

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. BRAULIO RAAGAS, DEFENDANT AND APPELLEE.

G.R. No. 45414. June 13, 1938

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

In the Court of First Instance of Leyte the provincial fiscal filed an information against the defendant charging the latter with the commission of the offense of oral defamation. It was alleged in said information:

"That on or about August 20, 1936, in the municipality of Tacloban, Province of Leyte, Philippine Islands, the above-named accused, while testifying as one of the witnesses whose depositions were taken before the justice of the peace of Tacloban, Leyte, in connection with an application for a certificate of public convenience before the Public Service Commission, did, then and there, willfully, and unlawfully and feloniously, slander, calumniate and defame Federico V. Larraga by publicly and maliciously imputing to said Federico V. Larraga acts that caused the accused to be separated from the services of the Leyte Land Transportation Co., and later on from the Gran Capitan Bazar due solely to the refusal of the accused to contribute one peso to help defray the expenses of an orchestra hired to welcome the daughter of said Federico V. Larraga who was declared and elected Miss 'Philippines Free Press', by declaring, under oath, among other things, thus:

" 'I remember that when Mr. Larraga's daughter was made a candidate for "Miss Philippines Free Press", a third person named Jose Enteroso was employed to collect from us one peso (P1) to be paid to an orchestra which was to welcome Miss Larraga at the pier. I excused myself by saying to Jose Enteroso that I be exempted because at the end of that month I would not receive anything. I did not suspect that what I said would reach Mr. Larraga's ears. * * * Several months passed, and they dismissed me; I believe that has been my fault. * * * Once, Tom Chow asked me to bring some fruits, to Mr. Price's house in which Inang was, and the latter therein talked to me secretly and requested me not to tell anybody about it. She informed me that on the preceding night Tom Chow told her in the cinematograph that Larraga advised Tom Chow to dismiss me. Tom Chow replied: "Why should I dismiss him when he has no fault?"

" 'And Larraga stated that it was easy to effect the dismissal by reducing the salary because he has a family and would be compelled to leave; as a matter of fact, after some time, I received a note from Tom Chow stating that my salary had been reduced to P18, instead of the thirty which I was then receiving; * * * when, in truth and in fact, as the accused well know, the said imputation against said Federico V. Larraga was absolutely false, thereby tending to cause the dishonor, discredit or contempt of said Federico V. Larraga."

The defendant filed a demurrer based on the ground that the statements imputed to him and alleged to be defamatory are privileged and do not constitute an offense. After hearing the attorneys for the parties, the court sustained the demurrer and dismissed the case with costs de oficio. The fiscal Appealed from the order issued to that effect.

The Solicitor-General maintains in this instance that the court erred in holding that the defendant's statements set forth in the information do not constitute an offense and in dismissing the case.

In the first part of the testimony given by the defendant before the justice of the peace of the municipality of Tacloban in connection with an application filed with the Public Service Commission for a certificate of public convenience, the defendant declared that when the daughter of Larraga (supposed offended party) became a candidate for "Miss Philippines Free Press," Larraga employed Jose Entereso for collecting from him and others P1 intended to be paid to an orchestra to welcome Miss Larraga at the pier; that he excused himself by saying to Entereso that at the end of the month he would not receive anything; that he did not suspect that his excuse would reach Larraga's knowledge, but that after several months they discharge him from his office or position. We are of the opinion that these statements do not constitute oral defamation as defined by article 353, in relation with article 358, of the Revised Penal Code. It appearing that the contribution devised by Larraga to welcome his daughter was voluntary, the same is neither reproachable nor an act involving vice, defect or moral turpitude, and cannot therefore be harmful to the honor and reputation of anybody. Neither does the defendant declare in said statements that Larraga was the cause of his discharge from the service or that he in any way injected his influence therein.

In the second part of the defendant's testimony he stated that on one occasion his boss, Tom Chow, asked him to bring certain fruits to Price's house and that Inang privately told him that Tom Chow informed her in a cinematograph that Larraga had suggested to Tom Chow that the defendant be discharged; that Tom Chow replied that there was no reason for doing so; that Larraga said that it was easy to effect the dismissal by simply reducing his salary because he would not then be able to support his family; that after sometimes Tom Chow reduced his salary from P30 to P18. It is clear that in these statements the defendant did not make the account of Inang his. It is true that he repeated what Inang related to him, but it will be seen that in doing so he neither made any positive and direct affirmation nor suggested the idea that it was Larraga who largely influenced Tom Chow to reduce his salary. In order that oral defamation consisting of the imputation of a vice, defect, act, omission or circumstance tending to cause the dishonor, discredit or contempt of a person or the memory of one who is dead, may be punishable, the language used must be defamatory and clear so as to leave no room for doubt that it is addressed to a determinate person. Although the defamation may be direct or indirect or in the form of allusions it must nevertheless be positive, that is, it must express the idea or element punished by the law (36 C. J., sec. 20, pp. 1153, 1154; sec. 24, p. 1158; *Cook vs. Globe Printing Co.*, 127 S. W., 332; *Bearce vs. Bass*, 34 A., 411; 51 Am. St. Rep., 446; *Dimer vs. Star-Chronicle Pub. Co.*, 132 S. W., 1143; 33 L. R. A. [N. S.], 216).

We hold that the statements attributed to the defendant and reproduced in the information do not constitute the offense of oral defamation, with the result that the court committed no error in sustaining the demurrer and dismissing the case. The appealed order is affirmed, with the costs of this instance de oficio. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Diaz, and Laurel, JJ., concur.

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