

THE PROVINCIAL FISCAL OF RIZAL, PETITIONER, VS. THE HON. JUDGE CECILIA MUÑOZ PALMA, COURT OF FIRST INSTANCE OF RIZAL, AND ALFONSO SAMOSA Y LIZARDO, RESPONDENTS.

G.R. No. 15325. August 31, 1960

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Petitioner herein prays:

"* * * that the Clerk of Court of the Court of First Instance of Rizal be ordered to forward to this Honorable Court records of Criminal Case No. 7954, entitled People of the Philippines vs. Alfonso Samosa y Lizardo, and that after notice and due hearing, the petition for certiorari be granted; that the decision of the respondent Judge dated February 18, 1959 and promulgated on the same date (Annex K) be declared null and void, the same having been rendered without or in excess of jurisdiction or with manifest abuse of discretion on the part of the respondent Judge; and that the original decision dated January 6, 1959 and promulgated on January 13, 1959 (Annex C) be ordered enforced, executed and served by the accused Alfonso Samosa."

It appears that on June 26, 1958, respondent Alfonso Samosa y Lizardo was charged, in Criminal Case No. 21101 of the Justice of the Peace Court of Caloocan, Rizal, with having raped his daughter, Erlinda Samosa y Mañalac. After appropriate proceedings, the records were, subsequently, forwarded to the Court of First Instance of Rizal, where the corresponding information was filed and docketed as Criminal Case No. 7954. In due course, decision was rendered by said court, presided over by respondent Judge, Hon. Cecilia Muñoz-Palma, convicting the accused of qualified seduction and imposing upon him an indeterminate penalty ranging from 2 years and 4 months of prision correccional to 6 years, 8 months and 21 days of prision mayor, with the accessory penalties provided by law, and sentencing him to indemnify Erlinda Samosa in the sum of P2,000, as well as to support the offspring, should there be any, and to pay the costs. This decision, dated January 6, 1959, was promulgated on January 13, 1959, whereupon an order of commitment of the accused to the provincial jail of Rizal was issued.

On January 14, 1959, the accused wrote a letter addressed to respondent Judge, begging the latter to pity him and his family, and to reconsider said decision, for the reason that the charge against him was groundless, it being merely an act of vengeance on the part of his wife. On January 23, 1959, the Clerk of Court wrote to former counsel for the accused a communication informing him of the receipt of said letter, copy of which was enclosed, and urging him to go over the same, for such action as he may deem best to take. On January 29, 1959, the accused wrote another letter to respondent Judge reiterating his plea for reconsideration, alleging that he was innocent, as attested to by an alleged letter of the complainant, which, he said, was in his possession. Soon thereafter, or on February 6, 1959, the court issued an order appointing Atty. Salvacion Birco, as counsel de oficio for the accused and instructing her to confer with him, with a view to determining what action should be taken to safeguard his rights, before the judgment shall have become final, owing to the alleged recantation of the complainant. On February 9, 1959, Atty. Birco filed a motion for new trial, upon the ground that, after the promulgation of the decision on January 13, 1959, the accused had discovered a new and material evidence,

consisting of said recantation of the complainant. The prosecution objected to this motion.

At the hearing thereof, on February 9, 1959, counsel de oficio stated that complainant was unwilling to appear before the court in order to bear out the allegations of said motion, in view of which she (counsel) was withdrawing the same, with the request that the penalty imposed upon the accused be reduced to the minimum. By an order dated February 18, 1959, respondent Judge amended the dispositive part of her aforementioned decision by reducing the penalty meted out to the accused to a minimum of 6 months and 1 day of prision correccional and a maximum of 6 years, 8 months and 21 days of prision mayor, and also, by eliminating the provision, in the original decision, requiring the accused to support the offspring, it appearing that complainant was not pregnant at the time of the hearing of the case, as well as by directing that the accused be credited with one-half of the preventive imprisonment he may have suffered, by reason of this case. The prosecution moved to reconsider and set aside this order of February 18, 1959, to no avail. Hence, this original action for certiorari, instituted by the prosecution upon the ground that said order was issued without or in excess of jurisdiction, the original decision dated January 6, 1959, having become final and executory on January 26, 1959, or 15 days after its promulgation on January 13, 1959.

Rule 116, section 7, of the Rules of Court reads:

"Modification of judgment.—A judgment of conviction may be modified or set aside by the court rendering it before the judgment has become final or appeal has been perfected. A judgment in criminal case becomes final after the lapse of the period for perfecting an appeal, or when the sentence have been partially or totally satisfied or served, or the defendant has expressly waived in writing his right to appeal."

Pursuant to this provision, before the decision of respondent Judge dated January 6, 1959, became final, or from January 13 to January 28, 1959, the lower court had plenary power to make therein, either on motion of one of the parties or motu proprio, such amendments or alterations as it may deem best, within the frame of the law, to promote the ends of justice (*U.S. vs. Vayson*, 27 Phil., 447; *Gregorio vs. Director of Prisons*, 43 Phil., 650; *People vs. Golman*, 103 Phil., 6; 55 Off. Gaz. 2393; *People vs. Rodillas*, 89 Phil., 99). In the interest thereof it had authority to consider the letter of the accused dated January 14, 1959, as a petition for new trial, with the consequent suspension of the reglementary period to appeal from the original decision or for the same to become final and executory (Rule 118, section 6, Rules of Court; *People vs. Enriquez*, 90 Phil., 423). Moreover, the lower court must have regarded said letter as such petition for new trial, as indicated by the communication of the clerk of court of January 23, 1959—which must have been sent in compliance with instructions of respondent Judge—inviting the attention of former counsel for the accused to the aforementioned letter of January 14, 1959, for such action as may be proper, referring, evidently, to the preparation of the evidence necessary to bear out the allegations of fact made in said letter of the accused.

This conclusion is bolstered up by the circumstance that, when the accused wrote his second letter, dated January 29, 1959—stating that he had a communication of the complainant exonerating him from any liability—respondent Judge deemed it imperative to issue the order of February 6, 1959, providing the accused with a counsel de oficio for such action as may be deemed fit to safeguard the rights of the accused. Eight (8) days having already elapsed since January 28, 1959—when, otherwise, the decision promulgated on January 13, 1959, would have become final and executory—said order of February 6, 1959, shows that respondent Judge had issued the same upon the theory that the period to appeal from the aforementioned decision had been suspended by said letter of January 14, 1959 operating as a petition for a new trial, for, otherwise, it would be useless for counsel de oficio to take the action alluded to in the order. Needless to say, since respondent Judge had ample discretion to amend or modify motu proprio her original decision, before it became final, within the limits fixed by law, she was, likewise, clothed with authority to consider the letter of January 14, 1959, as sufficient cause to clear the way for the eventual

exercise of said discretion, by suspending, before January 28, 1959, the running of the period to appeal. And this, in effect, is what respondent Judge did, with the result that when the order complained of was issued on February 18, 1959, the original decision was not, as yet, final and executory, as stated in said order.

Wherefore, the writ prayed for is hereby denied, and the petition herein dismissed, without special pronouncement as to costs. It is so ordered.

Paras, C. J., Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, and Gutierrez David, JJ., concur.
Bengzon, J., took no part.

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