

BERNIE G. MIAQUE, PETITIONER, VS. HON. VIRGILIO M. PATAG, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF ILOILO CITY, BRANCH 33, VICENTE C. ARAGONA, AND PEOPL...

G.R. Nos. 170609-13. January 30, 2009

Ponente: CORONA, J.

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CORONA, J.:

This is a special civil action for certiorari[1] assailing the orders of the Regional Trial Court (RTC) of Iloilo City, Branch 33 dated August 25, 2005[2] and September 19, 2005[3] in Criminal Case Nos. 05-61407 to 05-61411 captioned People of the Philippines versus Bernie Miaque, et al.

On January 31, 2000, five Informations for libel[4] were filed in the RTC of Iloilo City, Branch 26, against petitioner Bernie G. Miaque and three others.[5] In an order dated February 17, 2005,[6] these Informations were quashed for lack of jurisdiction over the offenses charged. Specifically, said Informations failed to allege either that private respondent (therein private complainant) Vicente Aragona actually held office in Iloilo City at the time of the commission of the offenses or that the alleged libelous remarks were printed or first published in Iloilo City.[7]

On June 22, 2005, Assistant Provincial Prosecutor Jerry Marañon issued a resolution recommending the filing of Informations for libel against petitioner and his co-accused. Accordingly, five new Informations for libel docketed as Criminal Case Nos. 05-61407 to 05-61411 were filed against petitioner and his co-accused in the RTC of Iloilo City, Branch 33, presided by respondent Judge Virgilio M. Patag.

The new Informations were similarly worded as those previously quashed but with these added allegations: (1) Aragona, Regional State Prosecutor VI of the Department of Justice, held office at the Hall of Justice, Iloilo City or (2) the alleged libelous remarks were written, printed and published in Iloilo City (on the pertinent dates thereof). Said Informations were likewise signed and filed by Assistant Provincial Prosecutor Marañon.

In view of the filing of the new Informations, petitioner filed his motions (dated August 8, 2005) not to issue warrants of arrest and, if already issued, to recall them and remand the Informations to the Provincial Prosecutor's Office for preliminary investigation.[8] In an order dated August 25, 2005, respondent judge denied petitioner's motions on the ground that petitioner was beyond the court's jurisdiction as he was not under the custody of the court.[9] Petitioner's motion for reconsideration was denied in an order dated September 19, 2005. Hence, this petition.

Petitioner challenges the August 25, 2005 and September 19, 2005 orders of respondent judge for being contrary to law and for having been issued with grave abuse of discretion. He contends that the Informations were filed without the mandatory preliminary investigation. Moreover, the new Informations were filed by one who had no authority to do so because these were filed by the Iloilo Provincial Prosecutor's Office and not the Iloilo City

Prosecutor's Office. Jurisdiction over the subject matter supposedly belonged to the latter. Petitioner likewise assails the refusal of respondent judge to recall the warrants of arrest issued against him.

The Office of the Solicitor General (OSG), representing the People of the Philippines, contends that the quashed Informations were merely amended to include the allegations that Aragona actually held office in Iloilo City at the time of the commission of the offenses or that the libelous remarks were printed and first published in Iloilo City. A new preliminary investigation was therefore unnecessary. On the warrant of arrest, the OSG alleges that the trial court acquired jurisdiction over petitioner in view of the filing of his August 8, 2005 motions. The filing of the motions supposedly was tantamount to voluntarily submitting to the jurisdiction of the court.

Generally, a direct resort to us in a petition for certiorari is incorrect for it violates the hierarchy of courts.[10] A regard for judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level courts should be filed in the RTC and those against the latter should be filed in the Court of Appeals.[11] This rule, however, may be relaxed when pure questions of law[12] are raised as in this case.

We grant the petition. The Informations must be quashed.

One of the issues raised in the petition is the authority of the Iloilo Provincial Prosecutor's Office to file and sign the new Informations against petitioner. The offenses charged in each of the new Informations were alleged to have been committed in Iloilo City but said Informations were filed by the Iloilo Provincial Prosecutor's Office.

Sections 9 and 11 of Presidential Decree No. 1275[13] provide:

SEC. 9. Offices of Provincial Fiscals and City Fiscals' Staffing. -- There shall be in each province and each subprovince; one provincial fiscal and such number of assistant provincial fiscals as may hereinafter be provided for.

There shall be in each city one city fiscals and such number of assistant city fiscals as may hereinafter be provided.

xxx

SEC. 11. Provincial Fiscals and City Fiscals; Duties and Functions. - The provincial fiscal or the city fiscal shall:

a) xxx

b) Investigate and/or cause to be investigated all charges of crimes, misdemeanors and violations of all penal laws and ordinances within their respective jurisdictions and have the necessary information or complaint prepared or made against the persons accused. xxx (emphasis supplied)

It is undisputed that the alleged acts of libel were committed in Iloilo City. Who then had the authority to file and sign the new informations against petitioner and his co-accused? The Charter of the City of Iloilo provides:[14]

[The City Fiscal, now City Prosecutor] shall also have charge of the prosecution of all crimes, misdemeanors and violations of city ordinances, in the Court of First Instance (now RTC) and in the Municipal Trial Court of the city, and shall discharge all the duties in respect to criminal prosecutions enjoined by law upon provincial fiscals.

The city fiscal shall cause to be investigated all charges of crimes, misdemeanors, and violations of ordinances, and have the necessary informations or complaints prepared against the persons accused. xxx[15]

The authority to sign and file the new Informations is properly lodged with the Iloilo City Prosecutor's Office. The Iloilo Provincial Prosecutor's Office was clearly bereft of authority to file the new Informations against petitioner. An Information, when required by law to be filed by a public prosecuting officer, cannot be filed by another.[16]

The court does not acquire jurisdiction over the case because there is a defect in the Information. We held in *People v. Hon. Garfin*:^[17]

It is a valid information signed by a competent officer which, among other requisites, confers jurisdiction on the court over the person of the accused and the subject matter thereof. xxx Questions relating to lack of jurisdiction may be raised at any stage of the proceeding. An infirmity in the information, such as lack of authority of the officer signing it, cannot be cured by silence, acquiescence, or even by express consent.

The foregoing considered, the Informations corresponding to Criminal Case Nos. 05-61407 to 05-61411 were fatally defective. The common infirmity in the Informations constituted a jurisdictional defect that could not be cured.^[18] There was no point in proceeding under a defective Information that could never be the basis of a valid conviction.^[19]

WHEREFORE, the petition is hereby GRANTED. The orders of the Regional Trial Court of Iloilo City, Branch 33 dated August 25, 2005 and September 19, 2005 are hereby REVERSED AND SET ASIDE. Criminal Case Nos. 05-61407 to 05-61411 are DISMISSED WITHOUT PREJUDICE to the filing of new Informations by an authorized officer. The warrants of arrest issued are likewise QUASHED.

SO ORDERED.

Carpio, (Acting Chairperson)[*], Austria-Martinez[**], Carpio Morales[**], and Leonardo-De Castro, JJ., concur.

[*] Per Special Order No. 552-A dated January 15, 2009.

[**] Per Special Order No. 553 dated January 15, 2009.

[1] Under Rule 65 of the Rules of Court. The petition was accompanied by a prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction which was denied for lack of merit by the Court in a resolution dated December 6, 2006. Rollo, pp. 3-18.

[2] Penned by public respondent Judge Virgilio M. Patag. Id., p. 19.

[3] Id., p. 20.

[4] Id., pp. 32-51.

[5] Petitioner's co-accused were Tony Mauricio, Noel Cabobos and Rodolfo Divinagracia.

[6] Rollo, pp. 61-66.

[7] Id., p. 58.

[8] Id., pp. 21-26.

[9] Id., p. 19. The relevant portion of the order read:

"The records indicate that the aforementioned accused are beyond the jurisdiction of this Court because they are not in custodia legis and/or under the custody of this Court. By reason of the fact that We do not possess jurisdiction over the three aforementioned accused, We are likewise without jurisdiction over the subject matter of the instant motion.

Based on the foregoing, We hereby deny the aforesaid motion for lack of merit.

SO ORDERED."

[10] Pacoy v. Cajigal, G.R. No. 157472, 28 September 2007, 534 SCRA 338, 346.

[11] Chavez v. National Housing Authority, G.R. No. 164527, 15 August 2007, 530 SCRA 235, 285 citing People v. Cuaresma, G.R. No. 133250, 9 July 2002, 384 SCRA 152.

[12] A question of law exists when the doubt or difference centers on what the law is on a certain state of facts. There is a question of law if the issue raised is capable of being resolved without need of reviewing the probative value of the evidence. The resolution of the issue must rest solely on what the law provides on the given set of circumstances. Morales v. Skills International Company, G.R. No. 149285, 30 August 2006, 500 SCRA 186, 194 citing Microsoft Corporation v. Maxicorp, Inc., G.R. No. 140946, 13 September 2004, 438 SCRA 224.

[13] Reorganizing the Prosecution Staff of the Department of Justice and the Offices of the Provincial

and City Fiscals, Regionalizing the Prosecution Service, and Creating the National Prosecution Service. This took effect on April 11, 1978. Provincial and City Fiscals are now known as Provincial and City Prosecutors by virtue of Section 9, Chapter 2, Title III, Book IV of the Administrative Code of 1987 which provides:

"SEC. 9. Provincial/City Prosecution Offices. - The Provincial and City Fiscal's Office established in each of the provinces and cities pursuant to law, is retained and renamed Provincial/City Prosecution Service. It shall be headed by a Provincial Prosecutor or City Prosecutor, as the case may be, assisted by such number of Assistant Provincial/City Prosecutors as fixed and/or authorized by law. The position titles of Provincial and City Fiscal and Assistant Provincial and City Fiscal are hereby abolished. xxx"

[14] Commonwealth Act No. 57, otherwise known as "An Act Establishing a Form of Government for the City of Iloilo." Section 1 thereof states: "SECTION 1. This Act shall be known as the Charter of the City of Iloilo."

[15] Commonwealth Act No. 57 (1936), Sec. 58.

[16] People v. Hon. Garfin, G.R. No. 153176, 29 March 2004, 426 SCRA 393, 398.

[17] Id.

[18] Id.

[19] Dela Chica v. Sandiganbayan, 462 Phil. 712, 723 (2003).

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