

EMILIO C. VILLAROSA, PETITIONER, VS. HON. DEMOSTHENES L. MAGALLANES, AND JUDE THADDEUS SAYSON, TOTE GARGALICANO, RAMON ABLANQUE, PETE IBRADO, JOSE RUIZ, HECTOR BAJA AND CYPRESS ...

G.R. No. 139841. April 29, 2003

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition for certiorari assails the Resolution[1] dated August 3, 1999 of Judge Demosthenes L. Magallanes of the Regional Trial Court of Negros Occidental, Branch 54, quashing the informations for perjury filed against herein private respondents before the Municipal Trial Court in Cities (MTCC) of Bacolod on the ground of lack of jurisdiction. Also assailed is the Order[2] of respondent judge dated August 26, 1999 denying the motion for reconsideration.

Culled from the records are the following pertinent facts:

In the May 12, 1997 elections, petitioner Emilio Villarosa and private respondent Jude Thaddeus Sayson were candidates for barangay captain, with private respondent emerging the victor. In the same election, private respondents Tote Gargalicano, Ramon Ablanque, Pete Ibrado, Jose Ruiz, Hector Baja and Cypress Tan won as barangay councilors.

Earlier on May 7, 1997, one Victoria S. Delfin filed a verified complaint against private respondents with the Office of the Election Officer in Bacolod City, for violation of the Omnibus Election Code. The complaint alleged that private respondents posted campaign streamers prior to the start of the campaign period.

In their counter-affidavits filed before the Office of the Election Officer in Bacolod City, private respondents denied Victoria's complaint.[3] For the purpose of conducting preliminary investigation, the counter-affidavits of private respondents were forwarded to the Law Department of the Commission on Elections (COMELEC), in Manila, which found the existence of probable cause for the indictment of private respondents.

The counter-affidavits filed by private respondents with the COMELEC served as the basis for petitioner to file a complaint for perjury against private respondents with the Office of the City Prosecutor of Bacolod City. In his complaint, petitioner averred that by swearing under oath in said counter-affidavit that they have not posted streamers on April 30, 1997, private respondents violated Article 183[4] of the Revised Penal Code.

After a preliminary investigation conducted by Victor E. Gelvezon of the National Prosecution Service under the Office of the Regional State Prosecutor, the Regional State Prosecutor filed eight (8) informations for perjury against private respondents with the MTCC of Bacolod, which uniformly read:

That on or about May 14, 1997, in the City of Bacolod, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being one of the respondents charged for violation of the Omnibus Election Code pending preliminary investigation before the Law Department of the Commission on

Elections (COMELEC) in SPA No. 97-212, did then and there willfully, unlawfully and feloniously make untruthful statements upon a material matter in a counter-affidavit submitted before the COMELEC, duly subscribed and sworn to by him before Asst. City Prosecutor Cesar L. Beloria of the Bacolod City Prosecution Office, a competent person authorized to administer oath, which counter-affidavit is required by law in the preliminary investigation of said case, alleging therein falsely, among other things, that he has not personally posted his campaign streamers on April 30, 1997 nor had he authorized anybody to post the same on said date and that if there were persons who posted his streamers as early as April 30, 1997, they are supporters and/or paid workers of the other candidate Emilio C. Villarosa, when in truth and in fact those streamers were actually posted by him and workers under his direct and personal supervision.

Contrary to law.[5]

Forthwith, private respondents filed a motion to quash the informations on the ground that exclusive jurisdiction lies with the proper court in Manila since the counter-affidavits were forwarded to the Law Department of the COMELEC in Manila.

In an order[6] dated July 27, 1998, the MTCC of Bacolod denied the motion to quash. Later, on September 21, 1998, the MTCC denied the motion for reconsideration filed by private respondents.[7]

On September 23, 1998, private respondents filed a petition for certiorari[8] before Branch 54 of the Regional Trial Court (RTC) of Bacolod City where public respondent, Hon. Demosthenes Magallanes, sits as presiding judge. In a resolution dated August 3, 1999, the RTC granted the petition and quashed the informations without prejudice on the ground of lack of jurisdiction. The RTC held that jurisdiction is with the Manila court, not with the Bacolod court in view of the fact that the counter-affidavits allegedly containing the false statements were transmitted to the COMELEC in Manila for the preliminary investigation of the election offense. Accordingly, the RTC decreed in its resolution as follows:

WHEREFORE, the petition is granted. The respondent court's Orders dated July 27, 1998 and September 21, 1998 are hereby nullified and set aside. The information for perjury in Criminal Cases No. 82081 to 82088 are further ordered quashed without prejudice.

SO ORDERED. [9]

Aggrieved by that resolution and later the denial of his motion for reconsideration,[10] petitioner herein ascribes grave abuse of discretion to respondent judge for rendering the August 3, 1999 resolution and its companion order, denying the motion for reconsideration.

For determination now is the question of which court has jurisdiction over the case for perjury against herein private respondents. Is it the court in Bacolod, where the counter-affidavit containing the alleged untruthful statements was initially filed, or the court in Manila, where the affidavit was forwarded for purposes of conducting a preliminary investigation?

On one hand, petitioner strongly asserts that jurisdiction is vested with the Bacolod court, considering that counter-affidavits which were purportedly deceptive were filed at the first instance with the Election Officer in Bacolod City.[11] Petitioner insists that the respondent judge committed grave abuse of discretion amounting to lack of jurisdiction in reversing the order of the MTCC.

On the other hand, private respondents contend that the operative act making the offense of perjury triable in the Manila court is the transmission of the assailed affidavits to the COMELEC in Manila for preliminary investigation. They cite the case of *United States v. Cañet*[12] to boost their claim.

The Office of the Solicitor General (OSG), for the State, agrees with petitioner that jurisdiction over the present

case is vested in the MTCC of Bacolod, considering that it was in the Office of the Election Officer in Bacolod City, where the counter-affidavits were executed and originally submitted by private respondents. For this reason, the OSG submits that the public respondent committed grave abuse of discretion in quashing the informations for perjury.[13]

We find merit in this petition.

Private respondents' heavy reliance on the case of *United States v. Cañet*[14] is misplaced. In *Cañet*, Federico Cañet presented in a proceeding pending before the Court of First Instance of Iloilo an alleged untruthful affidavit which was notarized in Manila. This Court held that it is the Iloilo court that has jurisdiction over the case. It explained that the crux of the offense is not the subscribing and swearing but the intentional giving of false affidavit, to wit:

Without considering or deciding whether the facts alleged sufficiently charge the commission of the crime of perjury in the city of Manila, we hold that the complaint sets forth facts which, if proven, are sufficient to sustain a finding that the defendant committed the crime of perjury within the jurisdiction of the Court of First Instance of Iloilo, in that in a judicial proceeding pending in that court, "the defendant did deliberately, maliciously and criminally swear to and present in the Court of First Instance of Iloilo the said false affidavit," such affidavit being known to him to be false, and being intended by him to mislead the court. It is immaterial where the affidavit was subscribed and sworn, so long as it appears from the information that the defendant, by means of such affidavit, "swore to" and knowingly submitted false evidence, material to a point at issue in a judicial proceeding pending in the Court of First Instance of Iloilo Province. The gist of the offense charged is not the making of the affidavit in Manila, but the intentional giving of false evidence in the Court of First Instance of Iloilo Province by means of such affidavit. (*Italics supplied.*)

There is no parity of issues in *Cañet* and in the present case. In *Cañet*, the issue is whether the perjury case must be filed in Manila where the affidavit in question was made, subscribed and sworn to, or in Iloilo where the affidavit was filed in the CFI of Iloilo in connection with a pending judicial proceeding. In the present case, however, the threshold issue is whether the perjury case against private respondents must be filed in Bacolod where the proceeding for violation of the Omnibus Election Code was pending and where the counter-affidavits were submitted, or in Manila where the counter-affidavits were forwarded for preliminary investigation.

We agree with the petitioner and the OSG that the perjury case must be filed in Bacolod where the case for violation of the Omnibus Election Code was pending. As provided in Section 15, Rule 110 of the Rules on Criminal Procedure,[15] it is a fundamental principle that the criminal action shall be instituted and tried in the court of the municipality or province where the offense was committed or where any of its essential ingredients took place. In this case, the disputed affidavit containing the alleged false statements was filed by private respondents with the Office of the Election Officer in Bacolod City, where a complaint for violation of the Omnibus Election Code was lodged against them.

The transmission of the purported untruthful affidavit to the Law Department of COMELEC in Manila for purposes of preliminary investigation did not make the offense triable in the Manila courts. We are in full accord with the reasoning of the OSG that it was in the Office of the Election Officer in Bacolod City where the counter-affidavits were executed and originally submitted by private respondents; hence, it was in that place that the operative acts constituting the crime of perjury, if proven, were committed.

The *lis mota* in the crime of perjury is the deliberate or intentional giving of false evidence in the court where such evidence is material.[16] The purpose of the rule on perjury is to avert the prevalence of corrupt assertion of a falsehood, under oath or affirmation, which constitutes an imposition upon the court and seriously exposes it to a miscarriage of justice.[17] Justice F. Moreno defines perjury as the willful and corrupt taking of a false oath,

lawfully administered in a judicial proceeding or the course of justice in regard to a matter material to the issue or a point of inquiry.[18] Here, it was in the proceeding in the Office of the Election Officer in Bacolod City that the alleged untruthful statements of private respondents, denying that they have posted campaign paraphernalia before the election period, became material in deciding the issue of whether or not they violated the Omnibus Election Code.

To recall, Atty. Marsha Cordero as Investigating Officer and Election Officer IV of the Office of the Election Officer in Bacolod City, required private respondents to file their controverting evidence to the complaint filed by Victoria Delfin. It was that proceeding for which the purported false evidence was intended. Otherwise stated, it was in Bacolod where the criminal intent to assert a falsehood under oath became manifest. It is, therefore, the MTCC of Bacolod that has jurisdiction over the case for perjury.

Lastly, to hold that the Manila court has jurisdiction over the present case would open the floodgates to a judicial anarchy. To our mind, it is not the intent of our lawmakers that all perjury cases committed in relation to an election offense must be filed in Manila - the seat of the Law Department of COMELEC, which under the COMELEC Rules of Procedure conducts preliminary investigations in election offenses.[19] Surely, such situation will congest the dockets of courts in Manila. It will also be physically and financially burdensome on litigants nationwide, who must travel from remote areas just to pursue the course of justice in Manila. This scenario will inevitably discourage the prosecution of offenses of this nature - a situation which, to our mind, is not only unlikely, but an absurd one, farthest from the imagination of our legislators.

In sum, jurisdiction over the crime of perjury in the instant case is vested in the Municipal Trial Court in Cities of Bacolod City, where the affidavit constituting false evidence was filed. Accordingly, respondent judge erred and committed grave abuse of discretion in holding otherwise.

WHEREFORE, the instant petition is GRANTED. The resolution of respondent Judge Demosthenes L. Magallanes dated August 3, 1999, and the order dated August 26, 1999, denying the motion for reconsideration filed by petitioner are hereby SET ASIDE. The Orders of MTCC, Bacolod City, dated July 27, 1998 and September 21, 1998, are REINSTATED. No costs.

SO ORDERED.

Bellosillo (Chairman), Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Rollo, pp. 69-71.

[2] Id. at 75-76.

[3] Records, pp. 143-146, 149-150.

[4] Art. 183. False testimony in other cases and perjury in solemn affirmation. - The penalty of arresto mayor in its maximum period to prision correccional in its minimum period shall be imposed upon any person who, knowingly make untruthful statements and not being included in the provisions of the next preceding articles, shall testify under oath, or make an affidavit, upon any material matter before a competent person authorized to administer an oath in cases in which the law so requires.

Any person who, in case of a solemn affirmation made in lieu of an oath, shall commit any of the falsehoods mentioned made in this and the three preceding articles of this section, shall suffer the respective penalties provided therein. (Emphasis ours.)

[5] Records, pp. 2-3.

[6] Rollo, pp. 27-36.

[7] Id. at 42.

[8] Id. at 43-62.

[9] Id. at 71.

[10] Id. at 75-76.

[11] Id. at 6.

[12] 30 Phil. 371 (1915).

[13] Rollo, p. 183.

[14] Supra, note 12, at 378.

[15] SEC 15. Place where action is to be instituted. -

(a) Subject to existing laws, the criminal action shall be instituted and tried in the court of the municipality or territory where the offense was committed or where any of its essential ingredients occurred.

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[16] Supra, note 14.

[17] Reyes, The Revised Penal Code, Book II, 1998 Ed., p. 265.

[18] Moreno, Philippine Law Dictionary, 3[rd] Ed., p. 692. See also *United States v. Estraña*, 16 Phil 520, 529 (1910).

[19] Rule 34, Comelec Rules of Procedure – Prosecution of Election Offenses

SECTION 1. Authority of the Commission to Prosecute Election Offenses. – The Commission shall have the exclusive power to conduct preliminary investigation of all election offenses punishable under the election laws and to prosecute the same, except as may otherwise be provided by law.

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SEC. 5. Referral for Preliminary Investigation. – If the complaint is initiated motu proprio by the Commission, or is filed with the Commission by any aggrieved party, it shall be referred to the Law Department for investigation. Upon direction of the Chairman of the Commission, the preliminary investigation may be delegated to any lawyer of said Department, or to any of the Regional Election Directors or Provincial Election Supervisors, or any lawyer of the Commission. (Emphasis supplied.)

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