

A. BUCHANAN, PLAINTIFF AND APPELLEE, VS. PILAR A., VIUDA DE ESTEBAN, DEFENDANT AND APPELLANT.

G.R. No. 10402. November 30, 1915

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal from a judgment in favor of the plaintiff for the sum of P1,000 in an action to recover damages for the malicious prosecution of a criminal action against the plaintiff.

It appears from the record that on the 16th day of September, 1913, the defendant in this case laid a complaint against the plaintiff before the justice of the peace of Iloilo charging him with assault in that he, that day, struck the 13-year-old son of the complaining witness with a thrown stone. The accused was convicted in the justice's court but, on appeal to the Court of First Instance, was acquitted, the court stating in the judgment of acquittal that the defendant "was authorized if he saw fit to bring suit against the plaintiff for damages for malicious prosecution." Under that declaration and alleged authorization the accused brought this action.

We are of the opinion that the judgment must be reversed and the complaint dismissed on the merits. The plaintiff is not entitled to recover as he has not shown that the prosecution was without probable cause and that it was malicious.

To support an action for malicious prosecution under American law the plaintiff must prove, in the first place, the fact of the prosecution and the fact that the defendant was himself the prosecutor, or that he instigated its commencement, and that it finally terminated in his acquittal; that, in bringing it, the prosecutor had acted without probable cause, and that he was actuated by legal malice, i. e., by improper or sinister motives. These three elements must concur; and there is no distinction between actions for criminal prosecutions and civil suits. Both classes require substantially the same essentials. Malice is essential to the maintenance of an action for malicious prosecution and not merely to the recovery of exemplary damages. But malice alone does not make one liable for malicious prosecution, where probable cause is shown, even where it appears that the suit was brought for the mere purpose of vexing, harrasing and injuring his adversary. In other words, malice and want of probable cause must both exist in order to justify the action.

Probable cause is the existence of such facts and circumstances as would excite the belief, in a reasonable mind, acting on the facts within the knowledge of the prosecutor, that the person charged was guilty of the crime for which he was prosecuted. The general rule is well settled that one cannot be held liable in damages for maliciously instituting a prosecution where he acted with probable cause. In other words, a suit will lie only in cases where a legal prosecution has been carried on without probable cause. And the reason for the rule, as stated by Blackstone, is "that it would be a very great discouragement to public justice if prosecutors, who had a tolerable ground of suspicion, were liable to be used at law whenever their indictments miscarried."

It has been held that it is a good defense to an action for malicious prosecution that the defendant acted bona fide, upon legal advice, as this negatives want of reasonable and probable cause. (*Stewart vs. Sonneborn*, 98 U. S.,

187.) It has also been held that a judgment of a court in favor of plaintiff is conclusive proof of probable cause, notwithstanding the case was subsequently reversed by the appellate court. (*Crescent City Live-Stock Landing, etc. Co. vs. Butchers' Union, etc. Co.*, 120 U. S., 141.)

In the case before us the justice of the peace convicted Buchanan of the crime charged and sentenced him accord-several occasions that corrupt intent is necessary, although such intent need not be proved separately, as it may be inferred from the fact that the testimony was false and from all the circumstances of the case. In the same way, to constitute the crime of false accusation, there must not only be a false accusation, but the accusation must have been willful, that is, it must have been made knowing its falsity. (Decisions of supreme court of Spain, April 28, 1897; April 30, 1884.) While this is the case, it is not necessary to prove the intent as a separate element. It may be inferred from the falsity of the facts charged and from all the circumstances of the case.

Under the Spanish law the element of probable cause was not treated separately from that of malice, as under the American law. When a complaint was laid and there was probable cause to believe that the person charged had committed the acts complained of, although, as a matter of fact, he had not, the complainant was fully protected, but not so much on the theory of probable cause as on the ground that, under such circumstances, there was no intent to accuse falsely. If the charge, although false, was made with an honest belief in its truth and justice, and there were reasonable grounds on which such a belief could be founded, the accusation could not be held to have been false in the legal sense. (See authorities above.)

In the case at bar the complainant, in good faith, accepted the story of her son and, in the honest belief that he had been assaulted by Buchanan, laid a complaint before the justice of the peace of the locality looking to the punishment of the person guilty of the crime. She was fully justified in the belief that her son had told the truth by the decision of the justice of the peace, who held Buchanan guilty as charged. While the charge may have been false, it was not the falsity of the complainant; and while it may have been malicious, we cannot, on the record, and especially after the judgment of the justice of the peace, find it to be so.

In conclusion, it may be stated that the declaration of the Court of First Instance, or any other court, in a criminal action, that the charge is false and that the person making it should be prosecuted criminally or civilly, is not conclusive of the question of whether the charge is false in an action based on such declaration. The falsity of the charge is a question to be determined in the trial of that action and is open to the proof of both parties, the accused being permitted to deny it and to offer evidence showing any fact tending to support his denial. (3 *Groizard*, 716.)

The judgment appealed from is reversed and the case dismissed on the merits. No special finding as to costs. So ordered.

Torres, Carson, and Araullo, JJ., concur.

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