

FRANCISCO MORFE AND CATALINO BOLOS, PETITIONERS, VS. THE JUSTICE OF THE PEACE OF CALOOCAN, RIZAL, AND ALBINO CELESTINO AND KICARDO CELESTINO, RESPONDENTS.

G.R. No. 46604. April 29, 1939

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

To prevent the respondent justice of the peace of Caloocan, Rizal, from receiving and docketing or continuing to take cognizance of the complaints for frustrated murder filed by the respondents against the petitioners after the complaints for less serious physical injuries against the same petitioners had been dismissed; and to compel said respondent justice of the peace to hear and decide on its merits and without further delay criminal case No. 10476 entitled "People vs. Albino Celestino et al," for less serious physical injuries, the aforesaid petitioners Francisco Morfe and Catalino Bolos have filed the present combined petition for prohibition and mandamus.

The pertinent and essential facts for the resolution of the question of law raised by the instant petition are as follows:

On September 29, 1938, a complaint for estafa against the herein petitioner, Francisco Morfe, was filed in the justice of the peace court of Caloocan, Rizal. On October 15th of the same year, said accused was temporarily released upon filing a bond.

On October 18, 1938, as a result of a quarrel between the aforesaid petitioners and the respondents, a complaint for less serious physical injuries was filed against Francisco Morfe, who is alleged to have inflicted the same upon the persons of Albino Celestino and Ricardo Celestino (criminal case No. 10477).

On the same day, October 18, 1938, as a result of the same quarrel, a complaint, also for less serious physical injuries, was filed against the other petitioner, Catalino Bolos, who is alleged to have inflicted the same upon the persons of Albino Celestino and Ricardo Celestino (criminal case No. 10478).

On the same day, October 18, 1938, a complaint for less serious physical injuries was filed against Albino Celestino, Felipe Celestino and Ricardo Celestino, who allegedly inflicted said injuries upon the persons of the petitioner, Francisco Morfe (criminal case No. 10476).

The accused having been arraigned on October 19, 1938 by the reading of the respective complaints against each of them, they pleaded not guilty, each giving a bond for his temporary release.

The four cases above-mentioned having been called for trial on the merits on January 19, 1939, Francisco Morfe appeared in criminal case No. 10473 for estafa and asked for the dismissal of the complaint on the ground that the facts alleged therein are not sufficient to confer jurisdiction on the justice of the peace court of Caloocan, Rizal, or, to constitute the crime of estafa with which he is charged. Up to the filing of the present petition, the accused-petitioner, Francisco Morfe, has not been notified of any resolution on his motion for dismissal.

Criminal cases Nos. 10477 and 10478 against Francisco Morfe and Catalino Bolos, respectively, for less serious physical injuries, were not called for trial immediately, until December 16, 1938, for the reason that the offended parties, Albino Celestino and Ricardo Celestino, were then confined in the Philippine General Hospital as a result of the injuries they had received. The trial was not, however, held because Atty. Felix Valencia asked for postponement. On January 23, 1939, on motion of the offended parties, the justice of the peace dismissed the aforesaid criminal cases Nos. 10477 and 10478.

Criminal case No. 10476, in which the respondents, Albino Celestino and Ricardo Celestino, are accused, was called for hearing on December 16, 1938; but was postponed on motion of Atty. Felix Valencia, who appeared as private prosecutor. The case having been called again for trial on January 19, 1939, the respondents, Albino Celestino and Ricardo Celestino, announced their intention to file complaints for frustrated murder against the petitioners, and by agreement of the parties the trial of said case was postponed. As one of the attorneys for the petitioners asked the provincial fiscal of Rizal to examine the records of the criminal cases for frustrated murder, the hearing of the case was suspended until the records were returned on March 2, 1939.

On January 24, 1939, complaints for frustrated murder in criminal cases Nos. 10576 and 10577 were filed with the respondent justice of the peace in place of those for less serious physical injuries. Before said justice of the peace could issue the corresponding warrants of arrest, one of the attorneys for the petitioners asked the provincial fiscal to examine all the records of the criminal cases for frustrated murder aforementioned.

On February 10, 1939, petitioners filed with the respondent justice of the peace a special appearance in which they challenged the jurisdiction and competency of said justice of the peace to receive and docket said complaints. Up to the filing of the present petition, the said justice of the peace has not resolved the foregoing objection, nor has he issued any warrant of arrest in said criminal cases for frustrated murder.

The principal question of procedural law to be decided in this case is whether or not the facts alleged in the petition for prohibition and mandamus are sufficient to justify the granting of the remedies prayed for.

As we have said, the petition now before us is one for mandamus and prohibition. The remedy of mandamus has for its object to compel an inferior tribunal in the proper case, as a justice of the peace court, to comply with a function which the law specially prescribes as a duty resulting from its office when there is no other plain, speedy and adequate remedy (sec. 222, Code of Civil Procedure); and that of prohibition has for its object that of preventing an inferior tribunal in the proper case, as a justice of the peace court, from executing or continuing to execute an act in excess of its jurisdiction, when there is no other plain, speedy and adequate remedy in the ordinary course of law (section 226, Code of Civil Procedure).

As to the petition for mandamus, the causes of the delay in the hearing of criminal case No. 10476 entitled "People vs. Albino Celestino et al.," for less serious physical injuries, against the herein petitioners, were the postponement prayed for by Atty. Felix Valencia, who appeared as private prosecutor; the agreement entered into by all the parties to suspend the hearing by reason of the announced intention of the respondents to file a complaint for frustrated murder against the petitioners, and the fact that one of the attorneys for the petitioners asked the provincial fiscal of Rizal to examine the records of the criminal cases for frustrated murder, agreeing to wait for the result of the investigation.

As to that of prohibition, the respondent justice of the peace had and has the power to dismiss the complaints for less serious physical injuries either on petition of the complainants or upon his own motion for the reason that the cognizance and decision of the crime of less serious physical injuries complained of are within his jurisdiction. He also has authority to receive and docket the new complaints for frustrated murder in place of the former ones, which were filed by the same respondents against the petitioners, and to conduct only the summary and

preliminary investigation inasmuch as it is not within his jurisdiction to take cognizance of complaints or informations for the crime of frustrated murder or decide the same, but within that of the proper Court of First Instance.

We, therefore, find that in so far as the petition for mandamus is concerned, it not appearing that the respondent justice of the peace has abused his discretion in not hearing and immediately deciding criminal case No. 10476, the petition referred to is without basis.

Touching the petition for prohibition, the respondent justice of the peace having jurisdiction to receive and docket the complaints for frustrated murder filed by the respondents against the petitioners and to conduct the summary as well as the preliminary investigation thereof, said petition does not likewise lie.

Wherefore, there being no merit whatever in the combined petition for prohibition and mandamus before us, we hereby dismiss the same with costs against the petitioners. So ordered.

Avanceña, C. J., Imperial, Diaz, Laurel, Concepcion, and Moran, JJ., concur.

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