

BALTAZAR RAGPALA, ET AL., PETITIONERS AND APPELLEES, VS. JUSTICE OF THE PEACE OF TUBOD, LANAOS, ET AL., RESPONDENTS AND APPELLANTS.*G.R. No. 15375. August 31, 1960*

Ponente: REYES, J.B.L., J.

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Appeal from the judgment of the Court of First Instance of Lanao in Special Proceedings No. 743, granting the petition for habeas corpus of petitioners, appellees herein.

The facts are undisputed. On June 11, 1955, the provincial fiscal of Lanao filed four informations with the Court of First Instance of said province, against Baltazar Ragpala, Arsenio Lucot, Julio Lucot, Osias Baldoza, Sinforoso Villar, Julius Baldado and Estrella Carausos. Two informations charged the crime of murder in connection with the death of Engracio Angcos and Apolinario Pepito, respectively; a third information was for frustrated murder, wherein one Sulpicio Mahipos was the victim; and a fourth also for frustrated murder, in which Diego Palomares was the offended party. Pursuant to section 2 of Rule 108 of the Rules of Court, the Court issued, on June 22, 1954, orders directing the Justice of the Peace of Dansalan City to conduct a preliminary investigation on the four informations. Complying with these orders, the justice of the peace conducted the first and second stages of the preliminary investigation, after which he issued on July 5, 1955, an order dismissing the criminal cases against the accused and at the same time ordering their immediate release, with the exception of Estrella Carausos who was then still at large. However, the case against the latter was, upon motion of the provincial fiscal, ordered dismissed in an order of the justice of the peace on October 25, 1955.

On October 13, 1955, Atty. Antonio Capilitan, special investigator of the Department of Justice, filed in the Justice of the Peace Court of Tubod, Lanao, six (6) informations, the first for murder for the death of Engracio Angcos; the second for murder for the death of Apolinario Pepito; the third for frustrated murder, wherein the victim was Sulpicio Mahipos; the fourth for frustrated murder, where one Diego Palomares was the victim; the fifth for frustrated murder, wherein the victim was one Constancio Marcos; and the sixth for frustrated murder, in which the victim was Lorenzo Parilla. On their preliminary investigation conducted in the municipality of Baroy by the said justice of the peace of Tubod, Lanao, the accused objected on two grounds: first, that the justice of the peace of Tubod lacked jurisdiction to take cognizance of and conduct preliminary investigation on the charges, which had been already investigated upon the directive of the Court of First Instance of Lanao and dismissed by the justice of the peace of Dansalan City; and second, that since the crimes complained of were supposedly committed in the municipality of Tubod, the preliminary investigation could not be conducted in the municipality of Baroy which is a different municipality. Supplementing said objections, petitioners, on October 15, 1955, filed a motion to quash the informations, which motion was denied by the justice of the peace of Tubod on the 17th day of the same month. On the same day, finding that there were crimes committed and that there was probable cause that defendants were guilty, the justice of the peace of Tubod issued warrants of arrest on each of said petitioners, who were thereby detained in the municipal jail of Tubod.

As a consequence, petitioners filed the present petition for habeas corpus. The provincial fiscal of Lanao filed his answer to the petition, arguing, among other things, that although the informations filed by Atty. Antonio Capilitan of the Department of Justice were based on the same charges alleged in the informations previously filed with the Court of First Instance of Lanao and which informations were dismissed by the justice of the peace of Dansalan City, the new ones were based on additional evidence; and that the municipality of Baroy, Lanao, where the preliminary investigation was conducted, was within the circuit court of the justice of the peace of Tubod, hence, said preliminary investigation was well also within the latter's jurisdiction. The same answer alleged that there was no double jeopardy in the informations filed by the special prosecutor, since the investigation conducted by the justice of the peace of the City of Dansalan was only a preliminary investigation to determine the existence of a probable cause of the crime and no trial on the merits was had.

After hearing the arguments of respective counsel, the court a quo rendered a decision granting the petition for habeas corpus of the petitioners and ordering their immediate release, with the exception of Estrella Carausos, who, as found by the court, had primarily been investigated on the cases filed against her by the provincial fiscal. From the judgment, this appeal was taken.

Appellants urge that the justice of the peace of Tubod has authority to conduct a second preliminary investigation on the same charges that were the subject-matter of a first preliminary investigation conducted previously by the justice of the peace of Dansalan City upon directive of the Court of First Instance of Lanao, which dismissed the informations for lack of probable cause; that the preliminary investigation may be conducted in the municipality of Baroy, which was within the circuit court of the justice of the peace of Tubod; and, lastly, that habeas corpus is not the proper remedy in the case at bar.

As to the first point, appellants correctly point out that under section 2 of Rule 108 of the Rules of Court, the Justice of the Peace Court of Tubod (the municipality where the alleged crimes took place) is not precluded from proceeding with the preliminary investigation on the charges filed by the special prosecutor of the Department of Justice. The aforesaid section states:

"Sec. 2. Officers authorized to conduct preliminary investigation.—Every justice of the peace, municipal judge or city fiscal shall have jurisdiction to conduct preliminary investigation of all offenses alleged to have been committed within his municipality or city, cognizable by the Court of First Instance.

The Justice of the peace of the provincial capital of the municipality in which the provincial jail is located, when directed by an order of the Court of First Instance, shall have jurisdiction to conduct such preliminary investigation of any offense committed anywhere within his province at the expense of the municipality wherein the same was committed." (*Italics supplied*)

As it may be noted, nowhere in the above provision does it appear that once a court takes cognizance of a case for purposes of preliminary investigation, it necessarily acquires thereby the exclusive authority to conduct all subsequent investigations. A subsequent preliminary investigation is not a continuation of the preceding one, but is and must proceed as an entirely distinct and separate proceeding by itself. The objection of appellees that such a rule would, in effect, make the justice of the peace court, in certain instances, some kind of an appellate court "over and above the Court of First Instance" does not hold true where, as in this case, the new informations were based upon new or additional evidence.

The case of *United States vs. Marfori*, 35 Phil., 666, is not authority to the contrary. The Court suggested in that case that if the prosecuting officer was not satisfied with the quashing of the case by the justice of the peace, he could secure the arrest of the accused upon a second preliminary investigation conducted "before either the justice of the peace who held the first investigation or before the judge of the Court of First Instance in the exercise of his

functions as a committing magistrate." This language assumes that the crime charged was committed within the municipality of the justice of the peace who conducted the first investigation; otherwise, the justice of the peace would not have had jurisdiction over the case in the first place. In the case now before us, the Dansalan Justice of the Peace conducted the first investigation not because the crime was committed within its territorial jurisdiction but by delegation and direction of the Court of First Instance. Hence, the Marfori doctrine does not apply.

The court a quo nonetheless validly granted the petition for habeas corpus on the second ground, i.e., that the justice of the peace of Tubod (the municipality where the crimes charged were allegedly committed) erred in conducting, over the objections of accused, the preliminary investigation in the adjacent municipality of Baroy, where he was then also concurrent justice of the peace. The fact that the same officer discharge the duties of the justice of the peace in both municipalities did not merge the two offices into one single court with expanded territorial jurisdiction. Our attention has not been called to any executive order or circular or other executive disposition under which the jurisdiction of the justice of the peace of Tubod has been extended over both the municipalities of Tubod and Baroy (cf. Judiciary Act, section 68, paragraph 2). So that when the justice of the peace of Tubod proceeded with the investigation in Baroy, he did so without authority of law, since the alleged crimes were not committed therein.

Venue in criminal cases being jurisdictional, and considering that the preliminary investigation, which is the basis of the petitioners' detention, was invalidly conducted, the remedy by writ of habeas corpus was not improper; and on the basis of the above findings, the lower court did not err in granting the petition.

Wherefore, the decision appealed from is hereby affirmed. Costs de oficio.

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

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