

JOSE ARIVE SR., Y TORRE, PETITIONER AND APPELLANT, VS. THE HONORABLE VICENTE S. TUASON, IN HIS CAPACITY AS PRESIDING JUDGE OF THE MUNICIPAL COURT OF NAGA CITY, BR. I, RESPONDENT...

G.R. No. 16152. March 31, 1964

Ponente: DIZON, J.

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DIZON, J.:

On September 29, 1958, the Chief of Police of Naga City sent a letter to the City Attorney charging Jose Arive, Sr. with frustrated murder. Thereupon the City Attorney questioned the witnesses named in the letter aforesaid, and, having found that there was a prima facie case against Arive, filed the corresponding information with the Municipal Court of Naga, for preliminary investigation purposes (Criminal Case No. 8463). After conducting the first stage of the preliminary investigation and upon finding that the accused was probably guilty of the offense charged said Court issued the necessary warrant for Arive's arrest. The latter was thereafter arrested but immediately filed a bond for his provisional release.

On the date set for the second stage of the preliminary investigation, Arive appeared and entered a plea of not guilty but, instead of presenting exculpatory evidence or waiving the preliminary investigation, he filed a motion to have the case remanded to the Office of the City Attorney, claiming that it was the City Attorney of Naga and not the Municipal Court of said City who had jurisdiction to hold the preliminary investigation. The said Municipal Court denied the motion. As a result, Arive filed the present petition for certiorari, with a petition for the issuance of a writ of preliminary injunction, with the Court of First Instance of Camarines Sur, to annul the aforementioned order and to have the case remanded to the Office of the City Attorney of Naga for preliminary investigation. On July 25, 1959, the court rendered the appealed decision dismissing the petition. Hence the present appeal.

The legal issue posed by appellant is whether it is the City Attorney of Naga or the Municipal Court of said city who has jurisdiction to conduct preliminary investigation of criminal offenses committed within the territorial jurisdiction of said city and cognizable by the Court of First Instance of Camarines Sur. It is his contention that it is the former official, while appellee maintains that it is the second.

Section 24, paragraph F of the Charter of the City of Naga (Republic Act No. 305) provides the following in relation to the powers and duties of the City Attorney:

(f) He shall investigate all charges of crimes, misdemeanors, and violations of laws and city ordinances and prepare the necessary informations or make the necessary complaints against the person accused. He may conduct such investigations by taking oral evidence of reputed witnesses and for this purpose may, by subpoena, summon witnesses to appear and testify under oath before him, and the attendance or evidence of an absent or recalcitrant witness may be enforced by application to the Municipal Court or the Court of First Instance."

On the other hand, Section 77 of the same Act, after providing that the Municipal Court of said City shall have the same jurisdiction in civil and criminal cases and the same incidental powers as at present conferred upon it by law, expressly provides that said Municipal Court "may also conduct preliminary investigation for any offense, without regard to the limits of punishment, and may release, or commit and bind over any person charged with such offense to secure his appearance before the proper court."

Viewing the issue from the angle most favorable to appellant, it appears clear that whatever jurisdiction to conduct preliminary investigation in accordance with the Rules of Court has been granted to the City Attorney of Naga by the charter of said city—which we do not here decide because it is not necessary—such jurisdiction is merely concurrent with that granted expressly by the charter aforesaid to the Municipal Court.

Upon the other hand, it is undeniable that, in accordance with law, the City Attorney may investigate all charges of crimes, misdemeanors and violations of city ordinances committed within the territorial limits of the City of Naga, to determine whether or not a crime has actually been committed and whether or not the person or persons charged are probably guilty thereof, with a view to filing the corresponding information.

The undisputed facts of the present case show that the City Attorney exercised, not his alleged jurisdiction to conduct a preliminary investigation under the Rules of Court, but the authority mentioned in the preceding paragraph, for it is not denied that, after questioning the witnesses cited in the letter-complaint sent to him by the Chief of Police of Naga City, he filed the corresponding information with the Municipal Court for purposes of preliminary investigation. In point of fact, said court started the proceedings and, after the first stage of the preliminary investigation provided by law, issued the corresponding warrant for the arrest of appellant Arive. We find, therefore, no error of jurisdiction in the proceedings.

WHEREFORE, the order appealed from being in accordance with law, the same is hereby affirmed, with costs.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes J.B.L., Paredes, Regala, and Makalintal, JJ., concur.

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