

**LUIS QUIANZON, PETITIONER, VS. PROVINCIAL FISCAL OF ILOCOS NORTE ET AL., RESPONDENTS.***G.R. No. 40292. October 18, 1933*

Ponente: STREET, J.

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This is an original petition for writs of prohibition (inhibition) and mandamus filed by Luis Quianzon against the provincial fiscal of Ilocos Norte, the justice of the peace of Currimao, and others. The cause is now heard upon the answers of the various defendants.

It appears that in the port of Currimao there has been formed an association consisting of twelve groups of laborers, to which association is confided the business of transferring freight and passengers to and fro between the shore and ships touching at the port. The association has a president, vice-president, secretary, and board of directors. The charges for transportation are collected by designated collectors and the proceeds kept by the cashier-treasurer. The collectors and the cashier-treasurer discharge their duties without bond. The money collected, after deduction of expenses, is supposed to be divided into two parts, one for the laborers, the other for the owners of the boats used in the work of transfer. The share of each boat is determined by the number of trips made and the length of time consumed in the service. The portion of the laborers is divided among the twelve groups, and the share of each group is placed in the hands of its boss (cabecilla) for distribution to the laborers according to the service rendered by each. Some of the laborers, in view of offices discharged by them in the association, receive an additional share.

One Roque Ponce has for some time been discharging the duties of the office of temporary cashier-treasurer and Tomas Quianzon those of bookkeeper. In July, 1933, the board of directors adopted a resolution appointing one Domingo Albino as permanent cashier-treasurer. Ponce questioned the validity of this appointment and refused to make voluntary surrender of the books and documents in his possession. In due time there followed a split in the membership of the association. Charges of malversation were made against Ponce, and while the provincial fiscal and his deputy were working into the situation trying to discover the facts as to this charge, Ponce made counter-charges against his predecessor and other officials in the association. If the insinuations and charges of malversation are true, many thousands of pesos are involved. Both sides have made charges. The case with which we are here more immediately concerned has relation to the charges made by the Ponce faction, evidently as a counter-maneuver to the charges against that dignitary.

In this connection it appears that on August 9, 1933, Luis Quianzon presented a written accusation (denuncia) before the justice of the peace of Currimao accusing Dionisio Quinto and others of the offense of estafa. The list of the accused in this accusation contains the names of scores of persons. The justice of the peace entered upon the investigation, as preliminary to the arrest of the accused, and about the time he was ready to take action, the deputy provincial fiscal, who was then investigating the charges against Ponce, appeared before the justice and objected to the contemplated action upon the accusation laid before him by Luis Quianzon, with the result that the justice of the peace abstained from issuing the warrants of arrest.

The purpose of the present proceeding, therefore, is to prohibit the fiscal from meddling in the action which the justice of the peace ought, supposedly, to take upon the accusation referred to, and to compel the justice of the peace to issue warrants of arrest against the individuals denounced by Quianzon, as already stated.

We are of the opinion that the mandamus sought against the justice of the peace of Currimao should not be granted. The writ of mandamus is only available where there is a clear legal duty, unqualified by the exercise of official discretion. But in this matter the justice of the peace is not subject to the absolute duty of issuing the desired warrants. He has a discretionary power; and while in the exercise of his duties he is subject to the administrative supervision of the Judge of First Instance (Adm. Code, sec. 228), he is not subject to mandamus from this court. Nor is the writ of prohibition against the provincial fiscal appropriate in this case. It may be that the views of that official with respect to his functions in cases of this sort may be incorrect in point of law. But his participation in this, matter does not appear to us to have been officious or unjustifiable. The case against the other respondents necessarily fails with the collapse of the case against the justice of the peace and the fiscal.

The petition is denied, with costs against the petitioner. So ordered.

Avanceña, C. J., Abad Santos, Vickers, and Butte, JJ., concur.

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