

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. SIMPLICIO AGITO, DEFENDANT AND APPELLANT.

G. R. No. 12120. April 28, 1958

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Simplicio Agito was charged with triple homicide and serious physical injuries through reckless imprudence before the Court of First Instance of Occidental Mindoro. Upon arraignment, he pleaded not guilty. He however withdrew later this plea and substituted it for that of guilty, whereupon the court found him guilty of the crime charged as defined in article 365, paragraph 6, subsection 2, of the Revised Penal Code and sentenced him to suffer an indeterminate penalty of 1 year and 1 day to 3 years 6 months and 21 days, with costs. The accused was credited with one-half of the time he was detained as preventive imprisonment.

Notwithstanding his plea of guilty, the accused appealed raising questions of law for which reason the case was certified to us by the Court of Appeals.

The main issue raised by appellant refers to the propriety of the penalty imposed by the trial court. He contends that because the information does not allege in so many words that he committed a violation of the Automobile Law, the trial court erred in imposing upon him the penalty prescribed in paragraph 6, subsection 2, of article 365 of the Revised Penal Code, which provides that "When, by imprudence or negligence and with violation of the Automobile Law, the death of a person shall be caused, in which case the defendant shall be punished by prison correccional in its medium and maximum periods."

The information filed against appellant reads:

"That on or about, the 7th day of January, 1954, at about 8:30 o'clock in the morning on the national road between Mamburao and Abra de Ilog, and more particularly in barrio Balete, Municipality of Mamburao, province of Occidental Mindoro, Philippines, and within the jurisdiction of this Honorable Court the above-mentioned accused, did then and there unlawfully and feloniously, thru reckless imprudence and/or acting carelessly without taking the necessary precaution to life, while driving Baby Bus Jeniffer hearing plate No. T-4820 and while by-passing another truck in full speed, hit a coconut tree thereby completely smashing the bus he was driving and causing the instantaneous death of Glicerio Cabal, Alejandro Abac and Flaviana Viaña causing serious physical injuries to Generoso Toriana, Clemencia de Luna and Agatona Fajardo, which injuries to the last three named persons have required or will require medical attendance of a period of more than 30 days and incapacitated and will incapacitate the said persons from performing their customary labor for the same period of time."

Section 67 (d) of Act No. 3992, otherwise known as the Motor Vehicle Law, as amended by section 16 (d) of Republic Act 587, provides:

"Sec. 16. Section sixty-seven, article one, Chapter four, of Act Number Thirty-nine hundred and ninety-two, is hereby amended to read as follows:

'(d) If, as the result of negligence or reckless or unreasonably fast driving any accident occurs resulting in death or serious bodily injury to any person, the motor vehicle driver at fault, shall, upon conviction be punished under the provisions of the Penal Code.'"

While it is true that the information does not designate the specific provision of the law which has been violated, or does not actually allege that the accused has committed a violation of the Motor Vehicle Law, yet it is clear that the facts as described therein are such that one cannot be mistaken that they constitute a violation of that law for actually it alleges that because of the reckless or unreasonably fast driving of appellant an accident occurred resulting in the death of the victims therein mentioned. The information states the facts and circumstances constituting the crime charged in such a way that a person of ordinary understanding may comprehend their import and meaning.

Moreover, there is no heed of actually designating the offense charged in the caption of the information for what is important is not the designation but the facts alleged therein. As this Court has aptly said: "The crime of which defendant stands accused is that described by the facts stated in the information and not that designated by the fiscal in the preamble thereof. The designation of the crime by name in the caption of the information is a conclusion of law on the part of the fiscal. It is not necessary, for the protection of the substantial right of the accused, nor for the effective preparation of his defense, that he be informed of the technical name of the crime of which he stands charged" (People vs. Cosare, 95 Phil., 656). There is therefore no merit in the first assignment of error made by appellant.

The contention that the trial court erred in not considering the mitigating circumstance of plea of guilty to reduce the penalty to the minimum period is also untenable, for the same is contrary to article 365, paragraph 5, of the Revised Penal Code, as amended by Republic Act No. 384, which provides that "In the imposition of these penalties, the courts shall exercise their sound discretion, without regard to the rules prescribed in Article sixty-four." These penalties are the ones prescribed for offenses committed through imprudence and negligence.

"The alleged failure of the trial court to consider in favor of the appellant the mitigating circumstance of voluntary surrender * * * need not be considered because the rules for the application of penalties prescribed by Article 62 of the Revised Penal Code are not applicable in case of reckless imprudence" (People vs. Quijano, 43 Off. Gaz. No. VI, pp. 2214, 2218).

The decision appealed from being in accordance with law, the same is hereby affirmed, with costs.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Labrador, Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

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