

SALVADOR G. TUMANG, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 48498. September 30, 1942

Ponente: YULO. C.J.

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YULO. C.J.:

Petitioner seeks a review of the decision of the Court of Appeals convicting him of the crime of libel, and alleges that said Court had erred in the application of article 361 of the Revised Penal Code when it refused to reverse the ruling of the trial court denying petitioner's right to prove the truth of the libelous imputations and the fact that the offending article was published with good motives and for justifiable ends. Article 361 of the Revised Penal Code reads:

"ART. 301. Proof of the truth—In every criminal prosecution for libel, the truth may be Riven in evidence to the court and if it appears that the matter charged as libelous is true, and, moreover, that it was published with good motives and for justifiable ends, the defendant shall be acquitted.

"Proof of the truth of an imputation of an act or omission not constituting a crime shall not be admitted unless the imputation shall have been made against Government employees with respect to facts related to the discharge of their official duties.

"In such cases if the defendant proves the truth of the imputation made "by him, ho shall be acquitted."

It appears that the libelous article contained imputations which insinuate the commission of criminal acts as well as of many other acts which do not constitute a crime. As to those imputations insinuating the commission of a crime, the Court of Appeals found that the petitioner was allowed to introduce evidence on the truth thereof but that said evidence was insufficient. Said the Court of Appeals:

"With regard to the first point, counsel for appellant contends that the lower court erred in nut allowing the appellant to prove the truth of the imputations and aspersions appearing in the article in question. But the appellant should be reminded that under article 361 of the Revised Penal Code, proof of the truth may be offered and may lead to the acquittal of the defendant if the latter succeeds in his effort to prove the truth of the matter charged an libel oils and that it was published with good motives and for justifiable ends; but this rule is qualified by the other rule that no proof of an imputation of an act or omission not constituting a crime shall be admitted 'unless the imputation shall have been made against Government employees with respect to facts relating to the discharge of their official duties.'

"The case before us does not fit within the rules just cited and, therefore, the appellant cannot seek the protection of the provisions of said article 361 of the Revised Penal Code, in order to justify his criminal intent and secure his acquittal, it appearing that many of the imputations made against Felix Manalo in the libelous article in question do not constitute a crime; while in others where an insinuation was made of some criminal act, the evidence submitted to prove the truth has completely failed to support the stand of the accused, and in general the imputations made against Manato are not at all connected with the discharge of the duties of a Government official or employee, as it is well known that Felix Manalo is not a Government employee and

proof of the truth of the imputations would not be admissible."

In view of the above, we find no merit in petitioner's contention that he had been unlawfully deprived of his right to prove the truth of the libelous imputations. The Court of Appeals has rightfully held that proof of the truth of those acts imputed to the offended party which do not constitute a crime cannot be admitted, since he is not a government employee, and, consequently, none of those imputations can have any reference to facts related to the discharge by a government employee of his official duties. This is in consonance with the second paragraph of article 361 which limits the scope of the general rule set forth in the first paragraph of the same article.

We find no conflict between the decision under review and the decision rendered by the Court of Appeals in *People vs. Trillanes* (C. A.-B. R. No. 8180). In the latter case, proof of truth and justifiable motives was permitted to be presented because the Court found that the charges complained of involved the commission of "various public offenses such as grave threats, abduction, rape, acts of lasciviousness, adultery, etc." In the instant case petitioner was likewise permitted to prove the truth of the criminal acts imputed to the offended party but the Court of Appeals has found that the evidence so presented has completely failed to substantiate such charges. And the conclusions of fact in the *Trillanes* decision, however strong, cannot affect or alter the finding in the case under review.

The decision appealed from is affirmed, with costs against the petitioner. So ordered.

Moran, Paras, Bocobo, and Lopez Vito, JJ., concur

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