

IN RE AMZI B. KELLY.

G.R. No. 11715. December 21, 1916

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 22d of March, 1916, Ramon Avanceña, AttorneyGeneral for the Philippine Islands, presented a petition in the Supreme Court and prayed that an order against the said Amzi B. Kelly be issued requiring him to appear before the court, on a day to be named, and show cause, if any he have, why he should not be punished for a contempt of the court, in respect of a publication of a certain letter or communication published in "The Independent," on the 24th of February, 1916. Said petition alleged:

"1. That on February 12, 1916, an information was filed in this court charging the said defendant, Amzi B. Kelly, with a contempt of this court.

"2. That, after due notice and hearing, this court, by its decision rendered on February 17, 1916, found the said Amzi B. Kelly guilty of contempt of this court and sentenced him to be imprisoned in the Insular Prison, commonly known as 'Bilibid,' located in the city of Manila, for a period of six months and to pay a fine of P1,000, and stand committed until said fine should be paid, not exceeding two months; that the said Amzi B. Kelly was duly imprisoned under said order.

"3. That on February 24, 1916, the said Amzi B. Kelly, by his counsel W. H. Lawrence, made a motion in the Supreme Court for a rehearing of the said proceeding for contempt and of the order of this court finding the said Amzi B. Kelly guilty of contempt and sentencing him as aforesaid, which motion had for its object a revision of said order and a revocation and vacation of the same and to have the said Amzi B. Kelly declared not guilty of said contempt and to set him at liberty; that said motion was fully heard and submitted to this court for determination and was thereupon taken under advisement by this court and is still pending in this court for determination and still under advisement by this court and was so pending and under consideration at the time the letter hereinafter referred to was composed, written, and published.

"4. That on or about February 24, 1916, while said proceeding for contempt and the said motion made therein were pending in this court for adjudication and determination by this court, and while the same were under consideration by this court and not decided, the said Amzi B. Kelly wrote, composed, and caused to be published in a weekly newspaper regularly published once each week in the city of Manila, P. I., and circulated in the said city of Manila and in the Philippine Islands, in its issue of the 4th day of March, 1916, of and concerning this court and its supposed action with reference to said proceeding for contempt and the said pending motion made therein, a certain letter, in the words following, that is to say:

" 'MANILA, P. I., February 14, 1916.

" 'Mr. VICENTE SOTTO,

" 'Editor of "The Independent"

"SIR: I was very much amused at your cartoon displaying me as attacking a rock wall. The men against me are many but man, Don Vicente, is not made of rock but of mud; and it appears that some of the men who have

been so arrogantly misusing imaginary judicial powers are made of a very poor quality of this substance. Keep up the fight and tell the people, the Filipino people, for whom I am laboring, that at liberty or in prison, I shall never discontinue until the innocence of General Noriel and his companions is vindicated and the infamous system that murdered Dr. Jose Rizal and murdered General Noriel and his companions is completely eliminated from the Philippine Islands.

" 'Do not hesitate to condemn the individuals whom I accused for criminal careless neglect of duty and then, cowardly shielding themselves behind contempt proceedings, imprisoned me in Bilibid. Truth cannot be dishonored; right cannot be imprisoned. They may temporarily restrain counsel; but his great cause, firmly established in the heart of the people—American and Filipino—will move on with a steady substantial unerring step and all those in ignorance will gradually see the right, change and march with us; and the criminals espousing wrong, will go down before the host of right, like frail leaves before the autumn wind.

""The people do not really understand the great wrong committed by * * *. Taking this decision in my case as a basis, if you should criticise or espouse the crime, or charge him with it, the same judge could mount the bench and imprison you for six months without the right of appeal; or if you should happen to see an individual on the street committing a crime; having charged him with it— if he be a citizen like you or me—you might be saved; but, if he should happen to be a judge—according to this decision—he could imprison you without the right of appeal.

" 'Of course, nothing of this kind is the law. It is no more contempt of court to criticise the acts of a judge or charge with a crime the janitor of the court. Nevertheless, as long as this infamous law remains on the statute books and * * * the liberty of no man is safe and this law should be immediately repealed. One day in jail, victim of the arrogance of an individual, is too long for a freeman to suffer.

" 'As soon as the Supreme Court of the United States sees this case, they will reverse it; and when the Senate sees it, even without the Noriel case, they will remove the judges responsible for it; for their actions in my case is really worse and more atrocious than their actions in the Noriel case. For in the Noriel case, they were only careless, but in my case, they were both arbitrary and arrogant and knowingly and maliciously perpetrated a wrong for the purpose of terrorizing the people and intimidating the press. They may have frightened some faint hearts, but their actions have only spurred me on to a tenfold greater activity in order to rid the country of them; and I shall never cease my labor until * * * and I say this with the positive assurance to you that under no conceivable condition would I accept, even if offered, a position on said bench made vacant by any of the men against whom I am, and shall continue to labor.

" 'Hand in hand with the vindication of Noriel and companions, is the elimination of these men and their ideas, and in the end, both shall be accomplished and we will have no more judicial arrogance, but begin in these Islands the system hinted at in the book: "The Trained Judiciary,"

" 'Very respectfully,

" 'AMZI B. KELLY.'

"5. That said letter was intended to obstruct or interfere with and tends directly to obstruct and interfere with and impede the administration of justice in the abovementioned proceeding for contempt and the said motion made therein; that said Amzi B. Kelly, by the publication of said letter intended and said publication tends directly to affect and influence the action of this court in the said pending matter.

"Wherefore, the said Attorney-General moves this court for an order against the said Amzi B. Kelly to be and appear before this court, on a day to be named, and show cause, if any he have, why an attachment should not issue against him for a contempt of this court in respect to the publication of said letter.

"Manila, March 22, 1916.

"RAMON AVANCEÑA,

"Attorney-General of the Philippine Islands."

Upon a consideration of said petition, the court, under the hand and seal of its Acting Chief Justice, on the 22d of March, 1916, issued the following order:

"It is ordered that the said Amzi B. Kelly show cause to the Supreme Court, at the court house in the city of Manila, on Saturday the 25th of March, 1916, at nine o'clock a. m., in open court, why he should not be punished as and for contempt of this court for the publication referred to."

On the 25th of March, 1916, the said Amzi B. Kelly appeared and filed a written answer to said order. He also presented an oral argument.

The respondent contends that there are no provisions of law in force in the Philippine Islands authorizing the Supreme Court to punish him for the alleged contempt committed.

The alleged libelous publication relates, according to the petition of the Attorney-General, to a sentence rendered by the Supreme Court on the 17th of February, 1916, in which the respondent was found guilty of contempt and sentenced to be imprisoned for a period of six months and to pay a fine of P1,000. In the case in which the respondent was sentenced to be imprisoned for a period of six months and to pay a fine of P1,000, he, through his attorney, on the 24th of February, 1916, presented a motion for a rehearing of said sentence and the Supreme Court was, at the time of the publication of the present said libelous letter above set out, considering said motion, for the purpose of ascertaining whether or not the errors alleged in said motion had, in fact, been committed.

The respondent attacks the jurisdiction of this court to punish him for the alleged contempt charged in the petition of the Attorney-General. He alleges that the statutes in force in the Philippine Islands contain no provisions authorizing the Supreme Court to punish him. It is not surprising that such logic should appeal to one who is charged with transgressions.

The power to punish for contempt is inherent in all courts. (Ex parte Robinson, 19 Wallace [U. S.], 505, 510; Ex parte Terry, 128 U. S., 289.)

The power to fine for contempt, imprison for contumacy, or enforce the observance of order, are powers which cannot be dispensed with in the courts, because they are necessary to the exercise of all others. (U. S. vs. Hudson and Goodwin, 7 Cranch, 32, 33; Ex parte Crane, 5 Peters [U. S.], 190, 210; Ex parte Terry [supra]; Interstate Commerce Commission vs. Brimson, 154 U. S., 447, 489.)

The summary power to commit and punish for contempt, tending to obstruct or degrade the administration of justice, as inherent in courts as essential to the execution of their powers and to the maintenance of their authority, is a part of the law of the land. (Ex parte Terry, supra.)

Courts of justice are universally acknowledged to be vested, by their very creation, with power to impose silence, respect, and decorum in their presence and submission to their lawful mandates, and as a corollary to this provision, to preserve themselves and their officers from the approach of insults and pollution. (Anderson vs. Dunn, 6 Wheaton [U. S.], 204, 226; Ex parte Terry, supra.)

The existence of the inherent power of courts to punish for contempt is essential to the observance of order in judicial proceedings and to the enforcement of judgments, orders, and writs of the courts, and consequently to the due administration of justice. (Ex parte Robinson supra; Ex parte Terry supra; In re Durant, 80 Conn., 140; In re Davies, 93 Pa. St., 116; The People vs. Goodrich, 79 111., 148; Bradley vs. Fisher, 13 Wallace [U. S.], 335; Ex parte Wall, 107 U. S., 265; In re Duncan, 64 S. C., 461; Fields vs. State, 18 Tenn., 168; Brooks vs. Fleming, 65

Tenn., 331, 337.)

Any publication, pending a suit, reflecting upon the court, the jury, the parties, the officers of the court, the counsel, etc., with reference to the suit, or tending to influence the decision of the controversy, is contempt of court and is punishable. (Hollingsworth vs. Duane, 12 Fed. Cases No. 6616; U. S. vs. Toledo Newspaper Co., 220 Fed. Rep., 458.)

The publication of a criticism of a party or of the court to a pending cause, respecting the same, has always been considered as misbehavior, tending to obstruct the administration of justice and subjects such persons to contempt proceedings. Parties have a constitutional right to have their causes tried fairly in court, by an impartial tribunal, uninfluenced by publications or public clamor. Every citizen has a profound personal interest in the enforcement of the fundamental right to have justice administered by the courts, under the protection and forms of law, free from outside coercion or interference. (Cooper vs. People, 13 Colo., 373.)

After a careful consideration of the petition or information furnished to this court by the Honorable Ramon Avancena, Attorney-General for the Philippine Islands, in relation with the said publication which was made a part thereof, and the answer and argument of the said Kelly, heard in open court on the 25th of March, 1916, in support of his reasons why he should not be punished for contempt, and the matter having been finally submitted for the consideration of this court on said date; and considering that said publication was made of and concerning a cause which was then and there pending before the Supreme Court; and considering that the said Amzi B. Kelly did, by said publication, thereby willfully, maliciously, and deliberately intend and attempt to bring the Supreme Court of the Philippine Islands and the members thereof into contempt and ridicule and to lower the dignity, standing, and prestige of the Supreme Court of the Philippine Islands and to hinder and delay the due administration of justice in the Philippine Islands; and considering that the said Amzi B. Kelly, by his answer and oral argument given in reply to said order to show cause, admitted in open court the authorship of said publication; and considering that said publication was intended to obstruct and interfere with, and tends directly to obstruct and interfere with and impede the administration of justice in said pending proceedings in the Supreme Court, and said motion made therein; and considering that the said Amzi B. Kelly, by means of said publication intended and said publication does tend directly to affect and influence the action of the Supreme Court in the said pending proceedings, and to bring the Supreme Court into contempt and to destroy its usefulness in the Philippine Islands, and the confidence of the people therein, and to hinder and prevent the due administration of justice; it is hereby ordered and decreed:

That by reason of said false, malicious, and defamatory charges contained in said publication, a full copy of which is set out in the information of the Attorney-General, that the said Amzi B. Kelly is hereby found guilty of contempt of this court, by virtue of said publication, and he is hereby sentenced to be imprisoned in the insular prison commonly known as Bilibid, located in the city of Manila, for a period of six months, and that he pay a fine of P1,000, and stand committed until said fine is paid, not exceeding two months. Said imprisonment in lieu of fine shall be in addition to the imprisonment of six months heretofore imposed.

It is further ordered and decreed that the sheriff of this court be and he is hereby directed to carry the foregoing decision and judgment into effect in accordance with the terms and conditions of the mittimus which shall hereafter be issued.

It is further ordered and decreed that the clerk of this court immediately issue to the sheriff the mittimus necessary for the enforcement of the foregoing decree of imprisonment.

The delay in the promulgation of the foregoing sentence has been for the reason that this court desired to give the said respondent a full, free, and complete opportunity to defend himself in a certain action for criminal libel which

had been commenced against him in the Court of First Instance of the city of Manila. That action having been finally disposed of, the foregoing decision and sentence is hereby promulgated.

It is further ordered and decreed that the sentence of imprisonment hereinbefore imposed, shall commence to be served immediately upon the termination, by expiration, suspension, or otherwise, of the period of imprisonment heretofore imposed by this court in cause R. G. No. 12109, entitled, The United States, plaintiff and appellee, vs. Amzi B. Kelly, defendant and appellant, which sentence was promulgated on the 1st of December, 1916, and in which a final sentence was rendered upon the 13th of December, 1916.¹ So ordered.

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

Carson, J., took no part in the discussion of this case having been absent in the United States, when it was submitted.

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