

FIRST DIVISION

[G.R. No. 200148, June 04, 2014]

**RAMON A. SYHUNLIONG, PETITIONER, VS. TERESITA D. RIVERA,
RESPONDENT.**

R E S O L U T I O N

REYES, J.:

For review is the instant Petition^[1] filed by Ramon A. Syhunliong (Syhunliong) seeking the reversal of the Decision^[2] rendered on July 11, 2011 and Resolution^[3] issued on January 6, 2012 by the Court of Appeals (CA) in CA-G.R. SP No. 110335. The CA set aside the Orders dated December 4, 2008^[4] and June 18, 2009^[5] of the Regional Trial Court (RTC) of Quezon City, Branch 84, which denied the Motion to Dismiss/Quash on Jurisdictional Challenge^[6] (Motion to Quash) filed by the herein respondent, Teresita D. Rivera (Rivera), in Criminal Case No. Q-07-147802, an action for libel.

Antecedents

Syhunliong and Rivera are respectively the private complainant and defendant in Criminal Case No. Q-07-147802. Syhunliong is the President of BANFF Realty and Development Corporation (BANFF) and likewise owns interests in construction, restaurant and hospital businesses. On the other hand, Rivera used to be the Accounting Manager of BANFF. She was hired in September of 2002 with a monthly salary of Php 30,000.00.

About three years after, Rivera, citing personal and family matters, tendered her resignation to be effective on February 3, 2006. However, Rivera actually continued working for BANFF until March of the same year to complete the turn over of papers under her custody to Jennifer Lumapas (Lumapas), who succeeded her.

Sometime in April of 2006, Rivera called Lumapas to request for the payment of her remaining salaries, benefits and incentives. Lumapas informed Rivera that her benefits would be paid, but the check representing her salaries was still unsigned, and her incentives were put on hold by Syhunliong.^[7]

On April 6, 2006, at around 11:55 a.m., Rivera sent the following text message to one of BANFF's official cellular phones held by Lumapas:

I am expecting that[.] [G]rabe talaga sufferings ko dyan hanggang pagkuha ng last pay ko. I don't deserve this [because] I did my job when I [was] still there. God bless ras[.]^[8] [S]ana yung pagsimba niya, alam niya real meaning.^[9] (Italics ours)

Minutes later, Rivera once again texted another message, which reads:

Kailangan release niya lahat [nang] makukuha ko diyan including incentive up to the last date na nandyan ako para di na kami abot sa labor.^[10] (Italics ours)

Subsequently, on December of 2006, Rivera filed before the National Labor Relations Commission a complaint against Syhunliong for underpaid salaries, 13th to 16th month and incentive pay, gratuities and tax refund in the total sum of Php 698,150.48.^[11]

On April 16, 2007,^[12] pending the resolution of the aforecited labor case, Syhunliong instituted against Rivera a complaint for libel, the origin of the instant petition. The information, dated June 21, 2007, charged Rivera with the following:

That on or about the 6th day of April, 2006, in Quezon City, Philippines, the said accused, with malicious intent of impeaching the honor, virtue, character and reputation of one RAMON A. SYHUNGLIONG [sic] and with evident intent of exposing the complainant to public dishonor, discredit, contempt and ridicule, did then and there willfully, unlawfully, feloniously and maliciously publish in the form of text messages and/or caused to be publish[ed] the following defamatory statements through the company's cellular phone, to wit:

x x x x

that with the said text message, the said accused meant and intended to convey as in fact she did mean and convey, malicious and offensive insinuations and imputations that tends [sic] to destroy the good name and reputation of Ramon Syhunliong, with no good or justifiable motive but solely for the purpose of maligning and besmirching the good name, honor, character and reputation of the said complainant and to expose it, as in fact [he] was exposed to public hatred, contempt and ridicule, to the damage and prejudice of said offended party.

CONTRARY TO LAW.^[13]

Rivera filed a Motion to Quash^[14] the aforequoted information. She argued that the text message, which was the subject of the libel complaint, merely reflected the undue stress she had suffered due to the delay in the release of her unpaid salaries, benefits and incentives. Further, the facts charged in the information did not constitute the crime of libel as the elements of malice and the making of defamatory imputation for public consumption were wanting. Her text message was not prompted by ill will or spite, but was merely sent as part of her duty to defend her own interests.

During the arraignment on October 11, 2007, Rivera entered a plea of not guilty.^[15]

The Orders of the RTC

On December 4, 2008, the RTC issued an Order^[16] denying Rivera's Motion to Quash on these grounds:

[T]he grounds raised by [Rivera] in the motion to quash [are] evidentiary in nature[,] which can only be threshed out in a full blown hearing to determine if said [t]ext message falls squarely within the parameters of "Privileged Communication" or the elements of Article 353 of the Revised Penal Code [are] not fully established by the Prosecution's evidence.

The Rule on Criminal Procedure in the prosecution of any felony or offense requires only the existence of probable cause in order to indict an accused of the crime charged. x x x [P]robable cause was established seasonably during the preliminary investigation. [Rivera] should have participated during the preliminary investigation or filed a Motion for re-investigation [if] she was not accorded such right and raised these grounds, before she enter[ed] her plea during arraignment.

The Supreme Court ruled that "[i]t should be noted that the libelous material [or text] must be viewed as a whole. In order to ascertain the meaning of [the] published article [or text message], the whole of the article must be considered, each phrase must be construed in the light of the entire publication."

The Supreme Court held that "writing [or texting] to a person other than the person defamed is sufficient to constitute publication, for the person to whom the letter [text message] is addressed is a third person in relation to its writer and the person defamed therein. In this case, the wife of the complainant[,] who received the unsealed letter[,] is held a third person to whom the publication is made.[?]^[17] (Citations omitted)

The RTC thereafter issued an Order^[18] on June 18, 2009 denying Rivera's motion for reconsideration to the foregoing. Citing *Lu Chu Sing and Lu Tian Chiong v. Lu Tiong Gui*,^[19] the RTC explained that the privileged character of a communication merely does away with the presumption of malice. However, the plaintiff is not precluded from proving the existence of such malice. The RTC once again concurred with the Public Prosecutor's finding that there was probable cause to indict Rivera for having ascribed to Syhunlong the possession of a vice or defect, or for having committed an act, tending to cause dishonor or discredit to the latter's name.

Rivera challenged the orders issued by the RTC through a Petition for *Certiorari*^[20] filed before the CA. Quoting Article 354 of the Revised Penal Code (RPC), she emphasized that "every defamatory imputation is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown," except in "a private communication made by any person to another in the performance of any legal, moral or social duty."^[21] Citing *Brillante v. Court of Appeals*,^[22] Rivera

enumerated the requisites, compliance with which would make a statement fall within the purview of a qualified privileged communication, viz: (1) the person who made the communication had a legal, moral, or social duty to make the communication, or at least, had an interest to protect, which interest may either be his own or of the one [for] whom it is made; (2) the communication is addressed to an officer or a board, or superior, having some interest or duty in the matter, and who has the power to furnish the protection sought; and (3) the statements in the communication are made in good faith and without malice.^[23] Rivera likewise stressed that under Sections 3(a)^[24] and 9,^[25] Rule 117^[26] of the Rules of Court, an accused may move to quash the information even after arraignment if the facts charged therein do not constitute an offense. She thus concluded that the text message she sent to Lumapas was in the nature of a qualified privileged communication, it being merely an expression of her legitimate grievances over the delay in the release of her unpaid salaries and other entitlements. Rivera texted Lumapas because the latter was in the best position to help expedite the release of the checks. Rivera had no intent to injure anyone's reputation. Lastly, Rivera labeled as erroneous the RTC's declaration regarding the necessity of a full blown trial since facts sufficient for the resolution of the case were allegedly already extant in the records.

The CA Ruling

On July 11, 2011, the CA rendered the herein assailed Decision^[27] directing the dismissal of the information for libel filed against Rivera. The CA favorably considered her argument that when the facts in an information fail to charge an offense, the said ground can be invoked by the accused in a motion to quash filed even after arraignment. The CA likewise explained that:

The focal issue to the parties in the present case is whether the facts charged in the information[,], as well as the undeniable facts appearing on the record[,], show that an offense of libel has been committed. Our criminal law convincingly provide us with a definition of libel – *It is a public and malicious imputation of a crime, or of a vice or defect ... or any act, omission, condition, status or circumstance tending to cause the dishonor, discredit or contempt of ... a person.* x x x.

The first procedural requisite in the determination of the existence of libel is *whether there is a defamatory imputation*. The history of the law on libel abounds in examples of utterances or statements that are not necessarily considered libelous because they are a [sic] mere expression[s] of an [sic] opinion[s] of a [sic] person[s] in connection with a [sic] plea[s] or grievance[s]. Libel is inherently a limitation on the liberty of speech and press freedom, and must be construed in a manner that does not trench upon constitutionally protected freedoms.

x x x There can be libel only if the words used are calculated to induce the hearer or reader to suppose and understand them as impeaching the honesty, virtue or reputation of another. The question is not what the writer or speaker meant by his words but what they convey to those who heard or read them.

x x x x

We can break up the text message of [Rivera] to [Lumapas] into three parts. The utterance is mercifully short so that it could not be difficult to infer the whole sense and understanding of the message from the standpoint of Lumapas to whom the message was conveyed. In context, [Rivera] was seeking payment of her wage claims consequent to her resignation and receiving [BANFF's] response through Lumapas. [Rivera] retorted with three things in her message to Lumapas – (1) that she suffered a lot in collecting her last pay from [BANFF] *Grabe talaga sufferings ko dyan hanggang pagkuha ng last pay ko.;* (2) *that she does not deserve to suffer this way [because she] did [her] job when [she was] still there;* and (3) turning to [Syhunliong] himself *[she] said – God bless ras[.] [S]ana yung pagsimba niya, alam niya real meaning.*

If libel is to be understood as an imputation of a crime, vice or defect to another, there can be no libel in the first two of the three statements which announced only the sufferings, albeit undeserved[,] of [Rivera]. The proposition gets to be dicey in the third statement because now she makes a distinct reference to [Syhunliong][,] *[b]ut is the imputation defamatory?* We hesitate to reach this conclusion, and all doubts in criminal law, we are basically taught, must be resolved in favor of the accused. To articulate the legal wisdom, [Rivera] has the right to express an opinion in a matter in which she has an undeniable interest.

[Rivera said] in the last part of the text that [Syhunliong] should understand the real meaning of the *mass* when he goes to attend it. It is in this tail end of the message that [Syhunliong] is mentioned. But what is conveyed by the words *[“]sana alam niya real meaning?[“]* Does it impute a crime, vice or defect in [Syhunliong], either directly or by way of innuendo? But the innuendo can only be explanatory of a libelous imputation and cannot alter the sense of the words claimed to be libelous. If the publication is not actionable per se, an innuendo cannot make it so, and if the publication is actionable per se, the innuendo would not even be necessary.

We hold that the text message is not *actionable libel*. It does not serve to cast a shadow on [Syhunliong's] character and integrity[,], there being no direct and personal imputation of a venality to him. At best, the statement that [Syhunliong] should understand the meaning of the *mass* suggests that [Syhunliong] should be more *compassionate* and *caring* to the employee. But is being the converse of *compassionate* and *caring* suggestive of a vice or defect in the person alluded to? We do not think so. Otherwise, even courts should be exposed to contempt and ridicule for reaching at times decisions in favor of capital and against labor. x x x To follow the intent of the message as ordinarily conveyed by the words and the context in which they are said, it can only suggest the intention of [Rivera] to describe [Syhunliong] as strict and selfish. But[,], there are legitimate reasons why a person who acts in the interest of the employer may appear strict and selfish to the other side. One may have to be so to protect the interest of his company and, indeed, the outcome of the labor