

Bengzon, C.J., Bautista Angelo, Labrador, Concepcion, Paredes and Dizon, JJ., concur.

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