

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CASIANO MARFORI, DEFENDANT AND APPELLANT.

G.R. No. 10905. December 09, 1916

Ponente: CARSON, J.

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CARSON, J.:

The defendant and appellant in this case was convicted in the court below of the crime of injurias graves (aggravated slander), and sentenced to six months and one day of destierro (banishment) for a distance of 25 kilometers from the municipality where the crime was committed, to pay a fine of P65, together with subsidiary destierro as prescribed by law on failure to pay this fine, and to pay the costs.

The complaint charges the accused with having spoken of the complaining witness in a manner which reflected adversely upon her virtue and good name, in the presence of several witnesses.

The complaint was originally filed in the court of a justice of the peace who held a preliminary investigation and discharged the accused on the ground that he was not guilty of the crime with which he was charged. The justice of the peace appears to have been of opinion that the crime of injurias graves had not been committed, and that it was a mere misdemeanor of the class defined and penalized in book 3 of the Penal Code.

A report of the proceedings was forwarded to the provincial fiscal by the justice of the peace, and the complaining witness having renewed the complaint in the Court of First Instance, an information was filed in that court and the accused brought to trial thereon without further proceedings.

Upon arraignment, when the accused was called upon to plead, counsel for the accused respectfully declined to proceed, on the ground that the court was without jurisdiction to bring the accused to trial, no order remanding the accused for trial having been issued by a competent magistrate as a result of a preliminary trial held in accordance with law.

The trial judge appears to have been of opinion that the report of the proceedings had at the preliminary trial held by the justice of the peace disclosed a reasonable probability that the crime charged had been committed and that the accused had committed it; that the justice of the peace had erred in discharging the accused; and that he should have remanded the accused for trial. Basing his action on these grounds, he overruled the objections of counsel, and ordered the parties to proceed with the trial.

Counsel for the accused there and then excepted to the ruling of the court, insisted on the right of the accused to a preliminary trial as prescribed by law; and when called upon to plead, the accused stood mute, so that the court was compelled to direct the entry of a plea of not guilty in his behalf.

Counsel for appellant reiterates in this instance his contention in the court below, and the Attorney-General moves this court to reverse the judgment convicting and sentencing the accused and remand the record to the trial court for further proceedings, according to law.

We have held heretofore that preliminary investigations in criminal cases may be waived, and that waiver will be presumed unless timely objection is made when the accused person is brought to trial. But, in the absence of such a waiver, the law expressly secures the right to a preliminary trial to all persons in these Islands charged with crimes cognizable in courts of first instance, except in the city of Manila, where an investigation conducted by the prosecuting attorney in the manner prescribed by law may be substituted therefor. (See G. O. 58, sees. 13 and 14 and Act No. 1627, sec. 37.)

It is not necessary at this time to enter at length upon a consideration of the reasons which moved the lawmakers to make provision for these preliminary investigations; it is sufficient to indicate that they are intended to secure the right to every person charged with crime to be free from the inconvenience, expense and burden of defending himself in the course of a formal trial until the reasonable probability of his guilt has been passed upon in a more or less summary proceeding by a competent officer designated by law for that purpose; and that they are intended further to guard the state from the burden of unnecessary expense involved in holding trials based on false, frivolous or groundless charges.

The right of an accused person to a preliminary investigation before a committing magistrate, or within the city of Manila, to the proceeding substituted therefor by law, is a substantial one. Its denial, over the objection of the accused, is prejudicial error, in that it subjects the accused to the loss of life, liberty, or property without due process of law.

The record in this case clearly discloses that the accused in the case at bar was brought to trial, over his objection, without having been committed or remanded for trial by an investigating magistrate. The justice of the peace who held the preliminary investigation dismissed the original complaint against the accused, being of opinion that there was no probable cause to believe him guilty of the offense with which he was charged; and although a so-called "report" of the proceedings was forwarded to the fiscal, and doubtless submitted to the trial judge, original jurisdiction to commit the accused for trial as result of those proceedings was vested exclusively in the justice of the peace before whom they were had.

The order of the justice of the peace discharging the accused did not operate as a final acquittal, and was not a bar to the re-arrest of the accused and his prosecution for the offense with which he was originally charged. If the fiscal was not satisfied with the action of the justice of the peace in the premises, he could have secured the arrest of the accused upon a new complaint, and sought an order remanding the accused for trial, in a second preliminary investigation had before either the justice of the peace who held the first investigation or before the judge of the Court of First Instance in the exercise of his functions as a committing magistrate. (Act No. 1627, sec. 37.) But it would manifestly defeat the end sought to be attained by the provisions of law for the holding of preliminary investigations if either the fiscal, or the trial judge, or both acting together were permitted to make use of the record of the proceedings had before a justice of the peace, at a preliminary trial, as a result of which the accused was discharged, for the purpose of bringing the accused to trial, despite the order of discharge, and over his objection based on the ground that he has not been remanded for trial as a result of a preliminary trial.

The judgment convicting and sentencing the accused of the crime with which he is charged should be reversed with the costs of both instances de officio and the record remanded to the court below, for such further proceedings as may be proper in the premises. So ordered.

Torres, Moreland, Trent, and Araullo, JJ., concur.

Johnson, J., did not take part.

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