

**ERNESTO DEL ROSARIO, CELSO CABRERA, MATIAS L. MARBELLA,
PEDRO AMAGUIN, AND SANTIAGO PANGAN, PETITIONERS, VS. THE
HON. JACINTO CALLANTA, PRESIDING JUDGE, COURT OF FIRST
INSTANCE ...**

G.R. No. 23986. December 26, 1967

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

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

Petition for certiorari to annul the orders of the Court of First Instance of Ilocos Norte (in Crim. Case No. 4410-III) dated October 26, 1964 and December 16, 1964, respectively, allegedly issued without jurisdiction or in grave abuse of discretion.

From the extant records of this case, it appears that on September 1, 1962, Glicerio N. Parado filed a complaint before the Justice of the Peace Court of Dingras, Ilocos Norte, accusing Ernesto del Rosario, Celso G. Cabrera, Pedro Amaguin, Matias L. Marbella and Santiago S. Pangan[1] of libel, in connection with the publication in the August 29, 1962 issue of the Manila Chronicle of a news item with the heading, "8 in Ilocos Robbery Held", wherein it was reported that among those picked up for questioning was Glicerio Parado. The news item, which quoted a certain Lt. Fulgencio Albano of the Criminal Investigation Section of the 1st PC Zone as saying that Parado was suspected of having headed the group that staged the robbery, was alleged to have exposed complainant, who is a lawyer, to public ridicule and contempt, dishonor and shame and caused him damage in the amount of P50,000.00.

The corresponding warrants for the arrest of the accused were issued, and the latter posted bail bonds for their provisional liberty.

On March 10, 1962, the Provincial Fiscal filed in the Court of First Instance of Ilocos Norte (Crim. Case No. 4410) the necessary information, in part reading, thus:

"That on or about August 29, 1962, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, Ernesto del Rosario, as Editor-in-Chief, Celso G. Cabrera as Managing Editor, Matias L. Marbella as News Editor, and Santiago S. Pangan as Associate News Editor, respectively, of the Manila Chronicle, a metropolitan newspaper of public and general circulation with John Doe as Publisher of said news-paper and others whose names and whereabouts have not as yet been established, conspiring, confederating and mutually helping one another, and with malice and evident intent to besmirch and impeach the good name, virtue and reputation of one Glicerio Parado, a lawyer of credit and good standing, wilfully, unlaw-fully and feloniously wrote, printed and published through the said newspaper an abusive and defamatory article against said offended party, which partially in words and phrases are as follows:

(The news item about a robbery-hold up in barrio Luncag, Dingras, locos Norte and mentioning Parado as suspected leader of the group that perpetrated the robbery, was quoted.)."

The arraignment of the accused was postponed several times (April 20, 1964, June 10, 1964, August 26, 1964 and

September 29, 1964) apparently in view of the representations of their counsel that a request for reinvestigation was pending before the Provincial Fiscal. When the aforesaid request was denied (copy of which was received by counsel for the accused on September 24, 1964), the accused filed with the court a motion to dismiss the case, dated October 2, 1964, alleging lack of jurisdiction and prescription. It was claimed that there was nothing in the information to indicate that the Court of First Instance of Ilocos Norte had jurisdiction over the case; on the contrary, it was therein stated that the news report was written, printed and published in the City of Manila; and arguing that since the court did not acquire jurisdiction over the case, the running of the prescriptive period was never interrupted, the accused concluded that the 2-year prescriptive period within which to bring the action (computed from the publication of the news report on August 29, 1962) had already expired.

The Provincial Fiscal opposed the motion, reasoning that if there was any defect in the information at all, it was only the absence of allegation that the offended party was residing in Ilocos Norte, which defect is correctible by amendment or by evidence during the trial. When an amended information, containing an allegation that the offended party was a resident of Dingras, Ilocos Norte, was filed on October 26, 1964, the court denied the motion to dismiss and scheduled the arraignment for December 16, 1964. Failing to secure a reconsideration of the aforesaid order, the accused instituted the present proceeding.

The parties are agreed that the original information contained no allegation of the residence either of the offended party or any of the accused. Although admittedly the mission was supplied with the amendment of the information, petitioners contend that by that time (October 26, 1964), the period for bringing the action has already elapsed. Furthermore, obviously apprised of the ruling of this Court that it is the filing of the complaint in the Municipal Court, not of the information in the Court of First Instance, that interrupts the running of the period of prescription of criminal responsibility,[2] petitioners now contest the sufficiency of the complaint filed by the complainant in the Justice of the Peace Court of Dingras, Ilocos Norte, claiming that it failed to confer authority on the latter court to conduct the necessary preliminary investigation.

Under the Rules, a complaint or information is sufficient if it can be understood from the recital thereof that the offense was committed within the jurisdiction of the court, "unless the particular place wherein it was committed constitutes an essential element of the offense." [3] Even assuming for the sake of argument that in libel, the place of commission of the offense is an essential element of the crime, the disputed orders of the court below must still be sustained.

It is true that the complaint contained no specific averment that either the complainant or any of the accused is a resident of Ilocos Norte, or that there was publication of the alleged libelous news item in that province. However, attached to the complaint was an affidavit of the complainant, executed and sworn to before the Justice of the Peace of Dingras on the same date the complaint was filed, stating that he is a resident of Dingras, Ilocos Norte, and that the news item was read by a certain Councilor Napoleon Foz in the afternoon of August 29, 1962 in the presence of many other residents of that municipality. The latter statement is an allegation that publication of the supposed defamatory news report also took place in the locality. These facts, which came to the knowledge of the Justice of the Peace who conducted the preliminary investigation and which formed part of the records of the case, if not of the complaint itself, cannot be disregarded. Thus, in one case, wherein practically the same question was raised, this Court ruled in this wise:

"x x x Prima facie, the 'facts charged' are those described in the complaint, but they may be amplified or qualified by others appearing to be additional circumstances, upon admissions made by the people, which admissions could anyway be submitted by him as amendments to the same information. It would seem to be pure technicality to hold that in the consideration of the motion (to dismiss) the parties and the judge were precluded from considering facts which the fiscal admitted to be true, simply because they were not described

in the complaint." (People v. Navarro et al., 75 Phil. 516, 518, 519; underscoring supplied.)

For the foregoing considerations, the petition is hereby dismissed, with costs against the petitioners. The preliminary injunction heretofore issued is hereby dissolved.

SO ORDERED.

Concepcion, C.J., Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Ruiz Castro, Angeles and Fernando, JJ., concur.

[1] As Editor-in-Chief, Managing Editor, Associate Editor, News Editor and Associate News Editor, respectively, of the Manila Chronicle.

[2] People vs. Olarte, G.R. No. L-22465, Feb. 28, 1967, and cases cited therein, discussing previous adjudications and expressly overruling Peo. vs. Del Rosario, L-15140, Dec. 29, 1960 as well as People vs. Coquia, L-15456, June 29, 1963.

[3] Sec. 9, old Rule 106, now Sec. 9 of Revised Rule 110.

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