

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. AGRIPINO ALVAREZ, DEFENDANT AND APPELLANT.

G.R. No. 48344. November 09, 1942

Ponente: MORAN, J.

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MORAN, J.:

In two separate complaints filed in the justice of the peace court of Cauayan, Negros Occidental, by appellant Gaudioso Lapore in his capacity as chief of police against one Agripino Alvarez for violation of a municipal ordinance penalizing the carrying of firearms in political meetings and against one Higino S. Perez and eight others for violation of another municipal ordinance penalizing the holding of public meetings for election purposes without a permit having been previously obtained therefor, judgments were rendered condemning each of the defendants to a fine of P50 with subsidiary imprisonment in case of insolvency. Appeals were interposed from these judgments to the Court of First Instance of Negros Occidental. In the latter court, the provincial fiscal moved, before trial, for the dismissal of the cases against the defendants, and the motion was granted. The chief of police now interposes the present appeal from this order of dismissal.

We know of no legal authority whatsoever which permits a chief of police to appeal a case already dismissed by the Court of First Instance upon motion of the provincial fiscal. While it is true that the chief of police of a municipality is authorized to file criminal complaints for violations of municipal ordinances constituting public offenses, his control of the case ceases upon actual intervention of the provincial fiscal or upon the elevation of the case to the Court of First Instance. From then on the provincial fiscal assumes full control of the case and shall thereupon take charge thereof in behalf of the prosecution. And, while an injured person is by law permitted to intervene in appropriate cases, a chief of police is not such an injured person within the meaning of the law. He is in no way personally damaged by the commission of the offense.

Besides, upon the authority of *People vs. Daylo* (64 Phil., 862), the dismissal by the Court of First Instance of a criminal case appealed from a justice of the peace court, the latter having jurisdiction to try and decide it, is equivalent to an acquittal of the defendant and, therefore, an appeal from the order of dismissal constitutes double jeopardy. Order of dismissal is affirmed, with costs against appellant.

Yulo, C. J., Ozaeta, Paras, and Bocobo, JJ., concur.

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