

ABELARDO SUBIDO, IN HIS CAPACITY AS COMMISSIONER OF CIVIL SERVICE, PETITIONER, VS. ANTONIO J. VILLEGAS, IN HIS CAPACITY AS MAYOR OF MANILA, RESPONDENT.

G.R. No. L-24894. March 25, 1970

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This is an original action for mandamus to compel the City Mayor of Manila to file administrative charges with the Municipal Board against certain members of the Manila Police Department in accordance with Section 1 of Republic Act No. 557.[1]

The facts are not disputed. On April 7, 1959 the Court of First Instance of Manila (then presided by Hon. Carmelino Alvendia) rendered its decision in the case of *People of the Philippines v. Timoteo Cruz, alias Captain Tommy, et al.* (Criminal Case No. 32916), finding the accused guilty of murder for the fatal shoot-ing of one Manuel Valencia. In said decision the trial court made the observation that Captain Jose Rarang and then Lt. Gerardo Tamayo, both of the Manila Police Department, had exerted pressure, "from persuasion to downright intimidation," on Sgt. Guillermo Abad, a prosecution witness, to make him reform his statement in order to create a doubt as to the identity of the accused Captain Tommy. The court also observed that Det. Lt. Jesus Buenaventura, another member of the Manila Police Department, did not hesitate to perjure his testimony for the purpose of discrediting prosecution witness Eliseo Cruz in an effort to clear Captain Tommy. The foregoing observations were confirmed by this Court in the decision[2] affirming that of the trial court. Thus:

"There is ample evidence in the record of persistent attempts - by officers of the police department of Manila, acting on behalf or for the benefit of appellant Timoteo Cruz - to suppress, or tamper with, important evidence for the prosecution, or to influence - even to intimidate - some of its main witnesses. Needless to say, these attempts, condemnable as they are, in general, become more reprehensible coming as they did from members of the very agency charged specially with the duty to maintain peace and order and to assist in the administration of justice. Even if made in the earnest belief that said defendant is innocent of the crime charged, they tend to impair the faith of the people in the law enforcing organs of the government."

On July 30, 1965 the petitioner wrote a letter to the respondent calling the latter's attention to the conduct of Capt. Rarang and Lts. Tamayo and Buenaventura, as described in the aforesaid decision, and requesting him to take appropriate administrative action against the police officers involved, in accordance with the provisions of Republic Act No. 557. In refusing to comply with the request, the respondent informed the petitioner that in accordance with the recommendation of his Legal Assistant, who had conducted a fact-finding inquiry, his Office had absolved said police officers of any administrative responsibility, so the matter should be considered closed. Thereupon the petitioner instituted the instant action.

After this case was submitted for decision the President of the Philippines signed into law Republic Act No. 4864, otherwise known as the "Police Act of 1966," providing for a new procedure in the matter of preferring and investigation of charges against police officers. Sections 14 and 15 of said law read:

"SEC. 14. Removal and Suspension of Members of the Police Force or Agency.? Members of the local police agency shall not be suspended or removed except upon written complaint filed under oath with the Board of Investigators herein provided for misconduct or incompetency, dishonesty, disloyalty to the Government, serious irregularities in the performance of their duties, and violation of law.

"SEC. 15. Board of Investigators. - In every local police agency there shall be a Board of Investigators. Charges against any member of the city and/or municipal police agency shall be investi-gated by a Board of Investigators of three members, composed of the city or municipal treasurer as chairman, a representative of the Provincial Commander, and a councilor, elected by a majority of the city or muni-cipal council concerned, as members.

Copy of the charges shall be furnished the respondent by the Chairman of the Board of Investigators within five days from the date of filing of said charges and the res-pondent shall answer within five days from receipt thereof. The Board of Investigators shall conduct its investigation in public within five days from receipt of respon-dent's answer to the charges or from the expiration of respondent's period to answer, whichever is earlier and unless for good cause shown the investigation shall be finished within thirty days thereafter and the Board shall submit the records of the investigation, its findings and recommendations to the Police Commission within thirty days after the termination of the investiga-tion. The decision of the Police Com-mission shall be final and must be rendered within seventy-five days from the time of receipt of the findings of the Board. Disciplinary jurisdiction of offenses involving suspension of not more than ten days or forfeiture of not more than fifteen days' pay is vested in the chief of the police agency concerned whose decision shall be final.

The Board of Investigators shall also conduct investigations and decide claims relative to benefits as provided under this Act, subject to appeal to the Police Commission whose decision shall be final."

In the Police Manual embodied in Executive Order No. 113, issued on December 30, 1967 to implement Republic Act No. 4864, the following appears:

"Section 7. Rules of Procedure. - The following rules of procedure shall be adopted by the Board of Investigators in the administration of all administrative cases brought before it:

"(a) How commenced. - All proceeding must be commenced by a complaint in writing and under oath in the name of the aggrieved party or his duly authorized representative or guardian against any member of a city or municipal police agency who appears to be responsible therefor."

It may be noted that the provision of Section 1 of Republic Act No. 557, to the effect that charges in cases against a member of the city police shall be preferred by the city mayor, has been eliminated in Republic Act No. 4864. Under this new law it would seem that any interested party may file the complaint, although the Police Manual requires that the same be done in the name of the aggrieved party or his duly authorized representative or guardian. In view of this charge, it is clear that the question of whether or not the respondent, as City Mayor, may be com-pelled by mandamus to prefer the charges, as a duty speci-fically enjoined upon him by Republic Act No. 557, has be-come moot and academic.

Wherefore, the petition is dismissed, without costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

[1] Section 1. Members of the provincial guards, city police and municipal police shall not be removed and, except in cases of resignation, shall not be discharged, except for misconduct or incompetence, dishonesty,

disloyalty to the Philippine government, serious irregularities in the performance of their duties, and violation of law or duty, and in such cases charges shall be preferred by the provincial governor in matters against any member of the provincial guards, the city mayor in cases against a member of the city police, and the municipal mayor in cases involving a member of the municipal police, and investigated by the provincial board, the city or municipal council, as the case may be, in public hearing, and the accused shall be given opportunity to make their defense. (Underscoring supplied.)

[2] People vs. Timoteo Cruz, alias Capt. Tommy, et al., G.R. No. L-15369, April 26, 1962.

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