

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. A. W. PRAUTCH, DEFENDANT AND APPELLANT.

G.R. No. 3357. March 25, 1908

Ponente: MAPA, J.

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MAPA, J.:

Proceedings for libel were instituted upon the following-complaint :

"That the said accused, with malicious intent and purpose, in order to discredit the dignity of Oapt. Robert Page, of the Constabulary, and chief inspector of the Province of Oriental Negros, caused a letter written in both English and Spanish, with the heading of 'The situation in Oriental Negros,' written since the 3d of January of the present year, to be inserted in No. 1074 of the newspaper El Tiempo, published in Iloilo, Panay, P. I., on the 13th of January, 1903 (should be 1905), containing the following paragraphs:

" '1. Complaints are on file with the provincial governor of the methods employed by Captain Page, of the Constabulary, to openly oppose the religious liberty of the people.

" '2. Captain Page is charged with taking the president of Amblang by the scruff of the neck and forcing him to kneel down to Bishop Rooker, although the man protested that he was an Aglipayano.

" '3. Captain Page accompanied Bishop Rooker with twenty-five Constabulary soldiers; he forbade their going near the Aglipay Bishop, but ordered them to go and salute Bishop Rooker.

" '4. I learned from other sources that one of these petitions refers to Captain Page putting his revolver to a man's head in Bais and through fear trying to get him to denounce the wealthy Sr. Villanueva, an Aglipayano, as plotting insurrection.

" '5. Ten of the leading persons here told me that they heard Captain Page publicly boast that Bishop Rooker would get him promoted for what he was doing, as he (Rooker) had great influence and could get what he requested or demanded.

" '6. Captain Page refused to allow the Constabulary soldiers to even go and see the parade, saying he did not know that it was a holiday.' "

The court below found the accused guilty of the crime of libel, defined and punished by Act No. 277 of the Philippine Commission, and imposed on him a fine of ₱500, and the costs of the proceedings. Said sentence rested on the ground that the facts imputed to Captain Page are false, and that the publication thereof was made without justifiable reasons.

The injurious nature of the publication appears by a simple perusal of the same. Some of the facts therein imputed to Captain Page, for instance, such as are contained in paragraphs 2 and 4, transcribed in the complaint, if true, would constitute actual crimes, punishable under the Penal Code. The defense itself does not discuss this point, but rather takes it for granted in the brief filed with this court.

Neither does the defense discuss the falsity of the imputations, or at least of some of them. The accused himself,

when testifying at the trial, distinctly acknowledged that the second imputation, that Captain Page had forcibly compelled the president of Amblang to salute and kneel down to Bishop Rooker, was false. In the brief the defense says:

"If by the evidence adduced he (the accused) has not succeeded in showing the rigorous truth of the allegations, but only a part of them, he has, however, sufficiently shown the existence of justifiable reasons."

This last statement and the absence of malice in the publication constitute in sum the exculpations alleged and maintained in the brief of the accused.

As to malice, it is a thing which the law presumes to exist in injurious publications. Section 3 of Act No. 277 provides that—

"An injurious publication is presumed to have been malicious if no justifiable motive for making it is shown."

In the absence of such proof, the legal presumption of malice must stand. In order to establish absence of malice as a fact, it previously becomes necessary to prove that justifiable motives existed for the publication. The proposition can not be inverted. Therefore, the argument of the accused in his brief, that, it being proved that no malice existed, the existence of justifiable motives is necessarily proven, is untenable. This would amount to supposing that the legal presumption of malice could be destroyed otherwise than by proving the existence of justifiable motives, which is manifestly contrary to the clear and express provision of the law. Consequently, the whole of this question is reduced to whether or not there were justifiable motives for the publication.

With regard to this point the accused states as follows in his declaration:

"The only intention I had (in publishing the letter in *El Tiempo*) was to promote the separation of the church and the state; it will be observed in my article that I have omitted every allusion to any other act by Captain Page, only touching the religious persecution, in the separation of the church and the state."

And further on he adds that the object of the publication was to call the attention of the Governor-General and other citizens to the religious abuses.

In the first place, it is not true that the letter in question refers solely to the so-called religious abuses supposed to have been committed by Captain Page. Thus, for instance, the fact stated in paragraph 6 of the complaint, that Captain Page did not permit the Constabulary soldiers to go and see the parade on Rizal Bay, telling them that he did not acknowledge said day as a holiday, has nothing to do with the religious question, nor with the separation of the church and the state.

In the second place, the desire to promote the separation of the church and the state, supposing that such was the only motive that led the accused to publish the letter in question, does not per se constitute a motive sufficiently justifiable for the publication. The goodness of the intention is not always sufficient by itself to justify the publication of an injurious fact; thus the goodness of the end is not a sufficient motive to warrant the employment of illicit means to obtain it. The existence of justifiable motives is a question which has to be decided by taking into consideration not only the intention of the author of the publication but all the other circumstances of each particular case.

A careful examination of the cause shows that the accused did not have the slightest reason for publishing several of the facts imputed to Captain Page. To begin with, there is not the least evidence that the latter performed the acts which the accused attributes to him in paragraphs 5 and 6 transcribed in the complaint; neither does he prove, and this is of great importance, that some one had informed him that these deeds were executed by Captain Page. It can not therefore be understood what grounds the accused had for imputing such acts to Captain Page, and

much less for making the allegations publicly.

The same may be said of the fact stated in paragraph 2 of the complaint. In the original of this paragraph, in the English text, the force and violence said to have been exercised by Captain Page on the person of the president of Amblang is illustrated by the statement that he caught the latter by the scruff of the neck and compelled him to kneel down to Bishop Rooker. Exhibit A of the defense, which is a certified copy of the record written and subscribed by several municipal presidents of the Province of Oriental Negros, regarding certain petitions that they had resolved to submit to the Governor-General, which record has apparently served the accused as the source of information in connection with this fact, contains only the following:

"When Mgr. Rooker passed through Amblang, Captain Page made use of his moral force to compel the municipal president to go and salute the Roman Bishop, in order that said bishop might thus gain influence with the re-sidents, on seeing that he was saluted by their president."

The president of Amblang himself does not say other than that Captain Page invited him to salute Bishop Rooker at the convent, using the following words: "Come on, president; if you don't care to go, suit yourself." Nothing in this justifies the charge that Captain Page compelled the president of Amblang by means of force and catching him by the scruff of the neck to salute Bishop Rooker, and to kneel down to him; and much less, as a consequence, the publication of such an imputation.

Nor had anyone informed the accused that Captain Page had threatened a person in Bais with a revolver, in order to compel him to denounce the wealthy landowner Sr. Villanueva as an Aglipayano and promoter of a revolutionary movement, as stated in paragraph 4 of the complaint. What appears from Exhibit B and from the testimony of the witnesses of the defense is that Captain Page threatened and maltreated with a revolver a certain Fernando Alcasa, a man supposedly guilty of breaking into the house of a certain Montenegro, to make him declare that he had been induced thereto by the Villanuevas. As it may easily be observed, this has nothing to do with compelling him to denounce Villanueva as an Aglipayano and promoter of a revolutionary movement. There is here at least an evident misstatement of the facts, made probably with the intention of connecting them in some way with the religious question with which the accused pretends to shield himself.

The least that can be said of this is that which is staged in the judgment appealed from, namely:

"That the degree of care which he employed to investigate the truth of the complaints so injurious to another person, such as these complaints might be to Captain Page, was not sufficient to warrant their publication in the manner in which he did it."

The judgment appealed from is hereby affirmed, with the costs of this instance against the accused. So ordered.

Willard and Tracey, JJ., concur.

Carson, J., concurs in the result

Arellano, C. J., and Johnson, J., dissent.

TORRES, J., dissenting:

I think the accused should be acquitted, and therefore I dissent from the majority opinion.

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