

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MARIA LOREN QUIZADA, APPELLANT.

G.R. Nos. 61079-81. April 15, 1988

Ponente: CRUZ, J.

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CRUZ, J.:

It is the interesting combination of double jeopardy and defamation that has brought this case all the way up and directly to this Court.

In three separate complaints filed with the office of the provincial fiscal of Surigao del Sur, Cipriana B. Tranquilan accused Maria L. Quizada of having spoken of her, on the occasions therein mentioned, as follows:

“Si Nanie ka eyat boring, bardot, kabiga-on, kabit sa aking bana,” which words when translated into English mean: “Nanie is a woman of ill repute, she has a love relationship with my husband, she has taken from me my husband that is the reason why she did not get married because she is a woman of bad reputation.”[1]

“Si Nanie boring, bandal ka eyat, biga-on, dili na naminggo, nagtan-an sa sine, gikumot ang iyang totoy sa aking bana,” which words when translated into English mean: “Nanie is a woman of ill repute, she will not get married, she went to the show and her nipples had been squeezed by my husband.”[2]

“Si Nanie boring, bardal ka eyat, biga-on dili na naminggo, nagtan-an sa sine, gikumot ang iyang totoy sa aking bana,” which words when translated into English mean: “Nanie is a woman of ill repute, she will not get married, she went to the show and her nipples had been squeezed by my husband.”[3]

On the basis of those complaints, and after preliminary investigation, the assistant provincial fiscal filed in the Court of First Instance of Surigao del Sur, on September 14, 1981, three separate informations for grave oral defamation against Quizada for having disparaged Tranquilan in the following language:

“Si Nanie ka eyat, boring, bardot, kabiga-on, kabit sa akong bana, nangilog sa aking bana ugsa wala na naminggo kay hugaw na babae,” which words when translated into the English language mean: “Nanie is a flirt, a prostitute, a whore, a paramour of my husband, she grabbed my husband from me, that’s why she is not married because she is a dirty woman.”[4]

“Si Nanie boring, bardot, ka eyat dili na maningyo, nagtan-an sa sine, gikumot ang iyang totoy sa aking bana,” which words when translated into English mean: “Nanie is a prostitute, whore, flirt, she will not get married anymore, she went to the movies and her nipples were touched and squeezed by my husband.”[5]

“Si Nanie, boring, bardot, ka eyat, biga-on dili na namingyot, nagtan-an sa sine, gikumot ang iyang totoy sa akong bana,” which words when translated into English mean: “Nanie is a prostitute, whore, flirt, she will not get married anymore, she went to the movies and her nipples were touched and squeezed by my husband.”[6]

Upon arraignment on February 18, 1982, the accused pleaded not guilty to all the three informations.[7] Thereafter, she moved to quash the same on the ground that the charges should have been initiated not by the fiscal but upon complaint of the offended party herself.[8]

The argument of the accused was that the remarks allegedly made by her imputed to the complaining witness the crime of adultery, a private crime. Under Rule 110, Section 4 (now Section 5), of the Rules of Court and Article 360 of the Revised Penal Code, no criminal action for defamation imputing such offense “shall be brought except at the instance of and upon complaint filed by the offended party.”

The trial judge* agreed and granted the motion.[9] The charges were dismissed and the motion for reconsideration filed by the prosecution was denied.[10]

The prosecution then came to this Court to challenge the dismissal, and that is how double jeopardy entered the picture. The private respondent now claims that reversal of the dismissal and reinstatement of the cases would violate her rights under Article IV, Section 22 (now Article III, Section 21) of the Constitution.

Required to comment, the Solicitor General argued that the crime imputed by the alleged remarks was prostitution, a public offense. As such, it could be the basis of a prosecution for defamation through an information filed by the fiscal.[11]

That is doubtless true. However, the Court notes that in addition to allegedly calling the complainant a whore, the private respondent is also charged in one information with having described the former as “a paramour of my husband,” which is a clear imputation of adultery. A paramour is “one who loves or is loved illicitly. One taking the place without the legal rights of a husband or wife. A mistress; called also lover.”[12] Accordingly, that imputation was covered by the aforecited Rule 110.

It is not denied that the charges were made through the informations filed by the assistant provincial fiscal and not formally commenced in court by the offended party. Nevertheless, it is also clear that these informations were based on the three criminal complaints earlier filed by Tranquilan with the fiscal’s office, which conducted the corresponding preliminary investigation thereon.

Conformably to the procedural rules then in force,[13] the complaints and the records of the preliminary investigation were transmitted to the trial court upon the filing of the corresponding informations. Hence, although the charges were not initiated through complaint of the offended party and the informations did not state that they were based on her complaint, such circumstances did not deprive the respondent court of jurisdiction.

A similar situation arose in *People v. Rondina*,[14] where the Court held:

“Under the rule prevailing at the time this case was commenced and tried in 1977, the complaint was considered part of the record of the preliminary investigation and had to be transmitted to the trial court upon the filing of the corresponding charge. Such complaint was in fact transmitted as required and could therefore be judicially noticed by the trial judge without the necessity of its formal introduction as evidence of the prosecution. This conclusion is in keeping with the doctrine embodied in *People v. Perido*, decided by the Court of Appeals through Justice Montemayor (later a member of this Court), who declared in part as follows: “The complaint in the case at bar was duly signed by the mother of the offended party, but the prosecuting attorney during the trial, failed to introduce such complaint as part of the evidence of the prosecution. Subsequently, however, said complaint, which is part of the record of the justice of the peace court before whom the case was filed, was sent up to form part of the record in the appeal. This cured the deficiency in the evidence. Although not introduced in evidence, the complaint may be regarded as part of the record in the appellate court which can and does take judicial notice thereof. (*Moran’s Law of Evidence*, p. 343 and *Francisco’s Evidence*, p. 46, both citing the case of *People v. Bautista*, G.R. No. 40621 [unpublished]).” (Italics supplied.)

“We note further that apart from the fact that the offended party’s sworn complaint was among the papers elevated to the Court of First Instance that subsequently tried and decided the case, the information itself

expressly stated that it was being filed ‘upon a sworn complaint signed and filed by the offended woman.’

“Parenthetically, it is worth observing that the original Rule 112, Section 12, of the Rules of Court, provided that ‘upon the conclusion of the preliminary investigation the judge or corresponding officer shall transmit without delay to the clerk of the Court of First Instance having jurisdiction of the offense the records of the case . . .’ By contrast, it is now provided in Section 8 of the same rule, as revised in 1985, that ‘the record of the preliminary investigation whether conducted by a judge or a fiscal shall not form part of the record of the case in the Regional Trial Court’”

The allegation of double jeopardy is plainly without merit. As we have repeatedly stressed, double jeopardy will attach if (a) a valid complaint or information (b) is filed before a competent court or tribunal, and (c) after the accused shall have been arraigned and entered a plea, (d) he is acquitted or convicted or the case is dismissed without his express consent.[15]

The first three requisites are present in the case at bar but the fourth is not. It was the petitioner herself who moved to quash the charges against her on the ground that the trial court had no jurisdiction. The dismissal was made not only with her express consent but, indeed, upon her own motion.

There are only two occasions when double jeopardy will attach even if the motion to dismiss the case is made by the accused himself. The first is when the ground is insufficiency of the evidence of the prosecution, and the second is when the proceedings have been unreasonably prolonged in violation of the right to a speedy trial.[16] None of these exceptions is present here.

We hold in sum that the criminal informations were validly filed under the procedural rules in force at the time of such filing; that their dismissal for lack of jurisdiction was erroneous; and that their reinstatement will not violate the prohibition against double jeopardy.

ACCORDINGLY, this petition is GRANTED. The Orders of the respondent judge dated March 31, 1982, and March 24, 1982, are SET ASIDE. Criminal Cases Nos. 942, 943 and 944 are REINSTATED and REMANDED to the trial court for further proceedings.

SO ORDERED.

Teehankee, C.J., Narvasa, Gancayco, and Griño-Aquino, JJ., concur.

[1] Annex “A”, Rollo, p. 13.

[2] Annex “B”, *ibid.*, p. 14.

[3] Annex “C”, *id.*, p. 15.

[4] Annex “D”, *id.*, p. 16.

[5] Annex “E”, *id.*, p. 17.

[6] Annex “F”, *id.*, p. 18.

[7] Original Records, p. 44.

[8] *Ibid.*, pp. 52-53.

[*] Judge Ernesto M. Mendoza, CFI of Surigao del Sur, 15th Judicial District, Branch I, Tandag.

[9] Id., p. 70.

[10] Id., p. 86.

[11] Rollo, p. 102.

[12] Fernandez v. Lantin, 74 SCRA 338; Webster's Third New International Dictionary 1971 ed., p. 1638; Moreno, Phil. Law Dictionary, 2nd ed., p. 442.

[13] Sec. 13, Rule 112, Rules of Court.

[14] 149 SCRA 128.

[15] Sec. 7, Rule 117, 1985 Rules on Criminal Procedure; People v. Ylagan, 58 Phil. 851; Esmeña v. Pogoy, 102 SCRA 861; Buscayno v. Military Commissions Nos. 1, 2, 5 and 25, 109 SCRA 273; People v. Bocar, 138 SCRA 166.

[16] People v. City Court of Silay, 74 SCRA 248; People v. Añano, 97 Phil. 28; People v. Obsaria, 23 SCRA 1249; Phil Tacheing, 105 Phil. 1298; People v. Robles, 105 Phil. 1016; Salcedo v. Mendoza, 88 SCRA 811.

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