4 Phil. 534

[G.R. No. 2520. May 01, 1905]

HARRY J. COLLINS, PETITIONER, VS. G. N. WOLFE, WARDEN OF BILIBID PRISON, RESPONDENT.

D E C I S I O N

WILLARD, J.:

On the 15th day of February, 1905, a complaint charging Harry J. Collins with theft was filed in the Court of First Instance of the city of Manila. This complaint alleged that the theft was committed in the Province of Rizal, within 200 yards of the city of Manila and within the police jurisdiction of said city. Upon this complaint the defendant was arrested on the 21st day of February, 1905.

On the 1st day of March, 1905, Collins presented in the Court of First Instance a demurrer to the complaint, on the ground that the place where the crime was alleged to have been committed was not within the jurisdiction of the court. On the 13th day of March the court below entered an order overruling the demurrer. Collins was then required to plead to the complaint, which he refused to do, and the court ordered a plea of not guilty to be entered and set the case down for trial for the 24th day of March.

On the 25th day of March Collins presented in this court his petition for a writ of *habeas corpus,* and he claims that the court below can not try him for the offense set out in the complaint because it was committed outside the jurisdiction of that court.

It will thus be seen that the petitioner, by means of a writ of *habeas corpus*, is attempting to obtain in this court a review of the order of the

lower court overruling his demurrer. From this order the defendant had no right to appeal directly to this court in advance of final judgment. (Fuster *vs.* Johnson, 1 Phil. Rep., 670.) He is seeking to avoid this provision of the law by using a writ of *habeas corpus*.

In In re Chapman (156 U. S., 211) the court said, at page 215:

> "The general rule is that the writ of *habeas corpus* will not issue unless the court, under whose warrant the petitioner is held, is without jurisdiction, and that it can not be used to correct errors. * * * Ordinarily the writ will not lie where there is a remedy by writ of error or appeal. * * * Yet in rare and exceptional cases it may be issued although such remedy exists."

This same statement is repeated in In re Belt (159 U. S., 95).

The petitioner should have proceeded with the trial of the cause in the court below, and if final judgment is rendered against him he can then appeal, and upon such appeal present the question which he is now seeking to have decided.

In the case of Cook *vs.* Hart (146 U. S., 183) the court said, at page 195:

> "The party charged waives no defect of jurisdiction by submitting to a trial of his case upon the merits, and we think that comity demands that the State courts, under whose process he is held, and which are equally with the Federal courts charged with the duty of protecting the accused in the enjoyment of his constitutional rights, should be appealed to in the first instance. Should such rights be denied, his remedy in the Federal court will remain unimpaired."

In the case before us this court is asked to exercise not its appellate but its original jurisdiction in *habeas corpus*. In the exercise of its original jurisdiction it has no more power, except as to territorial limits, than any judge of the Court of First

Instance. If we pass upon the merits of this case it would have been the duty of a judge of the latter court to have done so had this petition been presented to him instead of to us. If the petition had thus been presented to one of the judges of the Court of First Instance of Manila, that judge in deciding it would be sitting as a court of appeal over a decision rendered by a judge of the same rank. If the petitioner were unsuccessful before the first judge, he could apply in succession to the other two judges of that court for the same relief.

Moreover, if such relief can be asked when the trial court has overruled a demurrer, we know of no reason why it could not be asked when, during the progress of the trial, any ruling adverse to the defendant is made upon any objection which he may claim would make the judgment rendered in the case absolutely void. The contests between the judges that might arise under such circumstances and the delays that would be occasioned to a trial actually in progress by such proceedings can readily be imagined. A seemly and orderly conduct of the business of the trial courts forbids the adoption of any practice that would lead to such results.

We have no hesitation in saying that when a prisoner charged with a criminal offense has been brought before a court of general jurisdiction and that court has made a decision upon any point, whether jurisdictional or otherwise, no other court or judge, except in very special cases, should issue or hear a writ ot *habeas corpus* for the purpose of deciding upon the correctness of such a ruling.

That a court or judge is not bound to pass upon the merits of the petition in such cases is well settled.

The case of Chapman above cited was very similar to this case. Chapman had been indicted in the supreme court of the District of Columbia for a criminal offense. He demurred to the indictment on the ground that the court was without jurisdiction to try him. That court overruled the demurrer. From the order overruling the demurrer Chapman appealed to the court of appeals, which affirmed the order and remanded the case to the trial court, with directions that the defendant be

required to plead to the indictment and that the court proceed with the case. Thereupon Chapman presented a petition for a writ of *habeas corpus* to the Supreme Court of the United States. That court applied the same rule to proceedings pending in the courts of the District of Columbia or in the circuit courts that it had previously applied to proceedings pending in the State courts, and said, page 217:

"In the case before us, the question as to the jurisdiction of the supreme court of the District of Columbia has indeed already been passed upon by that court, and also by the court of appeals, upon a demurrer to the indictment, but the case has not gone to final judgment in either court and what the result of a trial may be can not be assumed. We are impressed with the conviction that the orderly administration of justice will be better subserved by our declining to exercise appellate jurisdiction in the mode desired until the conclusion of the proceedings. If judgment goes against the petitioner and is affirmed by the court of appeals and a writ of error lies, that is the proper and better remedy for any cause of complaint he may have."

In the case of Cook *vs.* Hart, above cited, the court said, at page 195:

"While the power to issue writs of *habeas corpus* to State courts, which are proceeding in disregard of rights secured by the Constitution and laws of the United States, may exist, the practice of exercising such power before the question has been raised or determined in the State court is one which ought not to be encouraged."

At page 194 the court said: "While the Federal courts have the power and may discharge the accused in advance of his trial, if he is restrained of his liberty in violation of the Federal Constitution or laws, they are not bound to exercise such power even after a State court has finally acted upon the case, but may, in their discretion, require the accused to sue out his writ of error from the highest court of the State or even from the Supreme Court of the United States."

The writ of *habeas corpus* heretofore granted in this proceeding is vacated and the prisoner is remanded to the custody of

the Warden of Bilibid Prison. So ordered.

Arellano, C. J., Torres, Mapa, and *Carson, JJ.,* concur.

DISSENTING

JOHNSON, J.:

This was an application for the writ of *habeas corpus*. It alleged, among other things, "that the petitioner is held in custody by virtue of a pretended order of commitment signed by the clerk of the Court of First Instance of the city of Manila; that said order was issued without warrant and authority of law; that on or about the 15th day of February, 1905, a complaint was lodged with the Hon. John C. Sweeney, judge of the Court of First Instance of the city of Manila, pretending to charge the petitioner with the offense of larceny; that upon said complaint the petitioner was arrested; that said complaint charged the alleged offense of larceny to have been committed at *El Deposito*, in the Province of Rizal, Philippine Islands, something like 200 yards from the actual limits of the city of Manila and within the police jurisdiction of said city; that said *Deposito* is not within the actual limits of the city of Manila and is not within the jurisdiction of the Courts of First Instance of the city of Manila; that on the 1st day of March, 1905, the petitioner was brought before the Hon. John C. Sweeney, judge of the Court of First Instance of the city of Manila, for trial upon said complaint. The petitioner declined to plead and filed a demurrer to the jurisdiction of said court; that on the 13th day of March, 1905, said court entered an order overruling said demurrer; and the petitioner, still protesting against the jurisdiction of said court, declined to plead to said complaint, whereupon the court ordered a plea of not guilty to be entered for him and set the case for trial March 24, 1905."

The petition for the writ of *habeas corpus* was presented in this court on or about the 25th day of March, 1905.

The majority opinion filed in the cause refuses to consider the question whether or not the inferior court has jurisdiction to try the said cause against the said Collins, alleging that this court will not grant the writ of *habeas corpus* except under special conditions.

I agree with the doctrine that the writ of *habeas corpus* should never be granted except under special conditions. But when a defendant is brought before a court and he claims that the court has no jurisdiction to try him for the reason that the offense was not committed within the territorial limits of the jurisdiction of the court, and squarely raises that question before said inferior court, these facts present special conditions justifying an application for the writ of *habeas corpus*. Or, to say the least, this court ought to examine the question for the purpose of determining whether or not such inferior court has or has not jurisdiction in the case. The complaint filed against the petitioner in this cause "alleged that the defendant had committed the crime of larceny in the Province of Rizal, Philippine Islands, something like 200 yards from the actual limits of the city of Manila and within the police jurisdiction of said city." To this complaint a demurrer was presented and overruled. The question of the jurisdiction of the inferior court to try the defendant was thus directly raised.

The question presented is, Have the Courts of First Instance of the city of Manila jurisdiction over offenses committed in the Province of Rizal, a territory outside the actual limits of the city of Manila but within what is generally known as the territory over which the city of Manila attempts to exercise jurisdiction for police purposes only? I express no opinion upon the question whether or not the courts of Manila have jurisdiction over offenses committed within this police zone. I simply desire to state that it was the duty of this court to examine into the question and to decide once for all whether or not said courts had actual jurisdiction over offenses committed in such zone. This question has been pending in the Courts of First Instance of Manila, to my certain knowledge, for more than two years. The Courts of First Instance have been embarrassed by reason of the fact that the Supreme Court has never passed upon the question. This case presented

the issue squarely, and I claim the court should have at least considered it.

A defendant, after having raised the question of the jurisdiction of the inferior court to try him, alleging that the crime was not committed within the territorial limits of the court, and the inferior court has decided against him, has a perfect right by means of the writ of *habeas corpus* to present that same question to the Supreme Court at once, without being compelled to go through a long and expensive trial. For example: Suppose the complaint in this case had alleged that the crime with which the defendant was charged had been committed in the Province of Pangasinan, a province far removed from the city of Manila, and he had raised the question of the lack of territorial jurisdiction of the courts of the city of Manila to try him and the court had resolved this question against him, and he then had presented an application for the writ of *habeas corpus* to this court. This example presents exactly the same question presented in the petition in this case, the only difference being that the province in which the offense in alleged to have been committed in our example is further removed from the city of Manila than the case which we have actually before us. If the majority opinion contains the true doctrine, then this court under the example supposed would refuse to consider the question at all, holding that there were no special circumstances and therefore the application should be denied. I can not give my consent to this doctrine.

The majority opinion holds that at the termination of the trial, if the defendant still insists upon having the question of the jurisdiction of the court to try him settled, he may then appeal. But why submit him to the embarrassment and expense of a long trial if the fact exists that the court has no jurisdiction to try him?

Suppose, for instance, that in the example above given this court refuses to consider the question whether or not the inferior court had jurisdiction and denies the application for the writ of *habeas corpus* and remands the defendant to the court below to be tried. He submits himself to the trial, and is convicted. He appeals to this court and

presents as one of the grounds of appeal the fact that the court below had no territorial jurisdiction. How long would it take this court to decide that question under the example supposed? The court certainly would hold, under the example supposed, that the court had no jurisdiction and would remand the defendant to the proper court to be tried again. The defendant would then be under the necessity of undergoing another expensive trial.

I maintain that this court should have examined the question presented by the petitioner for the purpose of ascertaining whether or not the Courts of First Instance of the city of Manila have jurisdiction over what is commonly known as the police zone, and should have decided it.

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