

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ROMANICO IMAS, DEFENDANT AND APPELLANT.

G. R. No. 45607. June 30, 1937

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

The appellant was tried and convicted upon an information charging him with the crime of rape. The case has been forwarded here by the Court of Appeals where the appeal was originally lodged, on the ground that the jurisdiction of the trial court is in issue within the meaning of section 138 (3) of the Administrative Code, as amended by Commonwealth Act No. 3. The Court of Appeals took this view because one of the objections urged against the judgment below is that the trial court "erred in overruling the demurrer interposed by the attorney for the defense dated October 12, 1936, and in taking cognizance of the case, when the complaint was filed and signed by the provincial fiscal and not by the offended party, her parents, grandparents or guardian, thereby proceeding without any jurisdiction to try and passed upon the case."

By section 138 (3) of the Administrative Code, as amended by Commonwealth Act No. 3, an appeal can be taken directly from a Court of First Instance to this court in certain specified cases, among which are "cases in which the jurisdiction of any inferior court is in issue." In all cases, other than those specified therein, the Court of Appeals is given appellate jurisdiction.

The mere claim made in the demurrer filed by the appellant and pressed on in his brief, that the trial court had no jurisdiction of the subject matter, is not a sufficient ground for a direct appeal to this court. As stated by the Supreme Court of the United States, in construing a statutory provision similar in many respects "to section 138 of the Administrative Code, amended as aforesaid, " * * * The claim must be real and substantial. A mere claim in words is not enough. * * * " (Lampasas vs. Bell, 180 XL S., 276; 45 Law, ed., 527, 530.)

The demurrer does not put in issue the jurisdiction of the trial court in a real and substantial sense. It merely raises the question of sufficiency of the information. It is contended by counsel for the appellant that the information filed by the provincial fiscal could not confer jurisdiction on the court below in view of the provisions of article 344 of the Revised Penal Code. The record, however, shows that this action was commenced in the justice of the peace court by the filing of a complaint, Exhibit B, by Dionisio Martecion, the father of the offended party who is a girl of only 14 years old. This court has held in a number of cases that the filing of such a complaint is sufficient compliance with the requirements of article 344 of the Revised Penal Code. (U. S. vs. Garcia, 27 Phil, 254 j People vs. Ubay, G. R. No. 19656, December 14, 1922, not reported; U. S. vs. Bautista, 40 Phil., 735; People vs. Roa, G. R. No. 40027, 60 Phil., 1013; People vs. Varela, G. R, No. 45564, June 9, 1937.) Upon the face of the record, it is clear that the objection raised to the jurisdiction of the trial court is absolutely without merit, not to say frivolous.

It is, therefore, ordered that the case be remanded to the Court of Appeals for further proceedings in accordance with section 145-H of the Administrative Code, as amended by Commonwealth Act No. 3.

Avancena, C. J., Villa-Real, Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

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