

SECOND DIVISION

[G.R. No. 172142, October 17, 2007]

DAVID B. CAMPANANO, JR., PETITIONER, VS. JOSE ANTONIO A. DATUIN, RESPONDENT.^[1]

D E C I S I O N

CARPIO MORALES, J.:

Assailed via the instant Petition for Review is the Court of Appeals Decision^[2] of December 9, 2005 which set aside the August 20, 2004 Resolution^[3] of the Department of Justice (DOJ) dismissing the petition for review filed by respondent Jose Antonio Datuin.

On complaint for Estafa by Seishin International Corporation, represented by its president-herein petitioner David B. Campanano, Jr.,^[4] an Information for violation of *Batas Pambansa Blg. 22* was filed against respondent.

After trial, respondent was convicted of Estafa by the Regional Trial Court, Branch 71 of Pasig City by Decision of May 3, 1999.^[5] Respondent's appeal before the Court of Appeals, and eventually with this Court, was dismissed and the decision became final and executory^[6] on October 24, 2003.

Later claiming that the complaint of Seishin International Corporation against him was "false, unfounded and malicious" in light of newly discovered (by respondent) evidence, respondent filed a complaint for Incriminating Against Innocent Persons, punishable under Article 363 of the Revised Penal Code, before the Office of the City Prosecutor of **Quezon City** against petitioner and a certain Yasunobu Hirota.^[7] The pertinent portions of respondent's complaint-affidavit read:

I, JOSE ANTONIO A. DATUIN, of legal age, Filipino, married, with residence and postal address at No. 1 Commonwealth Avenue, Diliman, **Quezon City**, under oath, depose and state:

x x x x

2. I was charged by Seishin International Corporation, represented by its President, Mr. David Campanano, Jr. with the crime of Estafa before the Office of the City Prosecutor of **Pasig City**, by virtue of a criminal information filed against me by said prosecution office with the Regional Trial Court of **Pasig City**. x x x

x x x x

5. In a decision dated May 3, 1999, the Regional Trial Court of **Pasig**

City, Branch 71, rendered a Decision convicting me (accused-complainant) of estafa x x x;

x x x x

13. Meanwhile, sometime in July 15, 2003, I had my office rented, vacated the same, and had all of my things, including my attaché case, all my records, and other personal belongings, transferred and brought to my house; that while I was sorting and classifying all my things, including the records, as well as those in the attaché case, I found the CASH VOUCHER evidencing my cash payment of the two (2) roadrollers, Sakai brand, which I purchased from Mr. Yasonobu Hirota, representing Seishin International Corporation, in the amount of Two Hundred Thousand (P200,000.00) Pesos. The cash voucher was dated June 28, 1993, and it was signed by me and Mr. Hirota. A copy of the said cash voucher is hereto attached as ANNEX "H" hereof;

14. **In light of this newly discovered evidence, the complaint of Seishin International Corporation[,] represented by Mr. David Campanano, Jr.[,] and the testimony of the latter in support of the complaint are false, unfounded and malicious because they imputed to me a crime of Estafa which in the first place I did not commit, as evidenced by the fact that the subject two (2) units of roadrollers, Sakai brand, subject of the criminal complaint before the Office of the City Prosecutor of Pasig City by the corporation through Mr. Campanano, and the information filed in court, had been purchased by me in cash from the said corporation and had already been paid on June 28, 1993.**

While I testified also in court, my testimony arose from my having forgotten that I have already fully paid for the said two units of roadrollers, especially that I could not find the necessary document consisting of the cash voucher in support of my defense. I could not say that I have fully paid for the said units of roadrollers because at that time I was not in possession of any evidence or document to support my claim.

15. In filing the complaint for Estafa - fully knowing that it was baseless and without factual or legal basis, Messrs. Campanano, Jr. and Mr. Hirota should be criminally liable for the crime of Incriminating Innocent Persons punishable under Article 363 of the Revised Penal Code. x x x^[8] (Emphasis and underscoring supplied)

By Resolution of January 20, 2004, the Office of the City Prosecutor of Quezon City^[9] dismissed respondent's complaint for incriminating innocent person in this wise:

It appearing that the case of estafa was filed in Pasig City, and the testimony given by respondent David Campañano, Jr. was also made in Pasig City, this office has no jurisdiction on the above-entitled complainant.

Granting *en arguendo* that this office has jurisdiction over this case, the undersigned investigating prosecutor finds no basis to indict the respondents of the crime imputed to them for it is an established fact that the Regional Trial Court of Pasig City finds merit in the estafa case filed by Seishin International Corporation, represented by its president, herein respondent David Campaño, Jr. In fact, the petition for review, including the supplemental motion for reconsideration filed by the herein complainant to [sic] the Honorable Supreme Court was denied for lack of merit and with an order of Entry of Final Judgment.

As to the discovery of the alleged new evidence, the cash voucher, dated June 28, 1993[,], it is not this office that should determine the materiality or immateriality of it.^[10] (Underscoring supplied)

By petition for review, respondent elevated the case to the DOJ which dismissed the petition outright by Resolution^[11] of August 20, 2004, holding that "[it] found no such error committed by the prosecutor that would justify the reversal of the assailed resolution which is in accord with the law and evidence on the matter." Respondent's motion for reconsideration was likewise denied by DOJ Resolution^[12] of April 11, 2005.

The Court of Appeals, however, set aside the resolutions of the DOJ by Decision of December 9, 2005, the *fallo* of which reads:

WHEREFORE, the petition is given due course, and the assailed Resolutions of the Department of Justice are hereby SET ASIDE. The case is directed to be **remanded** to the City Prosecutor's Office of Quezon City for further investigation.^[13] (Emphasis and underscoring supplied)

Hence, the present petition, petitioner faulting the Court of Appeals in the main:

. . . IN RULING THAT THE COUNTER-AFFIDAVIT OF PETITIONER DAVID B. CAMPANANO EXECUTED IN QUEZON CITY ON NOVEMBER 30, 2003 AND NOT THE AFFIDAVIT-COMPLAINT OF PRIVATE RESPONDENT JOSE ANTONIO DATUIN THAT [sic] IS DETERMINATIVE OF THE JURISDICTION OF QUEZON CITY PROSECUTOR'S OFFICE TO CONDUCT PRELIMINARY INVESTIGATION ON THE COMPLAINT OF PRIVATE RESPONDENT DATUIN AGAINST PETITIONER INCRIMINATING AGAINST INNOCENT PERSONS.

x x x x

. . . IN RULING THAT THE DISMISSAL OF THE COMPLAINT-AFFIDAVIT OF RESPONDENT DATUIN BY THE DEPARTMENT OF JUSTICE CONSTITUTES AN ABUSE OF DISCRETION SINCE THE COMPLAINT-AFFIDAVIT APPEARS TO BE MERITORIOUS.^[14] (Underscoring supplied)

The petition is impressed with merit.

It is doctrinal that in criminal cases, venue is an essential element of jurisdiction;^[15] and that the jurisdiction of a court over a criminal case is determined by the allegations in the complaint or information.^[16]