

## ROSAIDA QUINTOS, PETITIONER AND APPELLANT, VS. THE DIEECTOR OF PRISONS, RESPONDENT AND APPELLEE.

*G.R. No. 33167. November 18, 1930*

Ponente: MALCOLM, J.

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### MALCOLM, J.:

In the Court of First Instance of Manila, a petition for habeas corpus was filed by the mother of Joseph L. Wilson on behalf of her son. The principal allegation of the petition was that Wilson was illegally confined in prison for three cases arising from the same facts, in violation of the constitutional guaranty "That no person shall be held to answer for a criminal offense without due process of law; and no person for the same offense shall be twice put in jeopardy, \* \* \*." The trial judge declined to grant the writ, and from that decision an appeal has been taken to this court.

Joseph L. Wilson was convicted in the Court of First Instance in four cases. He appealed from the judgments in all four cases to the Supreme Court, and they were there submitted for consideration. The twenty-second assigned error for the appellant advanced the proposition that the facts alleged in the three complaints in three cases did not constitute more than one crime. Before the decisions had been rendered, the appellant fled the jurisdiction of the court. Thereupon, on motion of the Attorney-General, the judgments against Wilson were declared final and his appeal was dismissed. An attempt was made to take the cases to the United States Supreme Court and to obtain a stay of execution of the judgments, but the motion to this effect was unsuccessful. Subsequently, another motion which relied on the point of double jeopardy was denied. Wilson was eventually placed in Bilibid Prison to serve his sentences.

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 an 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* [1917], 10 Porto Rico Fed., 40; 1 *Bailey on Habeas Corpus*, sec. 40).

Applying the foregoing principles to the facts, the entire lack of merit in appellant's contention is plainly apparent. Judgments of conviction were properly handed down after a trial in accordance with the law. That appeals from

those judgments did not gain the attention of the appellate court was the fault of the appellant and not of the court. The trial court had jurisdiction of the offenses described in the informations and it had jurisdiction to hear and decide upon the defenses offered by the accused. The question now submitted is one of those defenses. The petition savors of an attempt to secure in an indirect manner a ruling from the appellate court on a question which, on account of the dismissal of the appeal, was not passed upon. That cannot be permitted.

Resolving the various errors assigned against the appellant, the judgment of the trial court will be affirmed, with the costs of this instance against the appellant.

Avanceña, C. J., Johnson, Street, Villamor, Ostrand, Johns, Romualdez and Villa-Real, JJ., concur.

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