

**ANDRES CULANAG, PETITIONER AND APPELLANT, VS. DIRECTOR OF PRISONS, RESPONDENT AND APPELLEE.***G. R. No. 25419. June 21, 1966*

Ponente: ZALDIVAR. J.

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This is an appeal from the order of the Court of First Instance of Rizal, in its Special Proceeding No. 5099, dismissing appellant's petition for a writ of habeas corpus.

The records show that in an information dated November 6, 1961, docketed with the Court of First Instance of Lanao del Norte as Criminal Case No. 671, the petitioner-appellant, Andres Culanag, was accused of the crime of falsification of public document. The information alleged that on or about June 19, 1960, in Iligan City, said appellant claiming to be one Ross V. Pangilinan subscribed and swore to before a notary public a petition for commission as notary public for and in the City and Province of Cotabato stating, among others, that he was a graduate of the College of Law of the University of Visayas, had passed the bar examinations and was admitted to the practice of law, which statements were all false and untrue. On the basis of said information, after due trial, the Court of First Instance of Lanao del Norte, on December 16, 1961, declared him guilty of the offense charged and sentenced him to an indeterminate imprisonment of from four months and one day to two years, four months and one day, and to pay a fine of P1,000.00. The appellant was committed to the new Bilibid Prison at Muntinlupa, Biral, to serve the sentence imposed on him. On July 9, 1962 the appellant was discharged from the insular penitentiary on parole, subject to certain conditions, among which are that he should reside at Iligan City and not change his residence without the consent by the Board of Pardons and Parole, that he should not commit any crime, etc., and should he violate any of the conditions the remaining unexpired portion of the maximum sentence imposed on him would again be in full force and effect.

On March 31, 1964, the appellant was accused by the Provincial Fiscal of Occidental Mindoro of the crime of falsification of public documents before the Municipal Court of Mamburao, the provincial capital of Occidental Mindoro, docketed in said court as Criminal Case No. 790. The information in this case alleged that on June 1, 1963 said appellant claiming to be one Ross V. Pangilinan filed with the Cleric of Court of First Instance of Occidental Mindoro a sworn petition for commission as Notary Public for and in the province of Occidental Mindoro, stating in his petition, among others, that he is a graduate of the College of Law of the University of Visayas, had passed the bar examinations and had been in the practice of law, all of which statements were false. Likewise, on April 3, 1964 the Provincial Fiscal of Occidental Mindoro filed an information before the Municipal Court of Mamburao, docketed as Criminal Case No. 789, charging the appellant with the offense of violation of conditional pardon as defined in Article 159 of the Revised Penal Code. The appellant filed a motion to quash the informations in the two criminal cases that were filed against him in the Municipal Court of Mamburao, upon the ground of previous conviction of the same offense (double Jeopardy), claiming that the crime of falsification of public document of which he was being charged in the municipal court of Mamburao is the same offense of which he was charged and convicted in Criminal Case No. 671 in the Court of First Instance of Lanao del Norte, and that

the charge of violation of conditional pardon "is in effect a part and parcel or which includes or is necessarily included in the former offense charged in criminal case No. 671 of the Court of First Instance of Lanao del Norte which convicted the defendant." [1]

The motion to quash was denied by the court. On December 4, 1964, the day set for the trial of the two cases, the appellant, assisted by counsel de. oficio. Atty. Wenceslao M. Adviento, pleaded guilty to the informations in both cases. Forthwith the municipal judge of Kamburao declared the appellant guilty of the crime of falsification of public document in Criminal Case No. 790 and sentenced him to an indeterminate imprisonment of from four months and one day to two years four months and one day and a fine of P500.00 with subsidiary imprisonment in case of insolvency; and in Criminal Case No. 789 the Municipal Judge declared the appellant guilty of the offense of violation of conditional pardon as defined in Article 159 of the Revised Penal Code and sentenced him to an imprisonment of four months, with all the accessory penalties as provided by law. The appellant did not appeal from the decisions of the Municipal Court of Mamburao in these two criminal cases.

Incidentally, on May 18, 1964, the Board of Pardons and Parole issued an order for the arrest of the appellant and for his delivery to the custody of the Director of Prisons in Muntinlupa, Rizal, to serve the remaining unexpired portion of the prison term imposed on him by the Court of First Instance of Lanao del Norte in Criminal Case No. 671, for having violated the conditions of his parole. The appellant was committed to the provincial jail of Occidental Mindoro preparatory to his being sent to the new Bilibid Prison at Muntinlupa, Rizal. In due time the appellant was committed to the new Bilibid prison to serve the penalties imposed on him by the Municipal Court of Mamburao in Criminal Cases Nos. 789 and 790 of said court.

On December 22, 1964, while being confined at the provincial Jail of Occidental Mindoro, and anticipating that he would be sent to the new Bilibid Prison at Muntinlupa, Rizal, the appellant filed a petition for a writ of habeas corpus in the Court of First Instance of Rizal. The petition was docketed as Special Proceeding No. 5099 of said court. In his petition, the appellant alleged that he was illegally detained pursuant to the decision in Criminal Cases Nos. 789 and 790 of the Municipal Court of Mamburao, Occidental Mindoro. The appellant claimed that the decisions in those two cases were contrary to law, null and void, because he was declared guilty of the very same offense of which he had been previously prosecuted and found guilty by the Court of First Instance of Lanao del Norte. The appellant, in his petition, practically repeated the grounds that he alleged in his motion to quash the informations in Criminal cases Nos. 789 and 790 in the Municipal Court of Mamburao, Occidental Mindoro — that is, that he was placed in double jeopardy of being convicted of the same offense. The appellant prayed that the Director of Prisons be ordered to release him.

The Solicitor General, in behalf of the respondent Director of Prisons, opposed the petition, maintaining that the petition did not state a cause of action and the grounds relied upon in the petition are not as provided by law for the issuance of a writ of habeas corpus.

On September 11, 1965, the Court of First Instance of Rizal issued an order dismissing the petition, precisely on the ground that the reasons relied upon by the petitioner in his petition are not those that are considered in a habeas corpus proceedings. From the order of dismissal the appellant has brought the present appeal before this Court.

The appellant appeared before this Court in his own behalf, and by leave of this Court he filed a typewritten brief. The appellant is not a lawyer, and the brief that he filed contains so many arguments that are clearly irrelevant to the question of whether or not he is entitled to the writ of habeas corpus that he prays for.

The principal contention of the appellant in claiming that he is illegally detained is that he is being made to serve the penalty of imprisonment pursuant to two decisions of the Municipal Court of Mamburao, Occidental Mindoro,

which were rendered under circumstances which had placed him in double jeopardy of being convicted of the same offense. This contention of the appellant is patently without merit. In the first place, the issue of double jeopardy was squarely placed by the appellant before the Municipal Court of Mamburao when he filed a motion to quash the information in Criminal Cases Nos. 789 and 790 before said court. His motion to quash was denied, and when the cases were called for trial he pleaded guilty to the charge contained in the information in each of those two cases. Incidentally, when he entered a plea of guilty in those two cases he was assisted by counsel. He did not appeal from the decisions rendered in those two cases. Secondly, the appellant was really never placed in double jeopardy. The offense of falsification of public document of which he was prosecuted in Criminal Case No. 790 in the Municipal Court of Mamburao, Occidental Mindoro is clearly different from the offense of falsification of public document of which he was prosecuted and found guilty in Criminal Case No. 671 in the Court of First Instance of Lanao del Norte. The offense of violation of conditional pardon of which he was prosecuted in Criminal Case No. 789 in the Municipal Court of Mamburao, is definitely different from the offense of falsification of public document of which he was prosecuted and found guilty in Criminal Case No. 671 of the Court of First Instance of Lanao del Norte.

The remedy of the appellant, if he believes that the Municipal Court of Mamburao, Occidental Mindoro, committed error in trying and convicting him in Criminal Cases Nos. 789 and 790 before said court was an appeal from the decisions rendered in those two cases. Whatever error of procedure or of law that was committed by the Municipal Court of Mamburao in those two cases can not be reviewed in a petition for a writ of habeas corpus as sought by the appellant in the present case. The ruling of this Court laid down in the case of Quintos vs. Director of Prisons, 55 Phil. 304, squarely disposes of the issue raised by the appellant in the present case.[2] This Court held:

"The writ of habeas corpus secures to a prisoner the right to have the cause of his detention examined and determined by a court of justice, and to have ascertained if he is held under lawful authority. The function of habeas corpus, where the party who has appealed to its aid is in custody under process, does not extend beyond the inquiry into the jurisdiction of the court by which it was issued and the validity of the process upon its face. It is not a writ of error. This court has held that a commitment in due form, based on a final judgment, convicting and sentencing the defendant in a criminal case, is conclusive evidence of the legality of his detention under such commitment, unless it appears that the court which pronounced the judgment was without jurisdiction or exceeded its jurisdiction in imposing the penalty (Trono Felipe vs. Director of Prisons (1913), 24 Phil. 121). "Former jeopardy is a defense which must be pleaded at the time of the arraignment. The general rule, with certain exceptions, is that the question of a second jeopardy is not reviewable upon a writ of habeas corpus. The reason is that such a defense does not go to the jurisdiction of the trial court but involves simply the judgment of the court which, if wrongfully exercised, is but mere error not reviewable upon habeas corpus (Ex parte Bigelow (1885), 113 U. S., 328; In the Matter of Cardona (1947), 10 Puerto Rico Fed., 40; Bailey on Habeas Corpus. sec. 40)."

The confinement of the appellant in the new Bilibid Prisons at Muntinlupa is in accordance with the final judgments rendered by the Municipal Court of Mamburao, Occidental Mindoro, in Criminal Cases Nos. 789 and 790 before said court. The record shows that the Municipal Court of Mamburao has jurisdiction to try and decide those cases, and the penalties imposed by the court are not excessive, either.

We find that the lower court did not commit any error when it dismissed appellant's petition for a writ of habeas corpus.

IN VIEW OF THE FOREGOING, the order of the lower court appealed from is affirmed. No costs.

**SO ORDERED.**

Concepcion, C. J., Reyes, Barrera, Dizon, Regala, Makalintal, Bengzon, and Sanchez, JJ., concur.

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[1] As quoted from the motion to quash.

[2] See also: *Collins vs. Wolf*, 4 Phil. 534; *Carrington vs. Peterson*, 4 Phil. 134; *Davis vs. Director of Prisons*, 17 Phil. 168; *Domingo and Reyes vs. Director of Prisons*, 77 Phil. 1053; *Talabon vs. Iloilo Provincial Warden*, 78 Phil. 599.

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