

THE UNITED STATES, PLAINTIFF AND APPELLANT, VS. VICENTE SOTTO, DEFENDANT AND APPELLEE.*G.R. No. 11067. March 06, 1917*

Ponente: MORELAND, J.

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This is a prosecution for libel under Act No. 227. A demurrer was filed to the information in the Court of First Instance upon the ground (a) "that more than one offense is charged." and (b) "that the facts charged do not constitute a public offense." The demurrer was sustained on the first ground and the information dismissed. This appeal is from the judgment of dismissal based on the order sustaining the demurrer.

We are of the opinion that the judgment must be reversed and the demurrer overruled. The information is as follows:

"That during the period from the 1st day of May, 1915, to the 22d of the said month and year, in the city of Manila, Philippine Islands, within the jurisdiction of this court, the said defendant, Vicente Sotto, being the director, editor, manager, and printer of the weekly paper known as 'The Independent,' edited and published in English and Spanish in the city of Manila, with the intention of attacking the honesty, virtue, and reputation of Lope K. Santos, Jose Turiano Santiago and Hermenegildo Cruz, the principal leaders of the association known as the 'Congreso Obrero de Filipinas,' and with the malicious intention of exposing the said Lope K. Santos, Jose Turiano Santiago, and Hermenegildo Cruz to public hatred, contempt and ridicule as private citizens and as the leaders of the said association, voluntarily, illegally, criminally and maliciously published and caused to be published of the three persons above named a certain false, injurious and malicious defamation and libel tending to attack the honesty, virtue and reputation of the same, on page 23 of issue No. 4 of the said weekly paper, dated May 1, 1915, which said publication is as follows:

" 'WITHOUT MALICE.

" 'Having become tired of seeing the workingmen at the mercy of parasites who, under the guise of a false sympathy for the laboring classes, exploit the proletariat, making the latter the plaything of their ambitions and machiavelian manipulations; weary of these self-styled labor leaders who are pointed out by the people as the ones responsible for the malversation of workingmen's funds, the bankruptcy of the "Tagumpay," the "Katubusan scandals," the disappearance of a promissory note from the office of attorney Diokno, the misappropriation of funds in the management of the "El Ideal," the combination which resulted in the failure of the seamen and street-car employees' strikes, and other numerous blunders committed by the said labor leaders, all of which has left the proletariat in the situation of a victim plucked by the very ones who set themselves up as their defenders; and realizing that our cause is in danger, now, for the sake of our honor, dignity of the laboring classes, we believe that the time has come to speak plainly and to put an end for once and all to so many parasites.

" 'If all these charges are true, it is hard to understand why the workingmen have continued until now under the control of their present leaders.

" 'Who is to blame?

" 'Victi.'

"which said libelous publication was amplified by a cartoon published on page 1 of issue No. 7 of the said weekly paper 'The Independent,' on the 22d of May, 1915, which was also published at the place and on the date above mentioned, which said cartoon, in which, among others, there appear the caricatures of the aforesaid parties, is made an integral part of this information as Exhibit A; that the said defendant on the aforesaid date and place intended to accuse, as in fact he did accuse, Lope K. Santos of being responsible for certain scandals which occurred in the cigar and cigarette factory 'Katubusan' and for the disappearance of a promissory note from the office of attorney Ramon Diokno and of being indebted to the firm of E. C. McCullough & Co. and to the printer I. Morales, both of this City of Manila; accusing also Jose Turiano Santiago, one of the organizers of the seamen and street-car employees' strikes, of being responsible for certain combinations and insinuating that he had received the sum of P2,000 to bring about the failure of the said strikes; and accusing also Hermenegildo Cruz of being responsible for the bankruptcy of the printing establishment 'Tagumpay,' of certain scandals in the aforesaid factory 'Katubusan' and of the misappropriation of funds in the administration of the newspaper 'El Ideal;' and accusing all of the said three parties of the malversation of workingmen's funds; and that the said malicious defamation was published and circulated at the said time and place by the defendant in the manner above set forth with the intention of attacking the honesty, virtue and reputation of the said Lope K. Santos, Jose Turiano Santiago and Hermenegildo Cruz, thereby exposing them to public hatred, contempt and ridicule.

"All contrary to the law in such cases made and provided."

It is contended that each publication set out in the information is libelous in itself and, therefore, constitutes a crime; and, as a necessary result, that two crimes are charged in the information. We do not believe this contention is sound. The only purpose of including in the information the second publication was to complete the publication. The first publication mentions no names. It speaks of labor leaders in general but of no one in particular. It employs, however, certain words and phrases such as "the bankruptcy of the Tagumpay," "the Katubusan scandal," "the disappearance of a promissory note from the office of Attorney Diokno," "the misappropriation of funds in the management of El Ideal," and "the combinations which resulted in the failure of the seaman and street-car employees' strikes." The second publication consists of a cartoon in which the person referred to in the first publication are caricatured by name and to each one of them is attached one of the words or phrases just mentioned, thereby identifying him as one of the persons meant in the first publication. In the first publication, as we have seen, the labor leaders referred to are charged with having caused "the bankruptcy of the Tagumpay." In the cartoon we have the picture of a man labeled "H. Cruz" carrying a banner which bears, among others, the word "Tagumpay." The first publication also mentions "the Katubusan scandal." In the cartoon the word "Katubusan scandal." In the cartoon the word "Katubusan" is found inscribed on a banner carried by H. Cruz and also upon one carried by a person labeled "L. K. Santos." In the first publication we have also the charge that the labor leaders therein referred to were responsible for "the disappearance of a promissory note from the office of Attorney Diokno." The word "Diokno" appears in the cartoon upon the banner carried by "L. K. Santos." On the banner carried by H. Cruz are the words "El Ideal" to which reference is found in the first publication where the labor leaders are charged with responsibility for the disappearance of funds belonging to "El Ideal." A person named "J. Turiano" is seated at a table with a dish before him labeled "Labor Congress" which he is engaged in eating. He also holds in his hand a banner carrying the devices "seamen strike and street-car employee strike." The banner borne by L. K. Santos carried in addition to the words "Katubusan" and "Diokno" the words "McCullough" and "Morales." From the mouths of the three figures thus depicted in the cartoon, H. Cruz, J. Turiano and L. K. Santos, issue the words respectively "I am the first leader," "And I am the second," and "And I

am the third."

The evident purpose and result of the publication of the cartoon, called the second publication, was to make clear to the public that the three men named in the cartoon were the labor leaders referred to in the first publication. The effect of the cartoon was to give form and substance to the insinuations and references made in the first publication and the persons to whom they were directed. It served as the means of identification of the unnamed persons who were the subject of the first publication; and also of placing upon each one the particular offense of which the first publication charged him. It not only served to identify but it also served to point out the person upon whom should fall the odium of the particular charge made.

These are the primary objects of the cartoon and were the effects produced on the public. While it may be true that each one of the publications was a separate libel against would have been somewhat difficult, as a matter of evidence, to substantiate a charge of libel upon either the one or the other publication. The charge in the first publication was general and it would have been necessary to make and prove all of the allegations required to establish the fact that the public understood who the persons were referred to in the publications and the nature of the charge against each of them. In the second publication the same difficulty would have been experienced, although in a somewhat different form. There the names of the persons were mentioned; but the character of the acts of which they were charged was not disclosed. In that case it would have been necessary to establish by evidence that the public understood what the word "Diokno," for example, referred to and also the character of the transaction to which it alluded. Confronted with these difficulties it was apparent to the prosecutor that a combination of the two publications would produce such a result as partly to relieve him from what might be an embarrassing position. The two publications would complete each other. It is well known that a libel may be published in parts, neither part being a complete libel in itself but all of the parts taken together constituting a libelous publication. It is also well recognized that different publications are necessary to complete the libel, or whether they are together necessary to complete the phraseology, to avoid ambiguity, or to identify the persons referred to in one publication, or to show the character of the acts charge. This joinder of the separate parts or publications in one indictment is permissible even though each separate publication constitutes a libel in itself, provided all of the different publications refer to the same subject-matter and are necessary or convenient for the completion of the other. A prosecuting attorney may describe in his pleading a complete libel, and to that end he may join all of the separate publications necessary to complete the libel either verbally, or for the identification of the persons referred to in the other publication, or to show the character of the acts which they are charged with having performed; and he may do this notwithstanding the fact that each publication constitutes a libel.

In the present case the prosecuting attorney was within the law when he joined the two publication in one information even though each publication be considered a separate libel, it being clear that the publications supplemented each other, each supplying the deficiencies found in the other.

While, as we have already said, the cartoon contains two things not found in the first publication, namely, a reference to McCullough and another to Morales, we doubt if the allegations of the information are sufficient to charge any crime with respect to those two matters. This being so, it is clear that the information does nothing more than use the cartoon as a continuation of the first publication, making both publications together serve as a basis for charging one crime, that charged in connection with the first publication. Such being the case the accused can be convicted under the information of only one crime.

For these reasons, we are of the opinion that the demurrer was improperly sustained and that the judgment entered upon the order sustaining the demurrer must be reversed.

The judgment appealed from is reversed and the case remanded with instructions to proceed with the case. So

ordered.

Arellano C. J., Torres, and Araullo, JJ., concur.

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