

AMADO IZON, AND JIMMY MILLA, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 51370. August 31, 1981

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

Petitioners were charged, together with Pedro Divino, in the Circuit Criminal Court, Third Judicial District, Olongapo City, with Robbery with Violence Against Person, under an information reading as follows:

"That on or about the 8th day of September, 1977, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another and by means of violence and intimidation applied upon the person of Reynaldo Togorio committed by the accused Jimmy Milla y Castillo and Pedro Divino y Batero who were armed with bladed weapon which they pointed to one Reynaldo Togorio and used in stabbing him and the accused Amado Izon y Bartulo who helped in mauling him thereby inflicting upon said Reynaldo T gorio the following physical injuries, to wit:

Incised wound 2 cm. long and 2 cm. deep lateral aspect upper third arm right. Incised wound 2 inches long between thumb and index finger left Abrasion sternoclavicular function along 6 rib left. Linear abrasion 3 cm. long level of 7th rib, anterior axillary line right.

which injuries shall require medical attend-ance for a period of less than nine (9) days, barring complications, did then and there wil-fully, unlawfully and feloniously take, steal and carry away one (1) motorized tricycle with motor No. B100-25-648 with Chasis No. B120-05589 and Plate No. MCH Q4102 or with a total value of P11,000.00, Philippine Currency belong-ing to Reynaldo Togorio to the damage and pre-judice of the latter in the aforementioned amount of P11,000.00. However, the motorized tricycle Zukumi 120, Motor No. B100-25-648 with Chassis No. B-120-05589 was recovered."[1]

Pleading guilty upon arraignment, petitioners were sentenced to the penalty provided in Republic Act No. 6539 known as Anti-Carnapping Act of 1972 which defines motor vehicle as follows:

"Motor vehicle is any vehicle propelled by any power other than muscular power using the public highways, but excepting road roll-ers, trolley cars, street sweepers, sprinklers, lawn mowers, bulldozers, graders, fork-lifts, amphibian trucks, and cranes if not used on public highways, vehicles which run only on rails or tracks, and tractors, trailers and traction engines of all kinds used exclusively for agricultural purposes. Trailers having any number of wheels, when propelled or in-tended to be propelled by attachment to a motor vehicle, shall be classified as sepa-rate motor vehicle with no power rating."[2] (Underscoring supplied).

Contending that the court a quo erred in imposing the penalty prescribed in the Anti-Carnapping Act of 1972 instead of that prescribed in the Revised Penal Code for simple robbery with violence, because the information did not allege that the motorized tricycle stolen was using the public highway, so as to make it a motor vehicle as the term is defined in the carnapping law, and therefore failed to inform them that they were being charged under the cited statute, in violation of their constitutional right to be informed of the nature and cause of the accusation

against them, petitioners came to this Court with the instant petition for review.

The principal issue thus raised is whether a motorized tricycle is a motor vehicle within the definition given to the term by the Anti-Carnapping Act of 1972.

As a consequence of their contention that the motorized tricycle is not a motor vehicle under the definition of the aforecited Act, petitioners also claim that they were not properly informed of the cause and nature of the accusation against them in violation of their constitutional right.

Petitioners maintain that the tricycle in question is not a "motor vehicle" as the anti-carnapping law defines the term because it is not licensed to operate on the "public highways." The Solicitor General contends otherwise with the following argument:

"The word 'public' means 'common to all or many; general; open to common use' (Black's Law Dictionary 1393 [Revised 4th Ed.]. On the other hand, 'highway' refers to a 'free and public road way, or street; one which every person has the right to use (idem. at p. 862). It is clear that a street within a town is a public highway if it is used by the public. To limit the words 'public highways' to a national road connecting the various towns, as petitioners' suggest (Reply dated January 25, 1980) would create a distinction which the statute itself does not make. Under petitioners' proposition, a distinction should be made between motor vehicles operating within a town like the motorized tri-cycle involved herein, and those using roads connecting towns. This, however, goes against the well known maxim that where the law does not distinguish, no distinction should be made (Robles vs. Zambales Chromite Mining Co., 104 Phil. 688). It is also to be pointed out that to limit the application of the Act to motor vehicles travelling between different towns, may lead to absurd results. For example, privately-owned motorcycle used by its owner in travelling from one province to another would be covered by the law. Upon the other hand, a motorized tricycle (with sidecar) which is more expensive than the former but operated within towns would not be protected by the law. No unreasonable intentment should be read into a statute so that an injustice may be worked or an absurd result produced (In re Moore's Estate, N.Y.S. 2nd 281, 165 Misc. 683). It can be concluded, therefore, that the motorized tricycle involved in this case is a 'motor vehicle' within the ambit of section 2 of the Anti-Carnapping Act of 1972. The lower court correctly imposed the penalty for violation of said Act on herein petitioners." [3]

We perceive no reason not to accord full validity of the Solicitor General's argument, not even on the petitioner's submission that a motorized tricycle, not having licensed to use a public highway, is not a motor vehicle under the provision of the anti-carnapping act.

From the definition cited by the Government which petitioners admit as authoritative, highways are always public, free for the use of every person. There is nothing in the law that requires a license to use a public highway to make the vehicle a "motor vehicle" within the definition given the anti-carnapping law. If a vehicle uses the streets with or without the required license, same comes within the protection of the law, for the severity of the offense is not to be measured by what kind of streets or highway the same is used; but by the very nature of the vehicle itself and the use to which it is devoted. Otherwise, cars using the streets but still unlicensed or unregistered as when they have just been bought from the company, or only on test runs, may be stolen without the penal sanction of the anti-carnapping statute, but only as simple robbery punishable under the provision of the Revised Penal Code. This obviously, could not have been the intention of the anti-carnapping law.

Going over the enumerations of excepted vehicle, it would readily be noted that any vehicle which is motorized using the streets which are public, not exclusively for private use, comes within the concept of motor vehicle. A tricycle which is not included in the exception, is thus deemed to be that kind of motor vehicle as defined in the law the stealing of which comes within its penal sanction.

In any event, it is a matter of judicial notice that motorized tricycles are seen running in droves along high-ways

admittedly public, as those going to the north like Baguio City. Those motorized tricycles certainly come within the definition of the law, even under the restricted construction that petitioners would want given to it. If these tricycles are "motor vehicles" then, there is no cogent reason to treat the tricycle in question differently.

With the foregoing discussion, it would logically follow that the petitioners complaint of not having been informed of the nature and cause of the accusation against them and for which they were convicted upon their plea of guilty, is unfounded, legally and factually.

Again, on this point, We find the observation of the Solicitor General valid, We have no other course than to sustain it. Thus -

"A perusal of the information (Annex 1 of respondent People's Comment dated November 16, 1979) readily shows that petitioners were not thereby informed that they were being ac-cused for violation of the Revised Penal Code. The charge merely designated the offense as one for: 'ROBBERY WITH VIOLENCE AGAINST PERSON.' The facts alleged in the information make out a case of 'carnapping'. This offense is defined in section 2 of Republic Act No. 6539 as 'the taking, with intent to gain, of a motor vehicle belonging to another without the latter's con-sent, or by means of violence against or inti-midation of persons, or by using force upon things.' The information clearly specified that what was taken and carried away was 'one (1) motorized tricycle.' Herein petitioners cannot claim that they were misled by the information into pleading guilty. It is not necessary for the protection of the substantial rights of the accused, nor the effective preparation of his defense, that he be informed of the technical name of the crime of which he stands charged. He must look to the facts alleged (People vs. Cosare, 95 Phil. 656; U.S. vs. Lim San, 17 Phil. 275)."

FOR ALL THE FOREGOING, the petition is hereby dismissed. No costs.[4]

SO ORDERED.

Teehankee, (Chairman), Makasiar, Fernandez, Guerrero, and Melencio-Herrera, JJ., concur.

[1] pp: 88-89, Rollo.

[2] p. 90, Id.

[3] pp. 90-91, Rollo.

[4] p. 92, Rollo.

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