

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS. BANAAG LINATOC AND GERARDO LINATOC, DEFENDANTS-APPELLEES.

G.R. No. 48974. March 20, 1944

Ponente: OZAETA, J.

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OZAETA, J.:

Defendants-appellees were accused by the chief of police of Calamba, Laguna, of "slight physical injuries with threats to kill" in a complaint filed on November 11, 1942, in the justice of the peace court of said municipality, which reads as follows:

"The undersigned Chief of Police, after having duly sworn on oath, accuses Banaag Linatoc and Gerardo Linatoc of the crime of 'Slight Physical Injuries with Threats to Kill' committed as follows:

"That on or about the 6th day of Nov. 1942, in the public market of Calamba, Laguna, and within the jurisdiction of this Honorable Court, the; above-named accused confederating together and helping one another, did then and there willfully, unlawfully and criminally attack, assault and threaten to kill the person of Suzana Galvez and using personal violence upon the said Suzana Galvez by holding her arm, pushing and hitting her with a fist blow thus causing injuries in the different parts of her body, which injuries have required and will require medical attendance necessary for a period of 7 days, and will incapacitate the said Suzana Galvez from performing her customary labor for the same period of time.

"That in the commission of the said crime there is present the aggravating circumstance of superior strength due to sex. Contrary to law."

Upon said complaint the accused were arraigned and pleaded not guilty. They were, however, found guilty by the justice of the peace court of slight physical injuries with the aggravating circumstance of abuse of superior strength and sentenced to twenty-one days of *arresto menor* and to indemnify the offended party in the sum of P13. From that sentence they appealed to the Court of First Instance.

The Court of First Instance, upon motion of counsel for the accused, dismissed the case without prejudice, on the ground that the complaint charged the complex crimes of slight physical injuries with grave threats, and as the penalty for the more serious crime was beyond the competence of the justice of the peace court, the Court of First Instance did not acquire appellate jurisdiction. From the order of dismissal the fiscal appealed to this Court.

The appeal in our opinion is meritorious. The complaint above transcribed charges two different crimes—slight physical injuries and threats to kill. The justice of the peace court undeniably had jurisdiction to try and decide the light offense of slight physical injuries. Assuming, without deciding, that the complaint sufficiently charges also the less grave offense of "grave threats" as penalized in article 282 of the Revised Penal Code, the justice of the peace had to ignore it because it was beyond his jurisdiction, and any pronouncement he might have made with regard thereto would have been *coram non iudice*.

The complaint did not charge complex crimes within the purview of article 48 of the Revised Penal Code, as amended by Act No. 4000, which reads as follows:

"Art. 48. Penalty for complex crimes.—When a single act constitutes two or more grave or less grave felonies, or when an offense is a necessary means for committing the other, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period."

In the first place, there are not two "grave or less grave felonies" involved in the complaint, slight physical injuries being a light offense. In the second place, the act that caused slight physical injuries did not constitute also the crime of grave threats, nor was the one a necessary means for committing the other.

The Court of First Instance, therefore, should try and decide the appeal involving slight physical injuries and ignore the charge of "threats to kill" until a proper separate information therefor is presented, if desired.

The order is reversed and the case is remanded to the court of origin for further proceedings, with costs against the appellees.

Yulo, C. J., Moran, and Horrilleno, JJ., concur.

Paras, J. I concur in the result. See U. S., vs. Sevilla, 1 Phil., 143 and U. S. vs. Paguirigan, 14 Phil., 450.

CONCURRING

BOCOBO, J.,

I concur in the result. I deem it advisable to state that the more serious offense, threats to kill, should have been given preference by the Justice of the Peace by immediately making a preliminary investigation thereof, with a view to forwarding the case to the Court of First Instance if good and justifiable grounds for such action were found by the Justice of the Peace. It was in the public interest that the offense of threats to kill should have been prosecuted and tried before the offense of slight physical injuries, because the former involved a more serious menace to public order.

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