

PATROLMAN OSCAR QUILONA, PETITIONER, VS. THE GENERAL COURT MARTIAL (ARRO COURT) AND/OR BRIGADIER GENERAL REGINO ARRO, P/MAJOR CESAR CAYABYAB, P/MAJOR ROBERTO SANGGALANG, P/MAJOR...

G.R. No. 96607. March 04, 1992

Ponente: PADILLA, J.

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PADILLA, J.:

The petitioner, a policeman assigned at the Western Police District (WPD), was charged before respondent General Court Martial with the crime of murder on two (2) counts, under Article 248 of the Revised Penal Code. The case is entitled "People of the Philippines vs. Patrolman Oscar Quiloña."

On 14 December 1990, petitioner, through counsel, wrote a letter^[1] to President Corazon C. Aquino, expressing his desire to be tried by a civilian court and sought a waiver of military jurisdiction, for the reason, among others, that the "enactment of the Philippine National Police Law creates his honest belief that he should now be under the actual and real jurisdiction of a civilian court."

At the scheduled arraignment on 15 December 1990, petitioner's counsel manifested to respondent General Court Martial his client's desire not to be arraigned and to be tried by a civilian court, furnishing respondent court martial a copy of petitioner's letter to the President. The petitioner's arraignment was reset.

At the next scheduled arraignment of petitioner on 28 December 1990, the petitioner filed a pleading denominated as "MOTION FOR THIS HONORABLE COURT MARTIAL TO INHIBIT ITSELF FROM PURSUING THE ARRAIGNMENT OF THE ACCUSED AND TO HAVE HIS CASE INVESTIGATED BY THE CIVILIAN PROSECUTOR OR AT LEAST TRIED BY A CIVILIAN COURT".^[2] Although set for oral argument on 3 January 1991, respondent court decided to have the motion argued on the day it was filed - 28 December 1990. And after a ten-minute closed-door deliberation among the members of respondent court martial, it resumed session where it denied the petitioner's aforesaid motion. Petitioner, through counsel, moved for a reconsideration and asked that he be allowed to file his arguments on the next day. Respondent court, however, denied the motion and proceeded to read the charges and specifications to petitioner. Petitioner refused to enter a plea and manifested that he would elevate the matter to the Supreme Court. Nevertheless, respondent court ordered the entry of a "Plea of Not Guilty" and set the trial of the case to 25 January 1991.^[3]

Petitioner has filed this petition for certiorari and prohibition with preliminary injunction and/or restraining order, alleging that respondent court acted with grave abuse of discretion in denying his motion for inhibition and that there is no appeal, nor any other plain, speedy and adequate remedy in the ordinary course of law except thru the present petition, and praying that -?

"x x x a writ of certiorari be issued, ordering the proceedings herein complained of to be certified forthwith for review and a writ of preliminary injunction and temporary restraining order be issued by this Honorable Supreme Court to prevent the respondent from trying the accused (petitioner) for the protection of his rights

pending the resolution of this petition, and after due hearing, let judgment be rendered annulling the arraignment of the accused and/or annulling the proceedings taken by respondents on December 18, 1990 as the law requires, prohibiting respondents from trying petitioner." [4]

Acting upon the petition, the Court on 17 January 1991 resolved to implead the People of the Philippines as party respondent and require the Solicitor General to comment on the petition. [5]

On 19 February 1991, petitioner filed with this Court an URGENT EX-PARTE MOTION FOR THE ISSUANCE OF A RESTRAINING ORDER [6] alleging, among others, that "the respondent court martial and the members thereof are insistent on trying the accused and have scheduled the hearing on 22nd of February 1991" and that "only a restraining order of this Honorable Court will stop them from proceeding with the trial of petitioner."

As prayed for by petitioner, the Court issued on 21 February 1991 a temporary restraining order, [7] directing the respondents to CEASE and DESIST from trying and/or proceeding with the trial of the petitioner.

On 21 May 1991, the Solicitor General filed his comment [8] on the petition, recommending that the same be given due course.

Acting on the petition as well as the comment of the Solicitor General, the Court resolved to (1) treat the respondents' comment as answer to the petition; (2) give due course to the petition; and (3) consider this case calendared for deliberation. [9] Hence, this decision.

The petition is meritorious.

Republic Act No. 6975, [10] creating the Philippine National Police (PNP), [11] which took effect on 1 January 1991, [12] provides:

"SEC. 46. Jurisdiction in Criminal Cases. --- Any provision of law to the contrary notwithstanding, criminal cases involving PNP members shall be within the exclusive jurisdiction of the regular courts; Provided, That the courts-martial appointed pursuant to Presidential Decree No. 1850 shall continue to try PC-INP members who have already been arraigned, to include appropriate actions thereon by the reviewing authorities pursuant to Commonwealth Act No. 408, otherwise known as the Articles of War, as amended by Executive Order No. 178, otherwise known as the Manual for Courts-Martial: Provided, further, that criminal cases against PC-INP members who may have not yet been arraigned upon the effectivity of this Act shall be transferred to the proper city or provincial prosecutor or municipal trial court judge." (Emphasis supplied)

At this juncture, it will be recalled that on 28 December 1990, the petitioner filed a motion to inhibit respondent court martial from proceeding with his arraignment and that his case be investigated by a civilian prosecutor or tried by a civilian court. Although the said motion was set by petitioner-movant for oral argument on 3 January 1991, respondent court martial decided to have it argued on 28 December 1990 -- the very day it was filed. And after a ten-minute closed-door deliberation among the members thereof, it resumed session where it denied the petitioner's motion. Thereafter, it proceeded to read the charges and specifications to petitioner. Notwithstanding the petitioner's refusal to enter a plea, respondent court martial entered for him a "Plea of Not Guilty" and set the trial of the case on 25 January 1991.

Although Republic Act No. 6975 was not yet in effect when petitioner was arraigned on 28 December 1990, nevertheless, respondent court martial knew or should have known that the said Act had already been signed or approved by the President on 13 December 1990 and that the same was published in two (2) national newspapers of general circulation on 17 December 1990 and that it would take effect on 1 January 1991. It is precisely for this reason that respondent court martial decided to have the petitioner's motion to inhibit argued on 28 December 1990 and thereafter arraigned the petitioner on the same day despite his vehement refusal to enter a

plea.

Clearly, under the circumstances obtaining in the present case, respondent court martial acted with grave abuse of discretion amounting to lack or excess of juris-diction in proceeding with the arraignment of the petitioner on 28 December 1990.

Moreover, as correctly pointed out by the Solicitor General in his comment --

"Section 46 should be read in the light of the policy of the State declared under Section 2 of the act, which says:

'SEC. 2. Declaration of Policy. It is hereby declared to be the policy of the State to promote peace and order, ensure public safety and further strengthen local government capability aimed towards the effective delivery of the basic services to the citizenry through the establishment of a highly efficient and competent police force that is national in scope and civilian in character. Towards this end, the State shall bolster a system of coordination and cooperation among the citizenry, local executives and the integrated law enforcement and public safety agencies created under this Act.

'The police force shall be orga-nized, trained and equipped primarily for the performance of police functions. Its national scope and civilian character shall be paramount. No element of the police force shall be military nor shall any position thereof be occupied by active members of the Armed Forces of the Philippines.'

"The civilian character with which the PNP is expressly invested is declared by RA 6975 as paramount, and, in line therewith, the law mandates the transfer of criminal cases against its members to civilian courts.

x x x

"By closing its eyes to the provisions of Sections 2 and 46, indelicately asserting its military jurisdiction rather than letting go of the case to civilian jurisdiction to effectuate and give flesh to the avowed policy and intent of the law, respondent Court committed grave abuse of discretion."

ACCORDINGLY, the petition is GRANTED; the proceedings held on 28 December 1990 before respondents are declared NULL and VOID. The respondent court martial is hereby ORDERED to TRANSFER the subject criminal case against the petitioner to the appropriate city or provincial prosecutor for expeditious action. The temporary restraining order heretofore issued by the Court is hereby made permanent.

SO ORDERED.

Narvasa, C.J., Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., Romero, and Nocon, JJ., concur.

[1] Annex "G", Rollo, p. 18

[2] Annex "B", Rollo, p. 13

[3] Annex "A", Rollo, p. 7

[4] Rollo, p. 5

[5] Ibid., p. 26

[6] Ibid., pp. 26

[7] Ibid., p. 29-30

[8] Ibid., p. 59

[9] Ibid., p. 58

[10] Approved by the President on 13 December 1990.

[11] Sec. 23 of RA No. 6975 provides: "Subject to the limitations provided for in this Act, the Philippine National Police, hereinafter referred to as the PNP, is hereby established, initially consisting of the members of the police force who were integrated into the Integrated National Police (INP) pursuant to Presidential Decree No. 765, and the officers and enlisted personnel of the Philippine Constabulary (PC). x x x."

[12] Sec. 96 of RA No. 6975 provides: "This Act shall take effect after fifteen (15) days following its publication in two (2) national newspapers of general circulation. RA No. 6975 was published in "The Philippine Star" and "Times Journal" on 17 December 1990.

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