

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CARLOS CASTASARES, DEFENDANT AND APPELLANT.

G.R. No. 6188. January 04, 1911

Ponente: CARSON, J.

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CARSON, J.:

The proceedings in this case were instituted, and the defendant tried and convicted upon an information filed by the fiscal of the Province of Bohol, of which the following is an exact copy:

"ESTADOS UNIDOS DE AMERICA, ISLAS FILIPINAS.

"Los Estados Unidos contra Carlos Castanares. Injurias graves. Causa criminal No. -

"En el Juzgado de Primera Instancia de la Provincia de Bohol, I. F., 11.º Distrito Judicial, el día 18 de Marzo de 1910.

"El fiscal provincial que suscribe, a instancia del ofendido Mr. Jerry Klauck, acusa a Carlos Castanares, del delito de injurias graves, cometido como sigue:

"Que en o hacia el día 14 de Septiembre de 1909, en el vapor Jayme Vano en aquella fecha fondeado en las aguas de Tagbilaran, de esta provincia y distrito judicial, procedente de Cebu, el referido Carlos Castanares, siendo como era capitán del referido vapor, voluntaria, ilegal y criminalmente con ánimo de deshonorar, desacreditar y menospreciar a Mr. Jerry Klauck, publicamente y a presencia de otras personas, profirió las siguientes palabras: 'Bantay camo sa ato, cay dunay tao nga hilu-an' 'tener cuidado en nuestro pueblo, porque hay un hombre envenenador,' señalando al ofendido, que estaba en un bote próximo al referido vapor, y del cual desembarcaba como pasajero, - las cuales palabras son tenidas por afrentosas en el concepto público por su naturaleza, ocasión y circunstancias y merecen por tanto la calificación de injurias graves; con infracción de la Ley.

(Sgd.) "LEOPOLDO ROVIRA,

"Fiscal provincial de Bohol.

"A mi instancia.

(Sgd.) "J. KLAUCK, ofendido.

"Testigos:

"COSME CALIMBAYAN.

"CORNELIO GAHIT.

"YSABEL VLABUENA.

"JACINTO L. REMOLADOR.

"BENJAMIN CALCETA.

"MARCIAL MANIGQUE.

"MR. WATZDOLF.

"GEORGE W. JACKSON of Tagbilaran.

[Translation.]

"UNITED STATES OF AMERICA, PHILIPPINE ISLANDS.

"The United States vs. Carlos Castanares. Injurias graves.

Criminal case No. -

"In the Court of First Instance of the Province of Bohol, P. I., 11th Judicial District, March 18, 1910.

"The undersigned provincial fiscal, on complaint of the injured party, Mr. Jerry Klauck, hereby charges Carlos Castafieres with the crime of injurias graves, committed as follows:

That on or about the 14th day of September, 1909, on the S. S. Jayme Vaño anchored at said date in Tagbilaran waters, in this province and judicial district, on her voyage from Cebu, said Carlos Castañares, the captain of said steamer, willfully, wrongfully and criminally, with the intent of dishonoring, discrediting and insulting Mr. Jerry Klauck, publicly and in the presence of other persons, used the following words: 'Bantay camo sa ato, cay dunay too nga hilu-an' (be careful in our town as there is a man who is a poisoner) as he pointed at the injured party, who was on a launch, near said steamship, and from which he was landing as a passenger. The quoted words are offensive in the public opinion because of their meaning, the occasion and circumstances, and they constitute injurias graves; in violation of the law.

(Sgd.) "LEOPOLDO ROVIRA,

"Provincial Fiscal.

"At my instance.

(Sgd.) "J. KLAUCK, injured party.

"Witnesses:

"COSME CAUMBAYAN.

"CORNELIO GAHIT.

"YSABEL VLABUENA.

"JACINTO L. REMOLADOR.

"BENJAMIN CALCETA.

"MARCIAL MANIGQUE.

"MR. WATZDOLF.

"GEORGE W. JACKSON, of Tagbilaran."

Adhering to the construction we have placed on the provisions of section 1 of Act No. 1773, touching the prosecution of the crimes of adulterio, estupro, and injuria (adultery, seduction, and slander), in the case of the United States vs. Narvas (14 Phil. Rep., 410), with which compare the doctrine laid down in the case of the United States vs. De la Santa (9 Phil. Rep., 22), we are of opinion that the trial court had no jurisdiction over the subject matter contained in this information, that is to say, over the offense charged. The information and all the proceedings based thereon should, therefore, be dismissed.

It has been suggested that since the information in this case shows upon its face that it was filed "at the instance" of the aggrieved party, the object sought to be attained by the provisions of section 1 of Act No. 1773 was thereby substantially secured; that at most the institution of these proceedings by information, instead of by the filing of the complaint of the aggrieved party, was error, not prejudicial to the substantial rights of the defendant; and that no objection having been raised on that account in the court below, such objection should not be considered for the first time on appeal.

The objection in this case, however, goes directly to the jurisdiction of the court. Jurisdiction over the crime of injuria is expressly denied to the court in these Islands by the above-cited provisions of section 1 of Act No. 1773,

unless such jurisdiction is conferred by the filing of a complaint by the aggrieved party, his parents, grandparents, or guardian. In the case of the *United States vs. Narvas* (14 Phil. Rep., 410), we held that the complaint referred to in this section is a sworn written statement as defined in section 4 of General Orders, No. 58. The information upon which these proceedings were instituted was not such a complaint, and there can be no doubt, therefore, that the court below was without jurisdiction to proceed upon that information. An objection based on the lack of jurisdiction may be raised at any stage of the proceedings either in the court below or on appeal, and, indeed, courts do not hesitate to dismiss proceedings *ex mero motu* whenever it clearly appears that the subject matter is not within their jurisdiction, as in the case at bar. Jurisdiction over the subject matter in a criminal case can not be conferred upon the court by the accused, by express waiver or otherwise, since such jurisdiction is conferred by the sovereign authority which organized the court, and is given only by law in the manner and form prescribed by law. (*Harkness vs. Hyde*, 98 U. S., 476; *Nazos vs. Crazen*, 3 Dill. [U. S.], 474; *Wakefield vs. Goudy*, 4 111., 133; *Chipman vs. Waterbury*, 59 Conn., 496.)

Sound reasons of public policy can be and are advanced in support of those provisions of section 1 of Act No. 1773 which forbid the institution of criminal proceedings against persons charged with the crimes of adultery, estupro, and injuria except upon the complaint of the aggrieved person or of the parents, grandparents, or guardian of such person.

These reasons taken together with the express provisions of the law convince us that we should in all cases insist upon the institution of such proceedings in strict conformity with the express terms of the law, that is to say, by the filing of a complaint or sworn written statement by the injured party, his parents, grandparents, or guardian. We conclude therefore that the information on which this action was instituted and all the proceedings based thereon should be dismissed with the costs in both instances *de officio*. So ordered.

Torres, Mapa, Moreland, and Trent, JJ., concur.

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