581 Phil. 639

FIRST DIVISION

[G.R. No. 180832, July 23, 2008]

JEROME CASTRO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

R E S O L U T I O N

CORONA, J.:

This petition for review on certiorari[1] emanated from the complaint for grave oral defamation[2] filed by Albert P. Tan against petitioner Jerome Castro.

The facts follow.

On November 11, 2002, Reedley International School (RIS) dismissed Tan's son, Justin Albert (then a Grade 12 student), for violating the terms of his disciplinary probation.[3] Upon Tan's request, RIS reconsidered its decision but imposed "non-appealable" conditions such as excluding Justin Albert from participating in the graduation ceremonies.

Aggrieved, Tan filed a complaint in the Department of Education (Dep-Ed) for violation of the Manual of Regulation of Private Schools, Education Act of 1982 and Article 19 of the Civil Code[4] against RIS. He alleged that the dismissal of his son was undertaken with malice, bad faith and evident premeditation. After investigation, the Dep-Ed found that RIS' code violation point system allowed the summary imposition of unreasonable sanctions (which had no basis in fact and in law). The system therefore violated due process. Hence, the Dep-Ed nullified it. [5]

Meanwhile, on November 20, 2002, the Dep-Ed ordered RIS to readmit Justin Albert without any condition.[6] Thus, he was able to graduate from RIS and participate in the commencement ceremonies held on March 30, 2003.

After the graduation ceremonies, Tan met Bernice C. Ching, a fellow parent at RIS. In the course of their conversation, Tan intimated that he was contemplating a suit against the officers of RIS in their personal capacities, including petitioner who was the assistant headmaster.

Ching telephoned petitioner sometime the first week of April and told him that Tan was planning to sue the officers of RIS in their personal capacities. Before they hung up, petitioner told Ching:

> Okay, you too, take care and be careful talking to [Tan], that's dangerous.

Ching then called Tan and informed him that petitioner said "talking to him was dangerous."

Insulted, Tan filed a complaint for grave oral defamation in the Office of the City Prosecutor of Mandaluyong City against petitioner on August 21, 2003.

On November 3, 2003, petitioner was charged with grave oral defamation in the Metropolitan Trial Court (MeTC) of Mandaluyong City, Branch 60[7] under the following Information:

> That on or about the 13th day of March, 2003 in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named [petitioner], with deliberate intent of bringing ATTY. ALBERT P. TAN, into discredit, dishonor, disrepute and contempt, did then and there, willfully, unlawfully and feloniously speak and utter the following words to Ms. Bernice C. Ching:
>
> > "OK, YOU TOO, YOU TAKE CARE AND BE CAREFUL TALKING TO [TAN], THAT'S DANGEROUS."
>
> and other words of similar import of a serious and insulting nature.
>
> CONTRARY TO LAW.

Petitioner pleaded not guilty during arraignment.

The prosecution essentially tried to establish that petitioner depicted Tan as a "dangerous person." Ching testified that petitioner warned her that talking to Tan was dangerous. Tan, on the other hand, testified that petitioner's statement shocked him as it portrayed him as "someone capable of committing undesirable acts." He added that petitioner probably took offense because of the complaint he filed against RIS in the Dep-Ed.

For his defense, petitioner denied harboring ill-feelings against Tan despite the latter's complaint against RIS in the Dep-Ed. Although he admitted conversing with Ching (whom he considered as a close acquaintance) on the telephone a few days after RIS' 2003 commencement exercises, petitioner asserted that he never said or insinuated that Tan or talking to Tan was dangerous. On cross-examination, however, he did not categorically deny the veracity of Ching's statement.

The MeTC found that Ching's statements in her affidavit and in open court were consistent and that she did not have any motive to fabricate a false statement. Petitioner, on the other hand, harbored personal resentment, aversion and ill-will against Tan since the Dep-Ed compelled RIS to readmit his son. Thus, the MeTC was convinced that petitioner told Ching talking to Tan was dangerous and that he uttered the statement with the intention to insult Tan and tarnish his social and professional reputation.

In a decision dated December 27, 2005, the MeTC found petitioner guilty beyond reasonable doubt of grave oral defamation:[8]

> **WHEREFORE,** judgment is hereby rendered finding accused, Jerome Castro **GUILTY** beyond reasonable doubt of the crime of Grave Oral Defamation, sentencing him therefore, in accordance to Article 358(1) of the Revised Penal Code and applying the Indeterminate Sentence Law to

> suffer the penalty of imprisonment of 1 month and 1 day of *arresto mayor* as minimum to 4 months and 1 day of *arresto mayor* as maximum.

On appeal, the Regional Trial Court (RTC) affirmed the factual findings of the MeTC. However, in view of the animosity between the parties, it found petitioner guilty only of slight oral defamation. But because Tan filed his complaint in the Office of the City Prosecutor of Mandaluyong City only on August 21, 2003 (or almost five months from discovery), the RTC ruled that prescription had already set in; it therefore acquitted petitioner on that ground. [9]

On April 19, 2007, the Office of the Solicitor General (OSG) filed a petition for certiorari in the Court of Appeals (CA) assailing the decision of the RTC.[10] It contended that the RTC acted with grave abuse of discretion when it downgraded petitioner's offense to slight oral defamation. The RTC allegedly misappreciated the antecedents which provoked petitioner to utter the allegedly defamatory statement against Tan.

The CA found that the RTC committed grave abuse of discretion when it misapprehended the totality of the circumstances and found petitioner guilty only of slight oral defamation. Thus, the CA reinstated the MeTC decision.[11]

Petitioner moved for reconsideration but it was denied.[12] Hence, this recourse.

Petitioner basically contends that the CA erred in taking cognizance of the petition for certiorari inasmuch as the OSG raised errors of judgment (*i.e.,* that the RTC misappreciated the evidence presented by the parties) but failed to prove that the RTC committed grave abuse of discretion. Thus, double jeopardy attached when the RTC acquitted him.

We grant the petition.

No person shall be twice put in jeopardy of punishment for the same offense.[13] This constitutional mandate is echoed in Section 7 of Rule 117 of the Rules of Court which provides:

> Section 7. *Former conviction or acquittal; double jeopardy.* - When an accused has been convicted or acquitted or the case against him dismissed or otherwise terminated without his express consent by a court of competent jurisdiction, upon a valid complaint or in information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information.
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Under this provision, double jeopardy occurs upon (1) a valid indictment (2) before a competent court (3) after arraignment (4) when a valid plea has been entered and