5 Phil. 451

[G.R. No. 2340. December 21, 1905]

JOSE TORRENTE, PLAINTIFF AND APPELLEE, VS. CAPT. W. C. GROVE AND LIEUT. A. M. TRUE, DEFENDANTS AND APPELLANTS.

D E C I S I O N

CARSON, J.:

This is an appeal from an order of the Court of First Instance of Manila in *habeas corpus* proceedings, discharging the petitioner from detention at the hands of respondents.

Petitioner was arrested and detained in Manila in pursuance of an order of arrest which on its face appears to have been issued by the justice of the peace of Cebu and directed to the sheriff of the city of Manila.

It is alleged that said order is illegal on its face in that the said justice of the peace had no jurisdiction to issue an order directing the making of an arrest outside the Province of Cebu, and it is contended that all the proceedings had upon said order, including the arrest and detention of petitioner, were illegal and void.

Many authorities are quoted from the American jurisprudence in support of this contention, but we think that, whatever may be the rule in the United States, the justices of the peace in these Islands are vested with authority under the provisions of existing law to cause the arrest of accused persons wherever found throughout the Archpelago.

Section 66 of Act No. 136 provides that—

> "1. The existing courts of justices of the peace, established by military orders since the thirteenth day of August,

> eighteen hundred and ninety-eight, are hereby recognized and continued and the justices of such courts shall continue to hold office during the pleasure of the Commission.
>
> "2. In every province in which there now is, or shall hereafter be, established a Court of First Instance, courts of justices of the peace shall be established in every municipality thereof which shall be organized under the Municipal Code, or which has been organized and is being conducted as a municipality when this Act shall take effect, under and by virtue of the Municipal Code."

Hence, to determine the jurisdiction of the justices of the peace in the Philippine Islands to issue warrants for the arrest of accused persons, we must examine the authority conferred upon courts of justices of the peace established under military orders since the 13th day of August, 1898.

Section 1 of General Orders, No. 58, dated Manila, P. I., April 23, 1900, provides that—

> "The following provisions shall have the force and effect of law in criminal matters in the Philippine Islands from and after the fifteenth day of May, nineteen hundred, but existing laws on the same subjects shall remain valid except in so far as hereinafter modified or repealed expressly or by necessary implication."

Section 13 of said order provides that—

> "When a complaint or information alleging the commission of a crime is laid before a magistrate, he must examine, on oath, the informant or prosecutor and the witnesses produced, and take their depositions in writing, causing them to be subscribed by the parties making them. If the magistrate be satisfied from the investigation that the crime complained of has been committed, and that

> there is reasonable ground to believe that the party charged has committed it, he must issue an order for his arrest. If the offense be bailable, and the defendant offer a sufficient security, he shall be admitted to bail; otherwise he shall be committed to prison."

The latter section (undertaking, as it does, to dispose of the whole subject-matter of the procedure whereby magistrates, whether they be justices of the peace, judges of the Courts of First Instance, or justices of the Supreme Court, may cause the arrest or detention of accused persons), modifies and repeals so much of the Spanish law as is at variance therewith. The procedure whereby magistrates caused the arrest of persons charged with crime under the provisions of the Spanish law, was first, by the issuance of a proper warrant or order of arrest, if the accused person was found within their respective territorial jurisdictions, and, second, by,the issuance of a letter "*praying*," "*requesting*," or "*directing*" the arrest of the accused person, addressed to the proper judicial officer within whose territorial jurisdiction the accused person was alleged to be, if he was found to be beyond the territorial jurisdiction of the magistrate causing the arrest. The first method, of course, remains unchanged, but the second was by necessary implication repealed, because the above quoted section 13 of General Orders, No. 58, provided that in all cases the magistrate shall issue *an order of arrest.*

It will be observed that the communications employed in the second method of causing arrest were to all intents and purposes warrants or orders of arrest for accused persons, because when issued in proper form as provided in such cases, the judicial officer to whom they were directed had no discretion whatever as to compliance therewith, but was required by law to execute them by issuing in his turn the proper warrants or orders of arrest for the person or persons mentioned therein. The only difference was in form of procedure, the magistrate causing the arrest addressing himself directly to the law officers charged with making arrests when such arrest was to be made within his own territorial jurisdiction, and when such arrests were to be made beyond his territorial jurisdiction addressing himself to such officer

through the proper judicial officer of the district wherein the accused was alleged to be. (Compilation of Code of Criminal Procedure of 1879, Chap. IV, Title II.)

But while section 13 of General Orders, No. 58, modified and changed the procedure whereby magistrates may cause the arrest of accused persons; it in no wise affected their jurisdiction or authority so to do, and our attention has not been directed to any provision of law which limits or restricts the jurisdiction or authority of the justices of the peace to cause arrest of accused persons in these Islands within narrower territorial limits than those existing under Spanish law prior to American occupation, Under the provisions of Spanish law the justices of the peace had precisely the same authority to cause the arrest of an accused person beyond the territorial limits of their respective districts as in the case of persons found within such limits, the only difference being found in the procedure by which the arrest was made, and it is worthy of note that precisely the same rule applied to judges of the Courts of First Instance, who were likewise vested with authority to cause the arrest of accused persons anywhere throughout the Islands, but were required to conform to the procedure by "*letter*" directed to the proper judicial officer when they caused the arrest of persons beyond the territorial limits of their respective districts.

Counsel for the petitioner lays great stress on the provisions of section 1 of Act No. 590, wherein it is expressly provided that the processes of the courts of the justices of the peace of the various provincial capitals *"either for the arrest of the accused persons or for the summoning of witnesses, shall run and have effect throughout the province,"* and urges that the fact that the Civil Commission deemed it necessary to make an express grant of such authority implies that its members were of opinion that prior to the publication of that law the processes of the justices of the peace did not run throughout the province, much less the entire Archipelago. It is sufficient answer to this contention to point out that Act No. 590 confers in certain specified cases a new provincial jurisdiction, coextensive with their respective provinces, on the justices of the peace of the provincial

capitals, and the lawmaker may have deemed it necessary to declare in express terms the authority of the justice of the peace to issue process in such cases; furthermore, the opinion of the law-making authority as to the meaning and effect of existing law in no wise determines what the law actually is, and however much it may be entitled to respectful consideration, it will not be pretended that it is conclusive on the court whose duty it is to interpret and declare the law as they find it.

Section 9 of Act No. 175 provides that—

> "The Insular Constabulary are hereby declared to be peace officers and are empowered and required to execute any lawful warrant or order of arrest issued against any person or persons for any violation of the law by any judge of the First Instance or justice of the peace or any other officer authorized by law to issue a warrant."

The respondents are officers of the Insular Constabulary; they arrested and held the petitioner by virtue of a lawful warrant or order of arrest issued by the justice of the peace of Cebu, and we are of opinion that the detention of the petitioner was lawful, and that he is not entitled to his discharge in *habeas corpus* proceedings.

The order of the lower court discharging the petitioner is annulled, and he will be remanded to the custody of respondents. The costs of both instances are declared *de oficio*, and after twenty days judgment will be entered in accordance herewith, and the record remanded to the court wherein these proceedings originated for proper procedure. So ordered.

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

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