

CARLOS J. TORRES, PETITIONER, VS. HON. JOSE TEODORO, SR., ET ALS., RESPONDENTS.*G. R. Nos. 10093 and 10356. April 30, 1957*

Ponente: REYES, A., J.

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These two petitions—one for certiorari and prohibition and the other for certiorari with injunction and habeas corpus—stem from the same case, and being closely related they may well be decided together. The petitions: seek to annul two orders of the respondent judge, one convicting the petitioner of indirect contempt, and the other ordering his arrest . for direct contempt. Both orders were rendered in Civil Case No. 3173 of the Court of First Instance of Occidental Negros, which is an action for support instituted on behalf of three minor children of tender age against the petitioner as their alleged illegitimate father.

It would appear that in that civil case, decision was rendered on October 28, 1955 declaring the petitioner to be the illegitimate father of the plaintiff minors and ordering him, among other things, to give each of them a monthly support of P100, the same to be deposited with the clerk of court on the first of each month notwithstanding any appeal that might be interposed, and on November 14 of the same year a special order for execution was ' issued pursuant to section 2 of Rule 39, because the court had been made aware that the minors were in urgent need of support, the court furthermore believing that paternity and filiation had been established by irrefutable evidence and that any appeal that the petitioner might interpose would only be in line with his previous maneuvers for delay. As despite this special order the petitioner made no deposit in court for the support of the minors, he was, at their instance, cited for contempt, and the court having found after hearing that though possessed of adequate means he really had made no deposit, an order was handed down under date of December 17 declaring him guilty of indirect contempt and sentencing him to a fine of P1,000.00 or imprisonment of not more than six months, at the same time directing his incarceration till he should perform the act required. From this order petitioner appealed, and on January 7, 1956 the court approved his record on appeal and bond and ordered the case elevated to the Supreme Court.

On January 24, 1956, upon complaint of the minors that the pension corresponding to that month had not been deposited, the court, over petitioner's objection, handed down another order again declaring him guilty of contempt and directing his incarceration till he should make the deposit, the order explaining that the previous conviction for contempt was for his failure to make the deposit corresponding to the preceding month of December. It is this last order that the petition for certiorari in G. R. No. L-10356 seeks to annul.

It is petitioner's contention, as set forth in the memorandum filed by his attorney, that the order in question is null and void on the grounds (1) that it is his second conviction and punishment for the same offense, and (2) that petitioner has been punished without due process of law.

As to the first ground, there is nothing to the charge that petitioner is being punished twice for the same offense. The order complained of makes it quite clear that as petitioner was expressly ordered to make a deposit on the

first day of each month, such order was violated every time the deposit corresponding to a particular month was not made, so that petitioner's previous conviction for his failure to deposit the pension for the month of December, 1955 was no bar to his being subsequently convicted for his failure to deposit the pension for the month of January, 1956, in the same way that deposit of the pension corresponding to December would not have excused petitioner from depositing the pension for January.

Neither is there merit in the contention that the order for the incarceration of petitioner was unnecessary and improper in that the judgment for support could have been satisfied through levy on petitioner's property if he had any. The petitioner having disobeyed the order to pay support although, as found by the court, he had the means to do so, section 6 of Rule 63 is applicable, for that section expressly provides that should defendant in an action for alimony "appear to have means to pay alimony and refuses to pay, either an order of execution may be issued or a penalty for contempt may be issued, or both."

As to the second ground, there is nothing to the claim that while the motion for contempt and the opposition thereto were argued, there was, however, "no trial and no evidence has been presented." For it appears from respondents' answer that the motion for contempt was properly supported by an affidavit of the guardian ad litem, which was never contradicted by the petitioner, and that after the parties were heard in argument and after the plaintiffs had filed a reply to the opposition to the motion, the case was submitted for decision.

Calling, attention to Section 10 of Rule 64, petitioner also complains that the court acted contrary to that rule in denying his motion to put up a bond for his temporary release. But it is obvious that the allowance of such a bond would not be proper in the present case because it would have postponed compliance with a peremptory order for support upon which depended the survival of three helpless minors.

The petition for certiorari in G. R. No. L-10356 should therefore, be denied.

Coming now to the petition in G. R. No. L-10093, which is one for "certiorari with injunction and habeas corpus," we find that the same petitioner Carlos J. Torres there seeks the annulment of another order of the same respondent judge, Hon. Jose Teodoro, Sr., in the same case for support, on the grounds that the said order was issued without authority and with grave abuse of discretion. The petition alleges that on December 17, 1955 of the respondent judge dictated an order (Annex "A") for the issuance of a warrant for the arrest of petitioner and did in fact on that same day issue a warrant (Annex "B") directing the Philippine Constabulary to apprehend him on a charge of contempt and to bring him before the court so that he could be dealt with according to law; that pursuant to said warrant, the Provincial Commander of the Philippine Constabulary arrested petitioner in the morning of December 23 and held him in confinement at headquarters; and that petitioner's arrest and confinement were illegal and arbitrary not only because the order of arrest was fatally defective but also because it was issued without any complaint having been filed against the petitioner.

In their sworn answer to the petition the respondents admit the issuance of the order and warrant of arrest attached to the petition as Annexes "A" and "B", respectively, and the arrest of the petitioner pursuant thereto, but allege that the petition did not "faithfully and honestly reflect the true circumstances and facts of the incident leading to the issuance of the said orders." And supplying the pertinent facts not disclosed by the petition, the answer alleges, with supporting papers, that what, really happened is that on December 17, 1955, shortly after the respondent judge had in open court dictated petitioner's first conviction for contempt (already hereinbefore mentioned), "the petitioner waited at the head of the stairs leading from the Provincial Capitol Building to the street, a distance of about six (6) meters to the door of the courtroom, Branch II, and treacherously assaulted the plaintiffs' counsel, Atty. Melanio O. Lalisan, a practitioner in good standing, in the presence of a big crowd who was gathered by the door of the courtroom, among whom are members of the bar, which created such a panic,

commotion and disturbance that the Court session presided by the respondent Judge was interrupted and had to be suspended by reason of the disorder stemming from the unjustified and unprovoked attack consummated by the petitioner on the person of a respectable member of the Philippine Bar, in the presence of and so near a court or judge, a misbehaviour resulting in the interruption of the administration of justice"; that the victim of the assault, Atty. Lalisán, having immediately reported the incident to the court and asked that petitioner be held in contempt, and the respondent judge, being persuaded that the petitioner had committed direct contempt, under section 1 of Rule 64, ordered the deputy sheriff to arrest him; that as the said, deputy sheriff failed to make the arrest because petitioner's counsel, Amado B. Parreño intervened and questioned the authority of the said officer to make the arrest without a warrant, the respondent judge issued an order dated December 17, 1955, already identified as Annex "A", for the immediate issuance of a warrant for the arrest of petitioner and followed it with the issuance of the warrant itself (Annex "B" for the apprehension of petitioner on a charge of contempt of court; that on the authority of this warrant, the Provincial Commander of the Constabulary effected petitioner's arrest on December 23, 1955 and had him taken to court at about 11:30 in the morning; that forthwith, the court in open session asked the petitioner why he should not be held in direct contempt for having caused the interruption of the court's session by assaulting Atty. Lalisán within the vicinity of the court; that as the attorney for petitioner informed the court that the assault was provoked by Atty. Lalisán, the court decided to hear the said attorney and advised the parties that they could bring their respective evidence at 8:30 the following morning, the petitioner to remain in the meantime in the custody of the Philippine Constabulary; that after hearing the parties on that day, December 24, the court rendered an order declaring the petitioner guilty of direct contempt under section 1 of Rule 64, and sentencing him to prison for 10 days and a fine of P200 with subsidiary imprisonment in case of insolvency.

Our impression, after going over the record, is that the petitioner has come to this Court with a petition that does not fully disclose the circumstances surrounding the issuance of the orders complained of, that is to say, the order marked Annex "A" and the warrant of arrest marked Annex "B". With the details supplied by the answer and its supporting papers, we now see that, briefly stated, what actually happened is that while the respondent judge was still holding court on December 17, 1955, after dictating his order sentencing petitioner to prison for disobeying an order for the payment of support to the plaintiff minors, the petitioner waited at the head of the stairs about six meters from the door of the courtroom and then and there assaulted the attorney for the minors, thereby committing a serious misbehaviour so close to the court as to interrupt the administration of justice, for which reason he was ordered arrested upon complaint of the person assaulted and then proceeded against as for contempt in accordance with section 1 of Rule 64.

Counsel for petitioner in his memorandum raises the following issues:

- That the order of December 17, 1955, Annex 'A' and the Warrant of Arrest issued by reason thereof, Annex 'B' are illegal and void;
- That the arrest of petitioner by the provincial commander of the Philippine Constabulary and his imprisonment, detainment and confinement was a deprivation of his liberty without a complaint and "without giving petitioner his right to his constitutional proceedings,"

As to issue No. 1, the order and warrant therein referred to read as follows:

(The order Annex "A")

"ORDER

"Issue a warrant for the arrest of Carlos Torres and issue it immediately. "Bacolod City, Phil., 17 December 1955.

Jose Teodoro, Sr.

Judge"

(The warrant oi: arrest Annex "B")

"To Any Officer of the Law:

"You are hereby commanded to arrest Carlos Toeets who is said to be found at Bacolod City and who has been charged, before me with the offense Contempt and bring forthwith before me to be dealt with according to law.

"17 day of December 1955

"(Sgd.) Jose Teodoro, Sr.

Judge"

Counsel contends that the order Annex "A" for the issuance of a warrant of arrest is illegal because it does not specify the offense charged, the name of the complainant and the facts and law upon which it is based, and that, as a consequence, the warrant of arrest is also illegal and void. We see no merit in this contention: The warrant of arrest being complete in itself and signed by the judge himself, it does not have to depend for its validity upon the sufficiency of the order for the issuance signed by the same judge.

As to issue No. 2, there is nothing to the charge that petitioner was ordered arrested without any complaint, for it appears from the transcript of stenographic notes quoted in the answer that the assaulted attorney "came back to Court apparently upset," and asked that petitioner" be held guilty of contempt of Court." Moreover, in direct contempt the judge does not have to wait for any complaint before he can act.

That petitioner was given due hearing is apparent from the orders marked exhibits "7" and "8" attached to the answer. In the first it is narrated that upon the petitioner being brought to court he was asked in an open session why he should not be held in contempt for having interrupted court proceedings by assaulting Atty. Lalian; and when his counsel alleged that the assault had been provoked by Atty. Lalian the court directed the parties to present their evidence the following morning. What took place on the day following is narrated in the other order (Exh. "8") as follows:

"When this incident was called for the continuation of the hearing today, the defendant appeared and Atty. Amado B. Parreño entered his special appearance for the defendant and asked permission of the Court to make of record certain manifestation which now appears in the record preliminary to the waiver of the defendant to present his evidence this morning. Whereupon, Atty. Lalian, as the victim, presented his oral evidence in which he denied the imputation made by Atty. Emilio Torres, Jr., i for the defendant, to the effect that Atty. Lalian was the one who provoked the incident and should therefore be the one to be held guilty of contempt of court. Atty. , Lalian explained more or less in detail what transpired last Saturday, December 17, 1955, and when Atty. Ricardo Nolan took the witness stand, the latter practically corroborated what was testified to by Atty. Lalian,

"The defendant, thru his counsel, Atty. Emilio Torres, Jr., waived his right to cross-examine Attys. Lalian and Nolan.

The order then states the court's conclusion of fact as follows:

"In view of the evidence presented in this hearing and of the personal knowledge of this Court as to what really transpired— the fact that the proceedings of this Court were interrupted and the further fact that the incident took place within the premises of the Court, the Court holds that Carlos J. Torres is guilty of direct contempt of court."

Our own conclusion after going over the record is that the respondent judge has proceeded in the premises in accordance with section 1 of Rule 64, which provides:

"Section 1. Direct contempt punished summarily; appeal from inferior court.

—A person guilty of misbehavior in the presence of or so near a court or judge as to interrupt the administration of justice, including disrespect toward the court or judge, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required so to do, may be summarily adjudged in contempt by such court or judge and punished by fine not exceeding two hundred pesos or imprisonment not exceeding ten days, or both, if it be a superior court, or a judge thereof, or by fine not exceeding ten pesos or imprisonment not exceeding one day, or both, if it be an inferior court."

Wherefore, the petition in G. R. No. L-10093, like that in G. R. No. L-10356, is also denied. Costs in both cases against the petitioner.

Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Conception, Endencia, and Felix, JJ., concur.

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