

**AMALIA B. CELESTE, PETITIONER, VS. PEOPLE OF THE PHILIPPINES,
COURT OF APPEALS, AND JUDGE RUPERTO KAPUNAN, JR., (IN HIS
CAPACITY AS JUDGE, BR. XVIII, CFI, MANILA), RESPONDENTS.**

G.R. No. L-31435. January 30, 1970

Ponente: FERNANDO, J.

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FERNANDO, J.:

Petitioner Amalia B. Celeste, under confinement in the jail of the City of Manila, invoking the protection that habeas corpus affords, would seek the restoration of her liberty, alleging the nullity of a decision of the Court of Appeals of March 2, 1966, now final and executory, convicting her of the crime of estafa, the only thing lacking being the reading of the sentence by respondent Judge Ruperto Kapunan. She would support such a plea on her being acquitted by an earlier Court of Appeals decision on what she alleged to be essentially the same transaction, the sale of jewelry on commission, considered in such decision as giving rise at most to a civil liability. There were different cases filed apparently as there was more than one offended party.

There is no specific claim that thereby there was a denial of constitutional right, but it was more than hinted at in her petition, which would characterize the circumstances under which she was deprived of liberty as "utterly illegal and [un]christian if not inhuman." Apparently not unaware that her petition could have been more strongly buttressed in the law, she would likewise invoke "humanity, justice and equity" to regain her freedom. This Court, however, feels that even with all the sympathy that her plight evokes, there is no legal justification that would entitle her to the writ prayed for.

This petition for habeas corpus originally started as a special proceeding for certiorari, injunction and mandamus against the Court of Appeals and respondent Ruperto Kapunan whom she would enjoin from reading the aforesaid decision of the Court of Appeals of March 2, 1966. She would have this Court annul it, notwithstanding its finality, justifying her rather unorthodox plea on the ground, above noted, that earlier on April 11, 1960, another decision of the Court of Appeals considered the liability she incurred as a result of a transaction wherein she was given jewelry for sale on commission basis as civil in character. The alleged offended party in that case was a certain Victoria Vda. de Tengco. In the Court of Appeals decision where she was convicted for estafa, while it was apparent that the transaction did occur at about the same time, the complainant was a certain Eden Patdo, who entrusted the jewelry to her. It was the holding of the Court of Appeals in this case that the agreement being clear to the effect that if she were not successful in selling the same she was under obligation to return them and there being a failure on her part to do so resulting from her entrusting them to a third party, who apparently was another sub-agent, she would be held liable for estafa.

While the decision was rendered as far back as March 2, 1966, petitioner alleged that she never knew about its existence as her previous lawyer did not notify her. It thus became final but no reading could be had in the meanwhile as she was out on liberty under bond. It was only on December 13, 1969 that she was arrested and lodged in jail pending the reading of the sentence which she would, in her original petition, postpone indefinitely

while this Court was passing on the question on whether or not its nullity could be decreed considering the above circumstances. This proceeding was filed on January 5, 1970. Thereafter, on January 8, 1970 she sought to convert it into a petition for habeas corpus, based on the same facts but insisting on the illegality of her detention, not to mention what she considered its unchristian if not inhuman character.

On January 10, 1970, this Court, adopted a resolution commanding the warden of the City Jail to appear and produce the body of petitioner before it and to make a return of the writ on January 15, 1970. Such a return was duly made, the offense charged, according to such Acting City Warden, being one for estafa.[1] The decision convicting petitioner on appeal was affirmed by the Court of Appeals, as already made mention of, on March 2, 1966.

In the light of the above facts, this Court finds itself unable to accede to the plea of petitioner. This is not to deny the latitudinarian scope of the writ of habeas corpus as the most effective remedy against illegal restraint or detention. Correctly has it been aptly referred to as protean in its reach. The duty is thus cast on the judiciary to put an end to any form of denial of physical freedom, which in a constitutional regime is intolerable except according to law. No deviation from the legal norm is permissible. It is in that sense that Chafee could refer to it as "the most important human rights provision" in the fundamental law.[2] That is to assure the rule of law.

So it was affirmed in one of the truly outstanding opinions of Justice Malcolm, *Villavicencio v. Lukban*. [3] As was there stated: "The writ of habeas corpus was devised and exists as a speedy and effectual remedy to relieve persons from unlawful freedom." [4] It cannot be denied, to follow the language of a leading American Supreme Court decision, that while the writ "is simply a mode of procedure, its history is inextricably intertwined with the growth of fundamental rights of personal liberty. For its function has been to provide a prompt and efficacious remedy for whatever society deems to be intolerable restraints. Its root principle is that in a civilized society, government must always be accountable to the judiciary for a man's imprisonment x x x." [5]

Moreover, it has the procedural advantage, to paraphrase Holmes, of cutting through all forms and going to the very tissue of the structure. [6] There is no higher duty cast on courts than to maintain it unimpaired and to assure the utmost respect for the amplitude of its coverage. [7] So we have consistently acted. We have not allowed technicalities to stand in the way of the writ being given the effectiveness and efficacy, implicit in its recognition in our Constitution. There is no thought of our deviating from such a norm. That would be to fail to accord supremacy to its dictate.

The moment, however, the detention or confinement is the result of a process issued by the court or judge or by virtue of a judgment or sentence, a different question arises. The writ ordinarily cannot be availed of. It still may be invoked though if the process, judgment or sentence proceeded from a court or tribunal the jurisdiction of which may be assailed. Even if it had authority to act at the outset, it is now the prevailing doctrine that a deprivation of constitutional right, if shown to exist, would oust it of jurisdiction. In such a case, habeas corpus could be relied upon to regain one's liberty. [8]

To repeat, while the original suit was for certiorari, injunction and mandamus, it was subsequently converted primarily to a habeas corpus proceeding. It is not to be attended with success, not being persuasive enough to justify the issuance of the writ prayed for. There is no explicit allegation of a denial of a constitutional right. At the most, such an intimation is sought to be yielded by the circumstances above narrated which could indicate that on what practically appeared to be the same transaction resulting, however, in two criminal actions in view of there being more than one offended party, two divisions of the Court of Appeals, which passed on the matter, reached different conclusions. In the 1960 decision, petitioner's liability was declared to be merely civil. In the 1966 decision, which petitioner would have annulled, she was held criminally liable.

The fact, however, that the later decision is admittedly now final and executory, interposes a bar to any judicial relief. If at all, recourse must be had to executive clemency. So this Court holds. Two members of this Court,[9] however, while in conformity with such result, the controlling legal principles being what they are, would not be averse to a further inquiry on the matter. Petitioner could thus be afforded an opportunity to explain precisely, if she could, why under the circumstances an element of arbitrariness could be plausibly asserted and maintained. A due process question might arise. Then if there were really such a denial, this habeas corpus petition would not be impressed with the apparent hopelessness which now characterizes it, considering only the pleadings thus far submitted. As the Court, however with full support from settled doctrines views the matter differently, it being undeniable that the petition on its face lacks merit, the above observation falls short of calling for a different outcome.

WHEREFORE, the petition for a writ of habeas corpus is denied. So is the original petition for certiorari, injunction and mandamus. Without pronouncement as to costs.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Teehankee, and Barredo, JJ., concur.

Reyes, J.B.L., J., concurs in the result.

Villamor, J., took no part.

[1] Criminal Case No. 41974.

[2] Chafee, The Most Important Human Right in the Constitution, 32 Boston Univ. Law Rev. 143 (1947). Textwriters are agreed on the significance and importance of the writ in the protection of individual liberty. Cooley spoke of it as "one of the principal safeguards to personal liberty." (2 Cooley, Constitutional Limitations 709 [1927]). Willoughby, not to be outdone, referred to it as "the greatest of the safeguards erected by the civil law against arbitrary and illegal imprisonment by whomsoever detention may be exercised or ordered." (3 Willoughby, on the Constitution 1612 [1929]). Burdick considered it as "one of the most important bulwarks of liberty." (Burdick, The Law of the American Constitution 27 [1922]). Fraenkel in stressing its importance, said "that 'without it much else would be of no avail.'" (Fraenkel, Our Civil Liberties 6 [1944]).

[3] 39 Phil. 778 (1919).

[4] Ibid, p. 788.

[5] Fay v. Noia, 372 US 391, 401-402 (1963).

[6] Cf. Frank v. Mangum, 237 US 309, 346 (1915).

[7] Cf. Bowen v. Johnston, 306 US 1926 (1939).

[8] Rule 102, Section 4, Rules of Court. Harden v. Director of Prisons, 81 Phil. 741 (1948); Abriol v. Homeres, 84 Phil. 525 (1949); Chavez v. Court of Appeals, 24 SCRA 663, L-29169 (August 19, 1968).

[9] Justice Teehankee and the writer of this opinion.

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