

MAGDALENA SANGALANG, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND HON. CARMELINO G. ALVENDIA, JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, RESPONDENTS.

G.R. No. L-16160. October 31, 1960

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

Petition for a writ of prohibition to restrain the respondent Judge of the Court of First Instance of Manila from trying herein petitioner Magdalena Sangalang in Criminal Case No. 46860 pending in that court on the ground of double jeopardy.

No answer to the petition has been filed in behalf of the respondent Judge or of the People of the Philippines.

From the verified petition and the pleadings and documents annexed thereto, it appears that in an information filed with the Court of First Instance of Manila on April 18, 1952, petitioner Magdalena Sangalang was, together with Enriqueta Pascoquin, Nicodemus Domingo and Bayani de la Cruz, charged with qualified theft alleged to have been committed by them on or about January 15, 1952 by taking and carrying away 15,000 empty jute bags belonging to the National Rice and Corn Corporation (NA-RIC). (Criminal Case No. 18659.) After the prosecution had rested its case, all of the accused filed their respective motions for dismissal based on insufficiency of evidence to establish their guilt. Sustaining the motion filed by the petitioner Magdalena Sangalang and Bayani de la Cruz, the Hon. Francisco E. Jose, Judge of the Court of First Instance of Manila, issued an order dismissing the case as against them with costs de oficio.

More than four years later, or on September 3, 1957, the same assistant city fiscal for Manila, who filed the information in Criminal Case No. 18659 for qualified theft, again charged the petitioner and one Leandro Cas-telo, this time with the crime of estafa alleged to have been committed by them by inducing one Enriqueta Pascoquin to buy certain NARIC invoices for 15,000 empty sacks, which invoices turned out to be fictitious and falsified. (Case No. 41366.) It will be noted that the complainant, Enriqueta Pascoquin, was one of the accused in Criminal Case No. 18659 of the same court and the crime charged, as in the first information, took place on January 15, 1952. Upon being arraigned, petitioner entered the plea of "not guilty". Thereafter, she asked the permission of the court to withdraw her plea of "not guilty" for the purpose of enabling her to file a motion to quash the information filed against her. The request having been granted, petitioner filed in due form a motion to quash the information on the ground of double jeopardy. Sustaining the motion to quash, the court on March 14, 1958, dismissed the case as against her, with one-half of the costs de oficio. This order was not appealed and has therefore become final and conclusive.

On December 29, 1958, a third information against herein petitioner was filed in the Court of First Instance of Manila (Criminal Case No. 46860) for the same and identical offense of estafa charged in Criminal Case No. 41366 in spite of the order of dismissal therein which had long become final and conclusive. Again invoking double jeopardy, the petitioner, thru counsel, filed a motion to quash the information. The respondent Judge,

however, in an order dated July 11, 1959, denied the motion and ordered petitioner's arraignment. Motion for reconsideration having been also denied, petitioner brought the case to this Court through the present petition for prohibition.

The petition is meritorious.

An order sustaining a motion to quash on the ground of double jeopardy constitutes a bar to another prosecution for the same cause. (Sec. 8, Rule 113, Rules of Court.) The record clearly shows that in Criminal Case No. 41366, wherein petitioner was charged with the offense of estafa, the latter's motion to quash on the ground of double jeopardy was sustained and the case dismissed as against her. In not therefore dismissing the information in the proceedings below charging petitioner with the same offense, the respondent Judge committed a grave abuse of his discretion. (People vs. Petilla, 92 Phil., 395; 48 Off. Gaz., 5288.)

This Court fails to see any plausible reason for the filing of the information in the present case, considering that the defense of double jeopardy is patently clear from the facts appearing on record. The law makes it a legal duty for prosecuting officers to file the charges against whomsoever the evidence may show to be responsible for an offense, but in the performance of their functions, they are equally duty bound to exercise a high degree of prudence and discrimination to the end that no one shall be twice put in jeopardy for the same offense. In this way, the danger, annoyance and vexation¹ suffered by the accused after going thru the process of being arrested, subjected to a preliminary investigation, arraigned and required to plead and stand trial may be avoided.

Wherefore, the writ of prohibition is granted and the preliminary injunction heretofore issued made permanent, with costs de oficio.

Paras, C.J., Bengzon, Padilla Bautista Angelo, Labrador, Reyes, J.B.L., Barrera, and Paredes, JJ., concur.

Writ granted.

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