

FORTUNATO DIAZ, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 45934. April 20, 1939

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

The only question involved in this appeal is the correct interpretation of the provisions of section 2649 of the Revised Administrative Code. The facts are stated in the decision of the Court of Appeals sought to be reviewed on certiorari filed by the appellant.

On June 5, 1934, the accused delivered to Attorney Esteban D. Rivera in the municipality of San Narciso, Zambales, a copy of a poster similar to the copies which he distributed before the 1934 elections among various persona who were gathered at a meeting of the members of the group known as Young Philippines held in front of the municipal building of San Felipe, Zambales. On the top of the poster distributed by the accused appears the caricature of the then Governor Medina, candidate for the same post in the elections of June 6, 1934. It shows the caricature of Governor Medina driving an automobile with the sign "To Manila" and on the back of the said automobile there is a group of persons with the words "wife", "son", "sister-in-law", "niece", "cousin", "brother", "comadre", etc. Down below is a platform borne by two persons representing the people and upon it some bundles with the following labels: P8,000, automobile, gasoline, per diem, travelling expenses, land tax, carnival of 1933", and the figure of a devil with two sacks in his arms bearing the following inscriptions: "copra-P4.00 picul", and down below "P3.05 picul" and "palay-P1.50 a cavan" and underneath "P1.00 cavan." In the lower part there is a printed list containing seven charges against Governor Medina under the heading: "The seven mortal sins of Mr. Medina". A reading of said list, says the Court of First Instance which is quoted by the Court of Appeals, would suffice to show that the same contains a criticism of the actuation of Governor Medina. The poster does not bear any signature and at the bottom thereof only the following words appear: "The Poor".

The majority of the First Division of the Court of Appeals in its decision held that the accused is guilty of a violation of section 2649 of the Revised Administrative Code, and affirmed the decision of the Court of First Instance which sentenced the said accused to one month of imprisonment, to pay a fine of P100, with subsidiary imprisonment in case of insolvency, to pay the costs, and to be deprived of the right of suffrage and disqualified to hold any public office for the same period of time. The accused appealed.

The said section 2649 of the Revised Administrative Code reads:

"Sec. 2649. Anonymous criticism of candidate in poster or circular.—Any person who intentionally writes, prints, posts, or distributes, or causes to be written, printed, posted, or distributed, any circular or poster which is designed or tends to injure or defeat any candidate for election to any public office, by criticizing his personal character or political action, unless there appears upon such circular or poster in a conspicuous place the name of the writer who is responsible therefor, with residence and the street and number thereof, if any; and any person who writes, prints, publishes, or utters, or cause to be written, printed, published or uttered, or aids and abets the printing, publication, or uttering of any anonymous or unsigned or fictitiously signed letter,

communication, or publication not disclosing the name of the author, criticizing or reflecting upon the personal character, conduct, or honor of any candidate for election, and any person who, knowingly, delivers or aids in the delivery of any such letter or communication, shall be punished by imprisonment for not less than one month nor more than two years, and by a fine of not less than one hundred pesos nor more than two thousand pesos, and by deprivation of the right of suffrage and disqualified from public office for a period of not more than ten years."

The first error which the accused attributes to the Court of Appeals consists in assuming, without evidence, that the posters above-mentioned were anonymous. This is a question of fact already resolved by the Court of Appeals and we have to accept it as final under the law.

The second error which, according to the appellant, was committed by the Court of Appeals is phrased as follows: "The Court of Appeals erred in holding that article 2649 of the Revised Administrative Code penalizes not the act of criticizing a candidate but the anonymous character of such criticism alone, regardless of whether such criticism is libelous or not." The appellant contends that the interpretation given by the Court of Appeals to said section 2649 of the Revised Administrative Code is incorrect, because he does not believe that the legislature intended to convert, through the said section, an innocent act into a crime. Section 2649—he alleges—was never intended to muzzle public opinion, and he submits that what the legislature seeks to penalize is a libelous criticism of a candidate.

The appellant's contention is untenable, for in *People vs. Titular* (49 Phil., 930), this court held:

"* * * that it is not the criticism of candidates for office which is punished, for the law permits the critic to place his name on posters or circulars, but it is the 'anonymous' criticism of candidates which is punished. (Id. p. 937.)

"* * * The Legislature undoubtedly had in view to encourage civic responsibility by including those who disagreed with a candidate to do so openly and not to attempt to do so by skulking behind anonymity. Such purpose is readily understandable. There is something praiseworthy in the man who stands boldly before the public and the candidate and in the press or on the rostrum challenges the merits of the candidate's platform or attacks his personal qualifications or political actions. There is nothing praiseworthy in the man who scatters anonymous posters or circulars among the electorates, thereby denying to the injured candidate the privilege of searching out his detractor and answering him, and thereby misleading the voters without early possibility of correcting the mistake. (Id., p. 937.)

"* * * it is not necessary that the anonymous poster or circular be defamatory, but it is enough if it tends to injure or defeat any candidate for election to any public office by criticizing his personal character or political action." (Id., p. 937.)

The appealed decision is affirmed, with the costs to the appellant. So ordered.

Avanceña, C. J., Villa-Real, Imperial, Diaz, Laurel, and Moran, JJ., concur.

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