

MANUEL ATIENZA, PETITIONER, VS. COURT OF APPEALS, RESPONDENT.

G.R. No. 60892. December 13, 1985

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

Petition for review of the resolution of the defunct Court of Appeals upholding the denial by the trial court of the petitioner's application for probation.

There is no dispute as to the facts. In Criminal Case No. P-933, entitled "People v. Manuel Atienza," the Court of First Instance of Oriental Mindoro, after trial, rendered a decision finding the accused, the petitioner herein, guilty of "direct assault with less serious physical injuries." The dispositive portion of the decision reads as follows:

"WHEREFORE, in view of the above findings, accused Manuel Atienza is found guilty beyond reasonable doubt of the complex crime of direct assault with less serious physical injuries, with no mitigating or aggravating circumstance, and applying the Indeterminate Sentence Law, as amended, he is sentenced to suffer imprisonment ranging from ONE (1) YEAR and EIGHT (8) MONTHS, as minimum, to FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) DAY, as maximum, both prison correccional and to indemnify the offended party the amount of P1,000.00 with subsidiary imprisonment in case of insolvency and to pay the costs." [1] (Emphasis supplied.)

The petitioner appealed his conviction; but pending the appeal, he applied for probation. Thus, the court, in its order of October 25, 1979, declared the appeal withdrawn and referred the application for probation to the Provincial Probation Officer for investigation, report and recommendation. The record before us does not disclose whether the probation officer submitted a report to the court. Neither is there any indication therein as to the tenor of such report, if one had in fact been submitted.

In any case, the trial court, on July 10, 1980, issued an order denying the petition for probation. It held that "to grant probation to the accused would depreciate the seriousness of the offense." Basis of its conclusion was that the crime was committed in disregard of the respect due to the offended party on account of his rank and age, the latter being the president of the association of barangay captains, apart from his being 60 years of age at the time of the incident, or 22 years older than the petitioner himself. The trial court further said that —

"The fact that the accused chose (sic) to fight the above entitled case to its bitter end, injecting during the trial thereof his unreliable version or theory of the case shows that he did not feel any remorse for his act or acts which gave rise to the filing of the information against him therein."

The petitioner filed a motion for reconsideration of the dismissal order; and upon denial thereof, he went to the appellate court on certiorari. The respondent court likewise dismissed the certiorari case. Hence, the present recourse.

The petition is impressed with merit. Under Section 9 of the Probation Law,² the offenders disqualified from

availing of the benefits of the Probation Law are the following:

- those sentenced to serve a maximum term of imprisonment of more than six years;
- those convicted of any offense against the security of the State;
- those who have previously been convicted by final judgment of an offense punished by imprisonment of not less than one month and one day and of a fine of not less than two hundred pesos;
- those who have been once on probation under the provisions of the decree; and
- those who were already serving sentence at the time the substantive provisions of the decree became applicable, pursuant to Section 33."

It is undisputed that petitioner is not a disqualified offender under the above section. That the offended party was the president of the association of barangay captains and that he was 60 years old at the time of the incident hardly justify the inference that the grant of probation would depreciate the seriousness of the offense committed. Indeed, such conclusion contradicts the very finding of the trial court that the offense committed by the accused was not attended by any aggravating circumstance. The petitioner is a first-time offender. According to the trial court, the petitioner, a school teacher, was drunk at the time of the incident. Such state of intoxication undoubtedly affected his mental faculties and diminished his capacity to understand the consequences of his act. It is significant that the trial court found no evidence to prove that such drunkenness on the part of the accused was habitual or intentional. Upon this premise, a deviation from the policy of liberality in the application of the Probation Law is not justified in the instant case. As this Court said in *Santos v. Pano*.^[3]

"The purpose of probation, what the law gives more importance to is the offender, not the crime. The inquiry is more on whether probation will help the offender along the lines for which the probation system has been established, such as giving the first-time offender a second chance to maintain his place in society through a process of reformation, which is better achieved, at least as to one who has not committed a very serious offense, when he is not mixed with hardened criminals in an atmosphere not conducive to soul-searching as within prison walls. The consciousness of the State's benignity in giving him that second chance to continue in peaceful and cordial association with his fellowmen will advance, rather than retard, the process of reformation in him."

Equally untenable is the lower court's conclusion that the petitioner "did not feel any remorse for his act" because "he fought the case to its bitter end" and insisted "on his unreliable version or theory" of the incident. Regarding this, it suffices to state that the Probation Law was never intended to limit the right of an accused person to present all relevant evidence he can avail of in order to secure a verdict of acquittal or a reduction of the penalty. Neither does the law require a plea of guilty on the part of the accused to enable him to avail of the benefits of probation. A contrary view would certainly negate the constitutional right of an accused to be presumed innocent until the contrary is proved.

WHEREFORE, the petition for certiorari is hereby granted. The questioned order of the respondent appellate court is set aside and the trial court is hereby directed to give due course to the petitioner's application for probation. No costs.

SO ORDERED.

Concepcion Jr. (Chairman), Abad Santos, Cuevas, and Alampay, JJ., concur.

[1] Records, p. 13.

[2] P.D. 968.

[3] 128 SCRA 9.

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