

BELEN MAZO, PETITIONER, VS. HONORABLE MUNICIPAL COURT OF TAMBULIG, ZAMBOANGA DEL SUR, AND THE PEOPLE OF THE PHILIP-PINES, RESPONDENTS.

G.R. No. 58854. March 25, 1982

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court approves the recommendation of the Solicitor General on behalf of the People and accordingly grants the petition and orders the dismissal of the criminal case for grave threats filed with respondent municipal court since she would be placed in double jeopardy for the same offense for which she was previously charged in two previous criminal cases, the first before the same municipal court and the second before the Court of First Instance of the province, both of which had been dismissed already.

Petitioner-accused filed on October 15, 1981 the petition at bar for certiorari and prohibition upon respondent municipal court's denial of her motion to quash the arrest warrant and dismiss the third criminal case (No. 1068) for the same offense of grave threats filed against her notwithstanding her plea of double jeopardy.

The Solicitor General in his extensive comment on behalf of respondent People correctly agrees with petitioner that she had already been placed in jeopardy for the same offense in the first case (No. 1002) which the same respondent court had already dismissed, as follows:

"In denying the motion to dismiss filed by the accused-petitioner in Criminal Case No. 1068, the respondent municipal court made the ruling that Criminal Case No. 1068 is but a 'latter revival' of Criminal Case. No. 1002 (see Annex "L", petition).

The foregoing ruling of the respondent municipal court is factually incorrect and legally erroneous.

The criminal complaint in Criminal Case No. 1068 is a new complaint, filed by another station commander, Lt. Policronio S. Fuentes, of the Tambulig Municipal Force, only on August 11, 1979, and subscribed before City fiscal Baldomero Fernandez of Pagadian City, and given a new docket number 1068 (See Annex "J", Id.). While the first criminal complaint in Criminal Case No. 1002 was filed by Station Commander Lt. Eugenio G. Ilustrisimo of the same Tambulig Municipal Force earlier on September 29, 1978 and subscribed before Municipal judge Gualberto B. Bacarro, Sr. of the respondent municipal court, docketed with an earlier number 1002 (see Annex "A", id.).

It appears that instead of proceeding with the trial of Criminal Case No. 1002 on the merits, which it should have done as discussed above, the respondent municipal court elevated the records thereof to the Court of first Instance. But the Court of First Instance, finding rightly that it has no jurisdiction to try and hear Criminal Case No. 2571, as an elevated Criminal Case No. 1002 from the respondent municipal court, dismissed Criminal Case No. 2571 and further ordered that 'the records of this case be remanded to the Municipal Court of Tambulig, Zamboanga del Sur' (see Annex "I", id.). The respondent municipal court admitted that the 'records of the case

were: transmitted to this Court bearing case No. 1002 (MC) and case No. 2571 (CFI)' (see Annex "O", id.).

Under the foregoing factual circumstances and developments involving the first two criminal cases, what the respondent municipal court should have done was merely to set Criminal Case No. 1002 for trial on the merits, since the accused-petitioner had already been duly arraigned of the crime charged therein, if only to be consistent with its observation or ruling that said criminal cases could be revived after its dismissal by the Court of first Instance. Instead, the respondent municipal court accepted and assumed jurisdiction over a new criminal complaint, which is the third one docketed as Criminal Case No. 1068. Worst still, in its Order dated September 2, 1981 in Criminal Case No. 1068, it ordered that Criminal Case No. 1002 be 'REMOVED as a pending case from the docket of this Court and deemed DISMISSED' (see Annex "O", id.).

Consequently, with the dismissal of Criminal Case No. 1002 wherein the accused-petitioner was duly arraigned and pleaded not guilty to the crime charged, there exists no criminal case which could be revived for trial on the merits as against the accused-petitioner. The new complaint in Criminal Case No. 1068 has yet to be called for the arraignment of the accused of the crime charged. It would result in absurdities in criminal procedural law to consider Criminal Case No. 1068 as a 'latter revival' of Criminal Case No. 1002.

D. Accused-petitioner would be placed in double jeopardy if respondent municipal court will proceed to try Criminal Case No. 1068.

All the foregoing considerations clearly demonstrate that the accused-petitioner would be placed in double jeopardy if the respondent municipal court will proceed to hear and try Criminal Case No. 1068 wherein she has yet to be arraigned anew for the same offense as also charged in Criminal Case No. 1002 wherein the accused-petitioner had already been duly arraigned and pleaded not guilty to the crime but which the respondent municipal court has dismissed without her express consent. When the case against a defendant is dismissed without his express consent, upon a valid complaint or information by a court of competent jurisdiction and after he has pleaded to the charge, the dismissal of the case shall be a bar to another prosecution for the same offense (Section 9, Rule 117, Revised Rules of Court; U.S. v. Yam Tung Way, 21 Phil. 67; People v. Hernandez, 49 O.G. No. 12, p. 5342; People v. Ferrer, L-9072, October 23, 1956; People v. Vda. de Golez, L-14160, June 30, 1960).

When the accused-petitioner filed the written waiver of her right to the second stage of preliminary investigation in Criminal Case No. 1002, it was not a motion to dismiss on the ground of lack of jurisdiction, contrary to the impression of the respondent municipal court (See Annex "L", id.). Precisely, accused-petitioner recognized the jurisdiction of the respondent lower court and even asked that it proceed with the trial of Criminal Case No. 1002 on the merits. Also, in the motion to dismiss filed by accused-petitioner before the Court of First Instance of Zamboanga del Sur, Branch IV, in Criminal Case No. 2571 cannot be validly considered as a disclaimer of jurisdiction of the respondent municipal court over Criminal Case No. 1002, contrary to the observations of the respondent municipal court (See Annex "L", id.). In all her actuations, the accused-petitioner never questioned the jurisdiction of the respondent municipal court to hear and try Criminal Case No. 1002.

Consequently, the respondent municipal court having dismissed Criminal Case No. 1002, after the accused-petitioner had been duly arraigned and pleaded not guilty to the crime charged, is a dismissal without the express consent of the accused, and to try her in another new and third criminal complaint for the same offense would place her in double jeopardy. Such dismissal without reservation after a plea of not guilty and apparently on the mistaken belief of the respondent municipal court that said criminal case is already 'revived' through the filing of Criminal Case No. 1068 is equivalent to acquittal and is a bar to a subsequent action in the same court for the same offense.

Besides the legal obstacles as discussed above, there are other considerations which entitle the accused-petitioner

to a dismissal of Criminal Case No. 1068 being within the orbit of the constitutional injunction against placing an accused in double jeopardy. The instant petition is replete with revealing allegations of the travails and hardships undergone by the accused-petitioner in appearing to one court and another to face the charges against her. From her hometown in Tambulig, she had to travel 120 kilometers to the Court of First Instance stationed in Pagadian City. Even the site of the respondent municipal court is 40 ki-lometers away from her house for a frail woman, like accused-petitioner, to travel (see page 6, Petition). There is the charge that even Judge Gualberto Bacarro, the presiding judge of the respondent municipal court, had stated that 'it was suggested by Atty. Fernando G. Cagoco (private prosecutor) to the respondent court, without the knowledge of the petitioner, to forward the case to the Court of first Instance because he (Atty. Cagoco) was already taking his oath as an Assistant Provincial Fiscal of Zamboanga del Sur during the second month after that' (p. 8, Petition). And there are the further allegations that '(J)ust because the alleged offended party has endeared herself to an Assistant Provincial Fiscal, she could do anything she wanted to prejudice the petitioner. And the courts have been used by the offended party and her Fiscal friend as their instruments to harass the said petitioner' (p. 9, Petition). The charges, if true, put a premium to the administration of justice in this jurisdiction."

ACCORDINGLY, the petition is granted and judgment is hereby rendered ordering the dismissal of Criminal Case No. 1068 filed against petitioner-accused in respondent court. The temporary restraining order issued on February 1, 1982 restraining the presiding judge of respondent court from proceeding with said criminal case is hereby made permanent.

SO ORDERED.

Makasiar, Fernandez, Melencio-Herrera, and Plana, JJ., concur. Guerrero, J., took no part.

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