382 Phil. 412

SECOND DIVISION

[G.R. No. 122954, February 15, 2000]

NORBERTO FERIA Y PACQUING, PETITIONER, VS. THE COURT OF APPEALS, THE DIRECTOR OF THE BUREAU OF CORRECTIONS, MUNTINLUPA, METRO MANILA (IN PLACE OF THE JAIL WARDEN OF THE MANILA CITY JAIL), THE PRESIDING JUDGE OF BRANCH II, REGIONAL TRIAL COURT OF MANILA, AND THE CITY PROSECUTOR, CITY OF MANILA, RESPONDENTS.

D E C I S I O N

QUISUMBING, J.:

The mere loss or destruction of the records of a criminal case subsequent to conviction of the accused will not render the judgment of conviction void, nor will it warrant the release of the convict by virtue of a writ of *habeas corpus*. The proper remedy is the reconstitution of judicial records which is as much a duty of the prosecution as of the defense.

Subject of this petition for review on *certiorari* are (1) the Decision dated April 28, 1995, of the Eighth Division of the Court of Appeals, which affirmed the dismissal of the petition for *habeas corpus* filed by petitioner, and (2) the Resolution of the Court of Appeals dated December 1, 1995, which denied the Motion for Reconsideration. As hereafter elucidated, we sustain the judgment of respondent appellate court.

Based on the available records and the admissions of the parties, the antecedents of the present petition are as follows:

Petitioner Norberto Feria y Pacquing has been under detention since May 21, 1981, up to present[1] by reason of his conviction of the crime of Robbery with Homicide, in Criminal Case No. 60677, by the Regional Trial Court of Manila, Branch 2, for the jeepney hold-up and killing of United States Peace Corps Volunteer Margaret Viviene Carmona.

Some twelve (12) years later, or on June 9, 1993, petitioner sought to be transferred from the Manila City Jail to the Bureau of Corrections in Muntinlupa City, [2] but the Jail Warden of the Manila City Jail informed the Presiding Judge of the RTC-Manila, Branch 2, that the transfer cannot be effected without the submission of the requirements, namely, the Commitment Order or Mittimus, Decision, and Information.[3] It was then discovered that the entire records of the case, including the copy of the judgment, were missing. In response to the inquiries made by counsel of petitioner, both the Office of the City Prosecutor of Manila and the Clerk of Court of Regional Trial Court of Manila, Branch 2 attested to the fact that the records of Criminal Case No. 60677 could not be found in their respective offices. Upon further inquiries, the entire records appear to have been lost or destroyed in the fire which occurred at the second and third floor of the Manila City Hall on

November 3, 1986.[4]

On October 3, 1994, petitioner filed a Petition for the Issuance of a Writ of *Habeas Corpus*[5] with the Supreme Court against the Jail Warden of the Manila City Jail, the Presiding Judge of Branch 2, Regional Trial Court of Manila, and the City Prosecutor of Manila, praying for his discharge from confinement on the ground that his continued detention without any valid judgment is illegal and violative of his constitutional right to due process.

In its Resolution dated October 10, 1994,[6] the Second Division of this Court resolved -

> " x x x (a) to ISSUE the Writ of *Habeas Corpus*; (b) to ORDER the Executive Judge of the Regional Trial Court of Manila to conduct an immediate RAFFLE of this case among the incumbent judges thereof; and (c) to REQUIRE [1] the Judge to whom this case is raffled to SET the case for HEARING on Thursday, October 13, 1994 at 8:30 A.M., try and decide the same on the merits and thereafter FURNISH this Court with a copy of his decision thereon; [2] the respondents to make a RETURN of the Writ on or before the close of office hours on Wednesday, October 12, 1994 and APPEAR PERSONALLY and PRODUCE the person of Norberto Feria y Pa[c]quing on the aforesaid date and time of hearing to the Judge to whom this case is raffled, and [3] the Director General, Philippine National Police, through his duly authorized representative(s) to SERVE the Writ and Petition, and make a RETURN thereof as provided by law and, specifically, his duly authorized representative(s) to APPEAR PERSONALLY and ESCORT the person of Norberto Feria y Pa[c]quing at the aforesaid date and time of hearing."

The case was then raffled to Branch 9 of the Regional Trial Court of Manila, which on November 15, 1994, after hearing, issued an Order[7] dismissing the case on the ground that the mere loss of the records of the case does not invalidate the judgment or commitment nor authorize the release of the petitioner, and that the proper remedy would be reconstitution of the records of the case which should be filed with the court which rendered the decision.

Petitioner duly appealed said Order to the Court of Appeals, which on April 28, 1995, rendered the assailed Decision[8] affirming the decision of the trial court with the modification that "in the interest of orderly administration of justice" and "under the peculiar facts of the case" petitioner may be transferred to the Bureau of Corrections in Muntinlupa City without submission of the requirements (Mittimus, Decision and Information) but without prejudice to the reconstitution of the original records.

The Motion for Reconsideration of the aforesaid Order having been denied for lack of merit,[9] petitioner is now before us on *certiorari*, assigning the following errors of law:[10]

> I. WHETHER OR NOT, UNDER THE PECULIAR CIRCUMSTANCES OF THIS CASE, WHERE THE RECORDS OF CONVICTION WERE LOST, THE PETITIONER'S CONTINUED INCARCERATION IS JUSTIFIED UNDER THE LAW.

COROLLARY TO THIS, WHETHER OR NOT THE COURT OF APPEALS' RESOLUTION, AFFIRMING THE DENIAL OF HEREIN APPELLANT'S PETITION FOR *HABEAS CORPUS* IS, IN CONTEMPLATION OF LAW, A JUDGMENT OR A SUBSTITUTE JUDGMENT, WHICH CAN BE UTILIZED AS A SUFFICIENT BASIS FOR HIS INCARCERATION.

II. WHETHER OR NOT THE RECONSTITUTION OF OFFICIAL RECORDS LOST/DESTROYED SHOULD BE INITIATED BY THE GOVERNMENT AND ITS ORGANS, WHO ARE IN CUSTODY OF SUCH, OR BY THE PRISONER, WHOSE LIBERTY IS RESTRAINED.

Petitioner argues that his detention is illegal because there exists no copy of a *valid* judgment as required by Sections 1 and 2 of Rule 120 of the Rules of Court,[11] and that the evidence considered by the trial court and Court of Appeals in the *habeas corpus* proceedings did not establish the *contents* of such judgment. Petitioner further contends that our ruling in *Gunabe v. Director of Prisons*, 77 Phil. 993, 995 (1947), that "reconstitution is as much the duty of the prosecution as of the defense" has been modified or abandoned in the subsequent case of *Ordonez v. Director of Prisons*, 235 SCRA 152, 155 (1994), wherein we held that "[i]t is not the fault of the prisoners that the records cannot now be found. If anyone is to be blamed, it surely cannot be the prisoners, who were not the custodians of those records."

In its Comment,[12] the Office of the Solicitor General contends that the sole inquiry in this *habeas corpus* proceeding is whether or not there is legal basis to detain petitioner. The OSG maintains that public respondents have more than sufficiently shown the existence of a legal ground for petitioner's continued incarceration, *viz*., his conviction by final judgment, and under Section 4 of Rule 102 of the Rules of Court, the discharge of a person suffering imprisonment under lawful judgment is not authorized. Petitioner's remedy, therefore, is not a petition for *habeas corpus* but a proceeding for the reconstitution of judicial records.

The high prerogative writ of *habeas corpus*, whose origin is traced to antiquity, was devised and exists as a speedy and effectual remedy to relieve persons from unlawful restraint, and as the best and only sufficient defense of personal freedom. [13] It secures to a prisoner the right to have the cause of his detention examined and determined by a court of justice, and to have the issue ascertained as to whether he is held under lawful authority.[14] Consequently, the writ may also be availed of where, as a consequence of a judicial proceeding, (a) there has been a deprivation of a constitutional right resulting in the restraint of a person, (b) the court had no jurisdiction to impose the sentence, or (c) an excessive penalty has been imposed, as such sentence is void as to such excess.[15] Petitioner's claim is anchored on the first ground considering, as he claims, that his continued detention, notwithstanding the lack of a copy of a *valid* judgment of conviction, is violative of his constitutional right to due process.

Based on the records and the hearing conducted by the trial court, there is sufficient evidence on record to establish the fact of conviction of petitioner which serves as the legal basis for his detention. Petitioner made judicial admissions, both verbal and written, that he was charged with and convicted of the crime of Robbery with

Homicide, and sentenced to suffer imprisonment "*habang buhay*".

In its Order dated October 17, 1994, the RTC-Manila, Branch 9, made the finding that -[16]

> "During the trial and on manifestation and arguments made by the accused, his learned counsel and Solicitor Alexander G. Gesmundo who appeared for the respondents, it appears clear and indubitable that:
>
> > (A) Petitioner had been charged with Robbery with Homicide in Criminal Case No. 60677, Illegal Possession of Firearm in Criminal Case No. 60678 and Robbery in Band in Criminal Case No. 60867 x x x In Criminal Case No. 60677 (Robbery with Homicide) *the accused admitted in open Court that a decision was read to him in open Court by a personnel of the respondent Court (RTC Branch II) sentencing him to Life Imprisonment (Habang buhay)*..." (italics supplied)

Further, in the Urgent Motion for the Issuance of Commitment Order of the Above Entitled Criminal Case dated June 8, 1993,[17] petitioner himself stated that -

> "COMES NOW, the undersigned accused in the above entitled criminal case and unto this Honorable Court most respectfully move:
>
> 1. *That in 1981 the accused was charge of (sic) Robbery with Homicide;*
>
> 2. *That after four years of trial, the court found the accused guilty and given a Life Sentence in a promulgation handed down in 1985;* (emphasis supplied)
>
> 3. That after the sentence was promulgated, the Presiding Judge told the councel (sic) that accused has the right to appeal the decision;
>
> 4. That whether the *de oficio* counsel appealed the decision is beyond the accused comprehension (sic) because the last time he saw the counsel was when the decision was promulgated.
>
> 5. That everytime there is change of Warden at the Manila City Jail attempts were made to get the Commitment Order so that transfer of the accused to the Bureau of Corrections can be affected, but all in vain;"

Petitioner's declarations as to a relevant fact may be given in evidence against him under Section 23 of Rule 130 of the Rules of Court. This rule is based upon the presumption that no man would declare anything against himself, unless such declaration were true,[18] particularly with respect to such grave matter as his conviction for the crime of Robbery with Homicide. Further, under Section 4 of Rule 129, "[a]n admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by a showing that it was made through palpable mistake or that no such admission was made." Petitioner does not claim any mistake nor does he deny making such admissions.

The records also contain a certified true copy of the Monthly Report dated January