

FIRST DIVISION

[G.R. No. 176251, July 25, 2012]

ALFONSO LAGAYA Y TAMONDONG, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND DR. MARILYN MARTINEZ, RESPONDENTS.

D E C I S I O N

DEL CASTILLO, J.:

"[T]he freedom to express one's sentiments and belief does not grant one the license to vilify in public the honor and integrity of another. Any sentiments must be expressed within the proper forum and with proper regard for the rights of others."

[1]

In this Petition for Review on *Certiorari*^[2] under Rule 45 of the Rules of Court, Dr. Alfonso Lagaya y Tamondong (petitioner) seeks to reverse and set aside the Decision^[3] dated October 26, 2006 of the *Sandiganbayan* finding him guilty of Libel. He likewise challenges the Resolution^[4] of the *Sandiganbayan* dated January 16, 2007 denying his Motion for Reconsideration.^[5]

In an Information^[6] dated September 4, 2003, petitioner was charged with the crime of libel defined and penalized under Article 355 in relation to Articles 353 and 354 of the Revised Penal Code (RPC), allegedly committed as follows:

That on or about the 5th day of August 2002, or sometime prior or subsequent thereto, in Carig, Tuguegarao City, Province of Cagayan, Philippines, and within the jurisdiction of this Honorable Court, accused ALFONSO LAGAYA y TAMONDONG, a public officer, being the Director General with Salary Grade 28 of the Philippine Institute of Traditional and Alternative Health Care (PITAHC), an attached agency of Department of Health, while in the performance of his official functions, taking advantage of his official position and committing the crime herein charged in relation to his office, did then and there, wilfully, unlawfully and feloniously, and by means of writing, defame and libel one Dr. Marilyn Martinez by including in Memorandum No. 06. S. 2002 entitled "Disclosure and Misuse of Confidential and Classified Information" he issued and disseminated to the Plant Manager and Staff of Cagayan Valley Herbal Processing Plant in discharge of his administrative supervision and control the statement that Dr. Marilyn Martinez's state of mind or psychiatric behavior be submitted for further psychological and/or psychiatric treatment to prevent further deterioration of her mental and emotional stability, such statement being immaterial and irrelevant thus causing dishonor, discredit and contempt to the person of Dr. Marilyn Martinez which subjected her to public ridicule.

CONTRARY TO LAW.

When arraigned on May 14, 2004, petitioner, with the assistance of counsel *de parte*, pleaded "Not Guilty" to the charge.^[7] After the prosecution and defense made some stipulation of facts, trial on the merits ensued.

Factual Antecedents

Dr. Marilyn Martinez (private respondent) was the Plant Manager of the Cagayan Valley Herbal Processing Plant (HPP) of the Philippine Institute of Traditional and Alternative Health Care (PITAHC), an attached agency of the Department of Health. On July 1 and 2, 2002, she attended the Mid-Year Performance Evaluation Seminar conducted at the Sulo Hotel by McGimpers International Consulting Corporation (McGimpers). The latter was engaged by the PITAHC with the prime objective of developing its marketing arm and the personality of each personnel of the Sales Department.^[8] The participants in the seminar were Sales Managers, various Plant Managers, Sales Agents from the different Regional Offices and other staff of PITAHC. It would appear, however, that during the seminar, the private respondent and one of the female resource speakers had a misunderstanding as a result of the alleged abusive remarks made by the latter pertaining to the former's capability as a supervisor.

On August 8, 2002, the private respondent was summoned by Dr. Eriberto Policar (Dr. Policar), the Regional Director of PITAHC to his office. Thereat, Dr. Policar handed her a copy of Memorandum No. 6, Series of 2002 dated August 5, 2002.^[9] The Memorandum was signed by petitioner, he being then the Director General of PITAHC, addressed to all the plant managers and staff and was distributed to the different plants all over the country. The subject of the memorandum is "Disclosure and Misuse of Confidential and Classified Information" and a salient portion thereof states that private respondent needs to undergo psychological and psychiatric treatment to prevent deterioration of her mental and emotional stability as recommended by McGimpers.

Memorandum No. 6, series of 2002 reads:

TO : HPP's Plant Manager & Staff
SUBJECT : Disclosure and Misuse of Confidential and
Classified Information

It came into our attention that Dr. MARILYN MARTINEZ, has personally lobbied in a legislature, councils or offices *without authority*, to further her private interest or give undue advantage to anyone or to prejudice the public interest. Please be informed that the *Board of Trustees has no decision made as of date regarding the fate of the HPP's*.

In addition, this office has received official complaint behavior of Dr. Martinez compromising the efficiency of the HPP's and the entire organization. Such [behavior] unbecoming of Dr. Martinez is supported by officials of the HPP's as well as the findings of our Consultant McGimpers

International Consulting Corporation during the Mid Year Evaluation at Sulo Hotel last July 1-2, 2002, recommending that "*Dr. Martinez be submitted for further psychological and or psychiatric treatment to prevent further deterioration of her mental and emotional stability*".

In view of this, you are hereby directed to submit to this office any incidental report that is affecting the efficiency in the HPP's operation; and/or information related to her psychiatric behavior.

For information and guidance.

(Signed)
ALFONSO T. LAGAYA, MD,
MDM
Director General

On account of the issuance of the Memorandum, which according to private respondent exposed her to public ridicule and humiliation, she sought the assistance of a lawyer to file the necessary administrative, civil and criminal charges against petitioner.

Petitioner admitted having signed the memorandum. He claimed that he had been receiving information that private respondent was lobbying against the intended privatization of the Herbal Processing Plants when the Board of Trustees of PITAHC was still in the process of deliberating the same, and of various verbal complaints against her from the employees of the plants who were afraid to come out and voice their grievances formally. He further stressed that the report of McGimpers gave him the opportunity to encourage the employees of PITAHC to submit formal complaints against the private respondent. Petitioner also averred that the issuance of the memorandum was done in the performance of official duty and in good faith considering that his objective is to help the private respondent.

Ruling of the Sandiganbayan

In its Decision^[10] promulgated on October 26, 2006, the *Sandiganbayan* held that the prosecution has convincingly established by proof beyond reasonable doubt the existence of all the elements essential to support the charge and thus adjudged petitioner guilty of the crime of libel, viz:

WHEREFORE, proceeding from the foregoing, judgment is hereby rendered finding accused ALFONSO LAGAYA y TAMONDONG **GUILTY** of the crime of libel defined and penalized under Article 355 in relation to Articles 353 and 354 of the *Revised Penal Code* and, in the absence of any modifying circumstance, sentencing the said accused to: (a) suffer an indeterminate sentence of imprisonment of six (6) months of *arresto mayor*, as minimum, to two (2) years, eleven (11) months, and ten (10), days of *prision correccional*, as maximum; (b) suffer all the appropriate accessory penalties consequent thereto, including perpetual special disqualification; and (c) pay the costs.

SO ORDERED.^[11]

Petitioner sought reconsideration of the Decision but the Sandiganbayan denied the same in the questioned January 16, 2007 Resolution.^[12]

Hence, this petition.

Issues

Petitioner ascribes upon the *Sandiganbayan* the following errors:

I

HIE HONORABLE SANDIGANBAYAN ERRED IN NOT HOLDING THAT THE CONTENTS OF THE MEMORANDUM ARE NOT DEFAMATORY AS THEY WERE MERELY QUOTED VERBATIM I ROM A RECOMMENDATION OF PITAHC CONSULTANT MCGIMPERS INTERNATIONAL CONSULTANCY CORPORATION.

II

GRANTING **ARGUENDO** THAT THE UTTERANCE WAS IN ITSELF DEFAMATORY, NONETHELESS, THE HONORABLE SANDIGANBAYAN ERRED IN NOT HOLDING THAT THE SUBJECT MEMORANDUM WAS NOT ATTENDED WITH MALICE TO THUS FREE PETITIONER OF CRIMINAL LIABILITY.

III

IN ANY EVENT. THE SUBJECT MEMORANDUM FALLS WITHIN THE AMBIT OF THE PRIVILEGED COMMUNICATION RULE, HENCE, NOT LIBELOUS.

IV

THE PROSECUTION'S EVIDENCE TO PROVE THE COMMISSION OF LIBEL FELL SHORT OF THE DEGREE OF PROOF, THAT IS, PROOF BEYOND REASONABLE DOUBT, REQUIRED BY LAW TO BE ESTABLISHED IN ORDER TO OVERCOME THE CONSTITUTIONALLY ENSHRINED PRESUMPTION OF INNOCENCE IN FAVOR OF ACCUSED-PETITIONER.

V

GRANTING WITHOUT ADMITTING THAT PETITIONER IS LIABLE I OR TILL-: CRIME OF LIBEL THE PENALTY IMPOSED UPON HIM IS NOT COMMENSURATE TO THE ALLEGED OFFENSE; BEARING IN MIND SEVERAL YEARS OF UNTARNISHED PUBLIC SERVICE AS DIRECTOR GENERAL FOR PITAHC.^[13]

Petitioner avers that the contents of the subject memorandum are not defamatory. The memorandum was not only issued in good faith but also in the performance of

his official duty as Director General of PITAHC, that is, to make certain that the members of the organization he heads would work together for the accomplishment of the organization's mandate. In fact, he merely quoted in the said memorandum the recommendation of their consultant McGimpers. Petitioner also argues that the subject memorandum falls within the ambit of privileged communication, hence, not actionable. Lastly, assuming that he is liable, a fine instead of imprisonment should be imposed following prevailing jurisprudence.

Private respondent and public respondent People of the Philippines, in their respective comments, pray for the affirmance of the challenged Decision of the *Sandiganbayan* and for the dismissal of the petition.

Our Ruling

The Court finds the petition partly impressed with merit.

All the requisites of the crime of libel are obtaining in this case.

A libel is defined as "a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead."^[14] "For an imputation to be libelous, the following requisites must concur: a) it must be defamatory; b) it must be malicious; c) it must be given publicity; and d) the victim must be identifiable."^[15]

The Court finds the four aforementioned requisites to be present in this case.

As to the first requisite, we find the subject memorandum defamatory. An allegation is considered defamatory if it ascribes to a person the commission of a crime, the possession of a vice or defect, real or imaginary, or any act, omission, condition, status or circumstance which tends to dishonor or discredit or put him in contempt or which tends to blacken the memory of one who is dead. "In determining whether a statement is defamatory, the words used are to be construed in their entirety and should be taken in their plain, natural and ordinary meaning as they would naturally be understood by persons reading them, unless it appears that they were used and understood in another sense."^[16]

In the present case, the subject memorandum dealt more on the supposedly abnormal behavior of the private respondent which to an ordinary reader automatically means a judgment of mental deficiency. As the *Sandiganbayan* correctly ruled:

xxx To stress, the words used could not be interpreted to mean other than what they intend to say - that Martinez has psychiatric problems and needs psychological and/or psychiatric treatment: otherwise her mental and emotional stability would further deteriorate. As the law does not make, any distinction whether the imputed defect/condition is real or imaginary, no other conclusion can be reached, except that accused Lagaya. in issuing the Memorandum. ascribes unto Martinez a vice,