

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. MARTIN ALAGAO, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 20721. April 30, 1966

Ponente: ZALDIVAR. J.

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ZALDIVAR. J.:

This is an appeal by the City Fiscal of Manila from an order of the Court of First Instance of Manila sustaining the motion to quash the information in its Criminal Case No. 66655.

On October 20, 1962 the City Fiscal of Manila filed an information against the defendants-appellees charging them of having committed the complex crime of incriminatory machinations thru unlawful arrest, as follows:

"That on or about the 28th day of February, 1961, in the City of Manila, Philippines, the said accused, being then members of the Manila Police Department, conspiring and confederating together and helping one another, did then and there willfully, unlawfully and feloniously incriminate or impute to one Marcial Apolonio y Santos the commission of the crime of bribery thru unlawful arrest, in the following manner, to wit: the said accused, on the aforesaid date, without reasonable ground therefor and for the purpose of delivering said Marcial Apolonio y Santos to the proper authorities, did then and there willfully, unlawfully and feloniously arrest said Marcial Apolonio y Santos; that after the said Marcial Apolonio y Santos had been arrested in the manner aforestated, and while the latter was supposedly being investigated by the said accused, the said accused did then and there place or commingle a marked P1.00 bill together with the money taken from said Marcial Apolonio y Santos, supposedly given to the latter by one Emerita Calupas de Aresa, so that he (Marcial Apolonio y Santos), then an employee of the Local Civil Registrar's Office of Manila, would appear to have agreed to perform an act not constituting a crime, in connection with the performance of his (Marcial Apolonio y Santos) duties, which was to expedite the issuance of a birth certificate, thereby directly incriminating or imputing to said Marcial Apolonio y Santos the commission of the crime of bribery."

On October 25, 1962 the defendants, thru counsel, moved to quash the information against them on the grounds that (1) the facts charged in the information do not constitute an offense; and (2) the court trying the case has no jurisdiction over the offense charged. Later on, the defendants filed a supplemental motion to quash, alleging that the information charges more than one offense.

The contention of the defense in the motion to quash is that ". . . . the information would seem to indicate that the accused are charged with a complex crime, that is, the accused without reasonable ground arrested Marcial Apolonio y Santos for the purpose of incriminating him by planting on his person a marked P1.00 bill. We have searched the penal laws in vain for a crime such as set out in the information at bar." Then the motion to quash further states: ". . . . there would either be only the singular crimes of incriminatory machinations or unlawful arrest, or perhaps two crimes, incriminatory machinations and unlawful arrest. If such would be the case then this Honorable Court would not have any jurisdiction over any crime or crimes charged. For certainly, incriminatory machinations and unlawful arrest would come within the jurisdiction of the inferior court.

The City Fiscal opposed the motion to quash, contending that "A perusal of the information will readily conclude

that it is a complex crime in the sense that unlawful arrest was used as a means for incriminatory machination." The City Fiscal further contended that the motion to quash raises a question of fact which should be raised during the trial and not during the stage of the proceedings when the allegations in the information should be controlling. The City Fiscal also contended that the crime of unlawful arrest, being punishable by *arresto mayor* and a fine of not exceeding P500.00, the same falls within the jurisdiction of the Court of First Instance.

On November 9, 1962, the Court of First Instance of Manila issued an order sustaining the motion to quash, the pertinent portion of which order reads as follows:

"A careful perusal of the information quoted above shows clearly that it is defective. Assuming the truth of the allegations of the information, the Court is of the opinion that there is no complex crime involved. The alleged unlawful arrest committed by the defendants cannot be said to have been used as a necessary means to commit the crime of incriminatory machination. The latter crime could be committed without the unlawful arrest. The acts constituting the two offenses—unlawful arrest and incriminatory machination—are two separate and independent acts that preclude the concept of a complex offense. The alleged planting of evidence took place while the victim was already under investigation, long after the consummation of the alleged unlawful arrest.

"It is true that under an information charging a complex crime the Court may convict the defendant of two component crimes, if the evidence of record does not establish the complexity of the crime. This cannot be done, however, in the case at bar for the simple reason that one of the component offenses of the alleged complex crime, that is,—incriminatory machination,—does not fall within the concurrent, much less original exclusive jurisdiction of the Court of First Instance.

"Consequently, the motion to quash is granted and the case is hereby dismissed, without prejudice for the prosecution to file the proper informations against the defendants in the proper court.";

The City Fiscal of Manila, on November 28, 1962, filed a motion for reconsideration of the foregoing order, but on December 19, 1962 the Court of First Instance of Manila denied the motion for reconsideration. Hence this appeal of the City Fiscal of Manila to this Court.

In the present appeal, the main question to be resolved is whether the information filed in the court below alleges the complex crime of "incriminatory machinations thru unlawful arrest." It is the view of the court *a quo* that the information alleges the commission of two distinct crimes, one, for unlawful arrest, and, the other, for incriminatory machinations. The lower court discarded the theory of the prosecution that the offense of unlawful arrest was a necessary means to commit the crime of incriminatory machinations, because of the allegation in the information that the accused had first unlawfully arrested the offended party Marcial Apolonio y Santos and after the arrest he was investigated and it was during the investigation that the accused had commingled the marked P1.00 bill among the paper bills that were taken from the possession of the said offended party. The trial court is of the opinion that "the alleged planting of evidence took place while the victim was already under investigation, long after the consummation of the alleged unlawful arrest."^[1]

We cannot sustain the view of the trial court. It is the general rule that in resolving the motion to quash a criminal complaint or information the facts alleged in the complaint or information should be taken as they are. The exceptions to this general rule are those cases where the Rules of Court expressly permit the investigation of facts alleged in the motion to quash.^[2] The grounds, or facts, relied upon in the motion to quash in the present case, are not included in the exceptions we have adverted to. We find that the information in the present case specifically alleges that the accused did "willfully, unlawfully and feloniously incriminate and impute to one Marcial Apolonio y Santos the commission of the crime of bribery thru unlawful arrest. . . ."^[3] The information further alleges that ". . . . the said accused . . . without reasonable ground therefor and for the purpose of delivering said Marcial Apolonio y Santos to the proper authorities did there and then willfully, unlawfully and feloniously arrest

said Marcial Apolonio y Santos; that after the said Marcial Apolonio y Santos had been arrested in the manner aforesaid, and while the latter was supposedly being investigated by the said accused, the said accused did then and there place or commingle a marked P1.00 bill together with the money taken from the said Marcial Apolonio y Santos" It is very apparent that by the use of the phrase "thru unlawful arrest" in the information an idea is conveyed that the unlawful arrest was resorted to as a necessary means to plant evidence in the person of the offended party, thereby incriminating him. From a reading of the information we find a close connection between the act of the accused in first unlawfully arresting the offended party and then investigating him; and it was during that investigation that they planted incriminatory evidence against him. We agree with the Solicitor General in his contention that the accused first had to resort to unlawful arrest in order to be able to plant the P1.00 bill among the money taken from the offended party. We find merit in the following argument, as stated in the brief of the Solicitor General.

"Under the circumstances of the case, the accused had to arrest Marcial because it was the only way that they could with facility detain him and, more importantly, search his person or effects and, in the process, commingle therewith the marked one peso bill. It should be observed that without detaining, investigating and searching Marcial it would have been impossible, if not difficult, for the accused to plant the marked one peso bill, because then they could not have simply held Marcial and placed the marked one peso bill in his pocket, without the latter vigorously protesting the act. Besides, if the accused simply held Marcial and planted in his pockets the marked one peso bill without arresting him, they could not have possibly accomplished their purpose, because Marcial would have surely and easily discovered what they were up to. Indeed, the accused had to arrest Marcial, even in the absence of a valid reason, so that under the semblance of a police investigation, they could get whatever money was inside his pockets and include in it the marked one peso bill. In short, the accused had to arrest Marcial so that he could be detained and pretending to investigate him, search his person and thereby have the opportunity of planting the marked one peso bill among his belongings."

In declaring that the Information did not allege a complex crime the trial court expressed the view that the alleged planting of evidence took place while the victim was already under investigation, "long after the consummation of the alleged unlawful arrest." This observation of the trial court does not find support in the allegations contained in the information in question. The statement in the information that the offended party was investigated "after" the unlawful arrest does not necessarily convey the idea that the investigation took place "long after" the arrest had been effected. It should be a matter of evidence first, before any conclusion is arrived at: that the investigation, during which the incriminating evidence was planted, had taken place immediately after the arrest or long after the arrest. The allegation in the information that the accused committed the complex crime of incriminatory machinations thru unlawful arrest, and also the allegation that the act of planting the incriminatory evidence took place during the supposed investigation after the unlawful arrest, are basis for the logical assumption, in the absence of evidence, that the two acts imputed to the accused—that of unlawfully arresting and that of planting incriminatory evidence—had closely followed each other, and that the former was a necessary means to commit the latter.

For a criminal complaint or information to charge the commission of a complex crime, the allegations contained therein do not necessarily have to charge a complex crime as defined by law. It is sufficient that the information contains allegations which state that one offense was a necessary means to commit the other.[4] On this particular point, this Court has ruled, as follows:

"In order to determine whether two offenses constitute a complex crime, we should not find out whether, in accordance with their definition by law, one of them is an essential element of the other, such as physical injuries which cause the death of the victim, or stealing of personal property without the consent of the owner through force or violence, for in such cases there would be only one single offense of homicide in the first and

robbery in the second case. But we should take into consideration the facts alleged in a complaint or information and determine whether one of the two separate and different offenses charged therein was committed as a necessary means to commit the other offense; if it were, the two offenses constitute one complex crime; otherwise the complaint or information charges two crimes or offenses independent from one another." (Parulan vs. Rodas and Reyes, 78 Phil. 855, 856)

We, therefore, hold that the information in question in the present case contains allegations properly charging the commission of the complex crime of incriminatory machinations thru unlawful arrest, and the court a quo committed error when it ordered its dismissal.

We likewise hold that the court a quo has jurisdiction to try the accused of the offense charged in the information. The crime of unlawful arrest is punishable with arresto mayor or imprisonment of from one month and one day to six months, and a fine not exceeding P500.00;^[5] and the crime of incriminatory machinations is punishable with arresto mayor, or imprisonment of from one month and one day to six months.^[6] Under Article 48 of the Revised Penal Code, in complex crimes, the penalty for the most serious offense shall be imposed, the same to be applied in its maximum period. And so, in the present case, in the event of conviction, the penalty for the crime of unlawful arrest should be imposed in its maximum period.^[7]

In view of the foregoing, the order appealed from is reversed and set aside, and this case is remanded to the court of origin for further proceedings. No costs. So ordered.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Dizon, Regala, Makalintal, Bengzon, J.P., and Sanchez, JJ., concur.

[1] Italics supplied.

[2] Rule 117, Sec. 2, pars. (f) and (h); and Secs. 4 and 5; *People vs. Cadabis*, 97 Phil., 829.

[3] Italics supplied.

[4] Article 48, Revised Penal Code.

[5] Article 269, Revised Penal Code.

[6] Article 363, Revised Penal Code.

[7] *U.S. vs. Mallari*, 24 Phil. 366, 368; *People vs. Cuello*, 111 Phil. 410.

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