

WILLIAM A. GRATTAGE, PLAINTIFF AND APPELLANT, VS. THE STANDARD FUEL COMPANY, DEFENDANT AND APPELLEE.*G.R. No. 6807. November 14, 1911*

Ponente: TORRES, J.

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This is an appeal, by bill of exceptions, from the orders of December 16, 1910, and January 26, 1911, entered by the lower court.

On November 2, 1910, William A. Grattage filed a complaint in the Court of First Instance of this city, against the corporation known as "The Standard Fuel Company," duly organized and existing in this city of Manila and engaged in the coal business. The said complaint alleged that on the 14th of October, 1910, and for a long period prior to said date, the plaintiff was employed by the defendant corporation as a collector, and for his services was to receive, and had been accustomed to receive, the sum of P100 per month; that on said 14th day of October, the plaintiff resigned his position as collector, to depart for the United States on the transport Logan, which sailed on the following day, October 15; that the plaintiff having demanded of the defendant payment of the balance of salary due, amounting to 79 centavos, the latter refused to pay him the same, and on the same date the defendant, maliciously and without probable cause, filed a complaint charging the plaintiff with the crime of estafa, on the ground that on the 13th of the aforesaid month the accused, Grattage, being under the obligation, in his said capacity as collector, to turn over to the company all sums collected by him from the debtors of the said Standard Fuel Company, collected and received the sum of ₱22 from the corporation known as "The Distilled Water Company," and, instead of complying with his duty, did, voluntarily, illegally, and fraudulently appropriate to his own benefit the said sum, to the damage and prejudice of the Standard Fuel Company, contrary to law; that, by virtue of this complaint and of the order of arrest issued by the court, the plaintiff was arrested on the 15th of October on board the transport Logan in sight of all the passengers and the crew, taken ashore and confined in the Luneta police station until the 17th of said month; that, on the hearing of the charge, before the municipal court, as no evidence was presented in support thereof, the said Grattage was released; that by reason of the malicious conduct of the defendant, in charging the plaintiff, without probable cause, with the commission of a crime, the latter was damaged morally and pecuniarily, for he had to pay attorney's fees and other expenses incurred after his arrest, and suffered great mental anguish as a result of the humiliation and mortification caused him by such arrest; that the plaintiff was urgently called to the United States for matters of great importance and was unable to depart because of the said arrest which redounded to the injury of the good esteem and prestige in which he was held; and that such injury and damage was due to the malicious procedure of the defendant company, its officers, supervisors, and agents. The plaintiff therefore prayed that judgment be rendered in his behalf and against the defendant for the sum of ₱7,500.79, the amount in which he estimated such injury and damage, together with interest thereon and the costs, and that the court further give exemplary damages to the plaintiff in whatsoever amount might be deemed just and equitable.

The defendant company, on December 1, 1910, presented, in writing, a demurrer to the aforementioned

complaint, basing the same on the grounds that the complaint did not state facts sufficient to constitute a cause of action, and was ambiguous, unintelligible, and vague; and asked that the complaint be dismissed, with the costs against the plaintiff.

The case having come before the court for a hearing on the demurrer, the judge, on the 16th of the aforesaid month, issued an order sustaining the demurrer, to which ruling an exception was taken by the plaintiff.

The plaintiff, by an order of January 7, having been granted a delay for the purpose of amending his complaint, his counsel entered an exception thereto in writing and stated that his client did not desire to amend his original complaint; therefore the defendant, in turn, requested that the case be dismissed, and the court, by an order of January 26, 1911, dismissed the action with the costs in favor of the defendant. An exception to this ruling was taken by the plaintiff, who announced his intention to appeal to this court, and for such purpose filed the proper bill of exceptions, which was certified and duly forwarded.

The claim, made by the plaintiff against the defendant company, of an indemnity for injury and damage, is based on the allegation that the latter, maliciously and without cause, filed a complaint in the municipal court of this city, charging the former, to his detriment, with having committed the crime of estafa or embezzlement of P22, which was untrue, for the defendant could not prove the charge, and, because of such lack of proof, the municipal court had to dismiss the action and release the defendant, the herein plaintiff, who alleges that, as a result of that libelous accusation filed without just cause, he suffered injury and damage to the amount of P7,500.79.

The action prosecuted by the plaintiff originates in the fact that he was accused by the defendant company, without probable cause, with having committed the crime of estafa, such charge being filed before a judicial authority who dismissed the complaint for lack of proof in its support. The propriety of the said action depends upon whether the judge before whom the charge was heard, certified that the accusation was in fact false and libelous, since from this circumstance is derived the right of the person libeled, or falsely accused, to prosecute the false accuser and to demand from him an indemnity for injury and damage.

Article 326 of the Penal Code prescribes that:

"The crime of false accusation or denunciation is committed by falsely imputing to any person acts which, if they were true, would constitute a crime that would give rise to proceedings ex officio if the imputation were made before an administrative or judicial official who would be obliged to proceed to its investigation or punishment by reason of his office.

"The denouncer or accuser, however, shall not be proceeded against unless by virtue of a final sentence or writ, equally final, of the court which took cognizance of the crime imputed, dismissing the complaint.

"The latter shall proceed ex officio against the denouncer or accuser, provided that the principal cause should show sufficient grounds for instituting a new action."

In harmony with these provisions of the Penal Code, article 795 of the Compilation reformada de las disposiciones sobre el Enjuiciamiento Criminal, provides that, in the first case of the article above quoted, which is when the act which gave rise to the institution of the cause is not proved, it may be certified by the court in ordering the dismissal that the bringing of the action has not injured the reputation of the parties prosecuted or of any of them.

The court may also, at the instance of the party prosecuted, reserve to the latter the right to sue the complainant for false accusation.

Article 638 of the Ley de Enjuiciamiento Criminal of 1882 (Law of Criminal Procedure) contains analogous provisions, which are cited on account of their agreement with the preinserted article of the Penal Code.

It is concluded from the legal provisions aforementioned, that the false imputation of crimes of a private character does not constitute the crime of libelous denunciation or accusation, punished by the said article 326 of the Penal Code.

It is true that the plaintiff was accused before a judicial authority with having committed the crime of estafa, an accusation which afterwards could not be proved, wherefore the complaint was dismissed and the plaintiff in this cause, William A. Grattage, was released. The act of which he was accused, wrongfully and without just cause, might be a crime of a public character which could be the subject matter of an action by the prosecuting officer; and the decision or order of dismissal by the municipal judge, directing his release, is of a definite and final character; but, notwithstanding these circumstances, the fact is that the judge, in determining the matter, abstained from making an explicit statement that the accusation presented by the complaining witness was false and libelous; neither did he order that the latter be proceeded against through an information by the prosecuting officer. For this reason, to wit, because of the lack of such certification that the accusation made against the herein plaintiff, Grattage, was false and libelous, it would be improper, pursuant to the provisions of the Penal Code, to hold that the said accuser incurred criminal liability, or that he is civilly liable for the injury and damage occasioned by that unproved accusation, not certified to be false by the judge before whom the case was tried; for, in accordance with article 17 of the Penal Code, civil liability is always a consequence of criminal responsibility in the cases of crimes that give rise to a criminal action and to the consequent civil liability.

So, then, according to an express provision of the code, in order that an action instituted for the recovery of an indemnity for injury and damage, as a result of a false denunciation or libelous accusation, may be proper and maintainable before the courts, it is indispensable that, in the judgment whereby the accused and libeled person is absolved, or in the order of final dismissal, the said denunciation or accusation be, as provided by the penal law, expressly certified to be false and libelous; otherwise, the action can not prosper.

In the case of *Gonzalez Quiros vs. Palanca Tan-Guinlay* (5 Phil. Rep., 675), the following doctrine was established:

"No civil action for damages on account of malicious prosecution can be maintained unless the court, in acquitting the defendant of the criminal charge, orders a criminal prosecution to be commenced against the complaining witness for false accusation."

In the same decision it is said:

"Article 326 of the Penal Code provides, as we have held in the case of *United States vs. Agustina Barrera* (4 Phil. Rep., 461), that no prosecution for a false accusation or complaint in a criminal case can be commenced unless the judge, in dismissing the first complaint, orders a complaint to be filed against the complaining witness for false accusation. The judgment dismissing the complaint against the defendant contained no such provision. We hold that this article applies not only to a criminal proceeding against the complaining witness, but also to civil proceedings, and that no action to recover damages in a civil suit can be maintained by the person arrested against the person presenting the complaint, unless in the order acquitting the person arrested the judge certifies that the complaint was malicious, as required by said article 326. The defendant in this case, therefore, is not entitled to recover any damages by reason of the criminal prosecution against him."

Said decision was a confirmation of the legal doctrine constantly followed by the courts of these Islands; it agrees with that established in Spain, and is in harmony with the provisions of the penal laws in force in that country, which are analogous to those that govern in this Archipelago. We therefore abstain from citing in this decision laws of Spain and decisions of the Spanish supreme court. By what has been herein before stated, and by the quotation from a former decision of this court, the impropriety of the action prosecuted by the plaintiff for injury and damage has been demonstrated.

If the latter had immediately petitioned the court that dismissed the complaint, to certify, pursuant to the provisions of the Penal Code, that the accusation of estafa made against him was false, perhaps he would have succeeded in obtaining such a certification; but the person accused, now the plaintiff, William A. Grattage, not having so done, this court can not lawfully authorize a continuance of the said action, nor can it reverse the order of December 16, 1910, sustaining the demurrer.

For the foregoing reasons, whereby the errors assigned to the order appealed from, which is sustained as to its dispositive part upon the grounds herein set forth, are held to have been answered and refuted, the said order and that of January 26 of the current year are affirmed with the costs against the appellant.

Arellano, C. J., Mapa, Carson, and Trent, JJ., concur.

Moreland, J., dissents.

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