

FEDERATION OF FREE WORKERS, FELICISIMO VIUDEZ, JR., SERAFIN CARLOS. DIONISIO MADRIGAL, RAFAEL SUPSUP, JAIME MACATULAD, MELITON DECENA, ANGEL CRISOSTOMO, RENATO JACOB, RENATO D...*G.R. No. 52292. May 16, 1985*

Ponente: ALAMPAY, J.

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This is a Petition for Certiorari seeking the declaration of nullity of the warrants issued by the Respondent Judge who was then the Presiding Judge of Branch VIII, of the Court of First Instance of Bulacan for the arrest of the above-named individual Petitioners, all of whom were the elected officers of the Federation of Free Workers. Eastern Textile Mills Chapter: and for the setting aside of the Order issued by Respondent Judge on November 23, 1979, in Criminal Case No. 2724. denying herein Petitioners' Motion to Quash Warrants of Arrest.

In the instant petition before this Court, petitioners also asked that a writ of preliminary injunction be issued restraining Respondent Judge from enforcing the warrants of arrest issued in Criminal Case No. 2724-V-79, and that, after hearing, the injunctive order prayed for by them be made permanent and perpetual.

The facts of this case disclose that an information dated October 8, 1979 was filed by the Asst. Provincial Fiscal of Bulacan with the Court of First Instance of Bulacan. and the same was docketed as Criminal Case No. 2724-79. The above-named individual Petitioners in this case were then charged with the violation of Section 1 of P.D. No. 823, as amended by P.D. No. 849. In said information, it is alleged

"That during or about the period from the 6th day of August, 1978 to the 14th of August, 1978, in the Municipality of Meycauayan, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Felicisimo Viudez, Jr., Serafin Carlos, Dionisio Madrigal, Rafael Supsup, Jaime Macatulad, Meliton Decena, Angel Crisostomo, Renato Jacob, Renato delos Reyes, Roberto Gomez, Reynaldo Juson, Ricardo Barcibal, Fermin Agustin, Amado Minguez, Juanito Pasion, Warlito Quibuyen, Enrique Sandel and Primitivo Demiquillo, being then officers and members of a labor union and employees in the Eastern Textile Mills, Inc., a vital industry engaged in the manufacture and processing of textile, without a deadlock in collective bargaining between the said labor union and the said company and without a notice of strike first filed with and duly approved by the Bureau of Labor Relations, did then and there wilfully, unlawfully and feloniously slow down the operation and production in the said company, and call, declare and stage a strike, for the said purpose picketing and abandoning their assigned work in the said company, persuading or threatening other workers not to report for work, and preventing or obstructing the entry of the said workers and other persons into the company compound.

"Contrary to law." (Annex A, Rollo, p. 12)

Under date of November 14, 1979, the accused Petitioners filed a motion to quash the Warrant of Arrest which the Court below issued against them in said criminal case invoking Section 4 of P.D. No. 823, which provides that

"Except on grounds of national security and public peace or the commission of crime, no union members or union organizers may be arrested or detained for union activities without previous consultation with the Secretary of Labor." Petitioners pointed out that the Minister of Labor, the Hon. Bias F. Ople, thru his Deputy Minister of Labor, had sent a request letter to respondent Judge of the Court of First Instance for the lifting of the warrants of arrest pursuant to the aforequoted section of P.D. 823.

The above-referred to request letter of the Minister of Labor, thru his Deputy Minister, reads as follows:

"Judge Eduardo Caguioa

"Court of First Instance

"Valenzuela, Bulacan

"Sir:

"This Ministry has been informed that warrants of arrest have been issued against 18 union members in connection with a strike at Eastern Textile Mills on 7 August 1978. In accordance with the instructions of the Minister of Labor, the Honorable Bias F. Ople, may I request the lifting of said warrants of arrest to make possible consultations between your Office and the Ministry of Labor pursuant to Section 4 of PD 823 as amended? Said Section 4 reads as follows:

"SECTION 4. Except on ground of national security and public peace or the commission of a crime, no union members or union organizers may be arrested or detained for union activities without previous consultations with the Secretary of Labor."

"Very truly yours,

"AMADO G. INCIONG

"Deputy Minister"

On November 23, 1979, Respondent CFI Judge issued the challenged order denying petitioners' "Motion to Quash Warrants of Arrest" on the ground that —

"xxx inasmuch as the quoted section of P.D. 823 namely, Section 4 thereof, provides as an exception to the non-issuance of warrants of arrest against union member or union organizers 'the commission of a crime,' and inasmuch as the strike referred to in this case has been declared illegal by the Return-to-Work Order of Deputy Minister Amado G. Inciong, dated August 9, 1978, and inasmuch as per the letter of Dir. Carmelo Noriel of the Ministry of Labor, and considering further, that under Section 19 of P.D. No. 823 the holding of illegal strike is a crime and penalized therein, the Motion to Quash is hereby DENIED."

Petitioners' Motion for Reconsideration of the above order was also denied by the Respondent Judge in his Order issued on December 12, 1979.

On January 12, 1980, Petitioners filed this Petition for Certiorari and Prohibition in this Court.

On January 15, 1980 this Court, considering the allegations contained, the issues raised and the arguments adduced in the instant Petition, resolved to require the respondent Judge to file an Answer to the petition and at the same time issued a restraining order enjoining the enforcement of the warrants of arrest issued in said Criminal Case No. 2724-V-79.

Petitioners contend that when Respondent Judge denied their Motion to Quash Warrants of Arrest despite the said letter of the Minister of Labor requesting the lifting of the warrants of arrest in order to make possible consultation between the Court of First Instance and the Minister of Labor, in accordance with Section 4 of PD 823 which is also Article 267 of the Labor Code, said Judge acted without jurisdiction or with grave abuse of

discretion, amounting to lack of jurisdiction.

Petitioners submit that in the absence of consultation with the Secretary of Labor (now Minister of Labor) as called for in Section 4 of the implementing Rules and Regulations dated January 6, 1978, in implementation of P.D. No. 823 a Court of First Instance or the respondent Judge thereof would have no jurisdiction to issue any warrant for the arrest of any union officer member or organizer for union activities without previous consultation with the Secretary of Labor (now Minister of Labor).

On the other hand, Respondent Judge in his Answer to the Petition maintains that from a reading of Section 4 of PD No. 823, as amended, and Section 3 of the Rules and Regulations Implementing the said PD, as amended on January 6, 1976, "it can be gathered that the general rule is: 'that any union officer, member, or organizer cannot be arrested without previous consultation with the Minister of Labor or his duly authorized representative. However, it is equally clear from the two above-quoted provisions that there are two (2) exceptions: First, those involving national security or public peace and secondly, cases involving the commission of a crime.'"

Respondent Judge avers that Petitioners against whom the warrants of arrest were issued are the accused in the Information filed in Criminal Case No. 2724-V-79, and are charged with the crime of violating Sec. 1 of P.D. No. 823. He considered the fact that the Lastern "Textile Mills, the offended party in the Information, is in the textile and garments business and therefore it should be considered as engaged in a vital industry where a strike therein is prohibited by law in accordance with Letter of Instructions No. 368. Petitioners' case was considered by respondent Judge as constituting one of the exceptions to the rule that warrants of arrest cannot be issued without previous consultation with the Minister of Labor or the latter's duly authorized representative.

The position taken by Respondent Judge cannot be upheld in the light of our ruling in the recent case of Philippine Association of Free Labor Unions (PAFLU) vs. The Court of First Instance of Rizal, L-49580, January 17, 1983 (120 SCRA 1). Therein we ruled that it is the National Labor Relations Commission and ultimately the President of the Philippines that determines the legality or illegality of strike; and, that the filing of a criminal complaint in court is premature without such determination and such dispute having been settled. In said case We stated:

"1. There is much to be said for the jurisdictional issue raised (,) If (if) apparently there is a failure on the part of respondents to take into consideration the force and effect of Presidential Decree No. 849 amending Presidential Decree No. 823. Section 1 of the latter decree reads as follows: 'It is the policy of the State to encourage trade unionism and free collective bargaining within the framework of compulsory and voluntary arbitration and therefore all forms of strikes, picketing and lockouts are hereby strictly prohibited. (Sec. 1 of Presidential Decree No. 823). It was issued on November 3, 1975. Clearly there was a flat prohibition of the right to strike. Then came on December 16, 1975 the mandatory Presidential Decree. By virtue thereof, certain strikes were deemed illegal primarily those in vital industries. There is even then exception provided for, namely that 'any legitimate labor union may strike and any employer may lockout in establishments not covered by General Order No. 5 only on grounds of unresolved economic issues in collective bargaining in which case the union or the employer shall file a notice with the . Bureau of Labor Relations at least 30 days before the intended strike or lockout.' (Sec. 1 Presidential Decree No. 849) The Decree goes onto state: 'Should the dispute remain unsettled thereafter, the union may go on strike and the employer may lockout unless the President or his duly authorized representative certifies the dispute to the National Labor Relations Commission for compulsory arbitration in the interest of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedom of others. Such certification shall have the effect of automatically enjoining the strike or lockout.' (Ibid.) What is more the mandatory Decree specifically recognizes the right to strike. Thus: 'If not certified, the union may strike and the employer may lockout.' (Ibid.) Even if it be assumed, therefore, that private respondents are engaged in a vital industry, a point this Court does not have to decide, the question of whether or not the strike is tainted with illegality remains. At the very least then, the filing of the information on July 1, 1976 was premature.

"2. That conclusion receives reinforcement from the submission of petitioners that the National Labor Relations Commission, ultimately the President for certification purposes, that determines the question of legality or lack of it. That is to conform with what this Court has so long and so consistently held on this issue. That principle was followed as far back as the Court of Industrial Relations Act. It was to such tribunal that the primary jurisdiction was vested. The rationale is not difficult to discern. For in the language of *Security Bank Employees-Union-NATU vs. Security Bank & Trust Co.* (L-28536), April 30, 1968, 23 SCRA 503), it was 'better equipped by training, experience, and background to hand labor controversies xxx'" (*Phil. Assn. of Free Labor Unions (PAFLU vs. CFI of Rizal*, supra at pp. 3-5.) (Italics supplied)

Moreover, at this point of time, Criminal Case No. 2724-79 of the Court of First Instance of Bulacan (Now Regional Trial Court), where the herein individual Petitioners were accused of the crime of violation of Section 1 of P.D. No. 823, has now become moot and academic, P.D. 823 as amended by P.D. 843 upon which the criminal action in this case has been based were repealed or modified by Batas Pambansa 227. Since the effectivity of Batas Pambansa Big. 227 on June 1, 1982, the offense charged in the information in said Criminal Case No. 2724-79 is now no longer punishable. In the aforementioned case of *Phil. Assn. of Free Labor Union (PAFLU) vs. CFI of Rizal*, we stated the following:

"4. The present law on the subject, Batas Pambansa Big. 227, is even more emphatic: (e) No person engaged in picketing shall commit any act of violence, coercion or intimidation or obstruct the free ingress to or egress from the employer's premises for lawful purposes, or obstruct public thoroughfares.' (Batas Pambansa Big. 227, Section 6 (1982) That makes it even more imperative that this petition be granted. For it is therein provided: 'All laws, decrees, rules and regulations or parts thereof inconsistent herewith are hereby repealed or modified accordingly.' (Ibid., Section 8) The Act was made to take effect upon its approval which took place on June 1, 1982, when President Marcos affixed his signature. Since it is the penal aspect of Presidential Decree No. 823 as amended by Presidential Decree No. 849 that is the basis for the criminal action, it follows that whatever offense might have been committed is now no longer punishable." (*Phil. Assn. of Free Labor Unions (PAFLU) vs. CFI of Rizal*, supra, at p. 6; italics supplied).

WHEREFORE, the writ of certiorari is GRANTED and the warrants of arrest issued by Respondent Judge in Criminal Case No. 2724-V-79 entitled "The People of the Philippines vs. Felicisimo Viudez, Jr., et al." are declared null and void and of no force and effect. The Order of November 29, 1979 denying Petitioner's Motion to Quash Warrants of Arrest is also SET ASIDE.

The Writ of Prohibition is likewise GRANTED. Respondent Judge or whoever is now appointed as Judge to the appropriate branch of the Regional Trial Court of Bulacan, is enjoined or prohibited from acting in said Criminal Case No. 2724-V-79, in any wise or form, except to dismiss the said case.

The temporary restraining order, this Court issued on January 17, 1980 restraining Respondent Judge from enforcing the warrants of arrest issued in said Criminal Case No. 2724-V-79, is made permanent.

Without costs.

SO ORDERED

Fernando, C.J., Teehankee, Makasiar, AbadSantos, Melencio-Herrera, Plana, Escolin, Gutierrez, Jr., De la Fuente, and Cuevas, JJ., concur.

Aquino and Relova, JJ., took no part.

Concepcion Jr., J., on leave.

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