

SECOND DIVISION

[G.R. No. 124491, June 01, 1999]

ROQUE VICARIO Y MENDEZ, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

DECISION

BELLOSILLO, J.:

ROQUE VICARIO Y MENDEZ was charged with libel by the Provincial Prosecutor of Catarman, Northern Samar, with Judge Proceso Sidro of the Municipal Circuit Trial Court of Mondragon-San Roque, Northern Samar, as complaining witness. According to the Information, the crime was committed when Vicario allegedly distributed and circulated in the vicinity of the Northern Samar Provincial Hospital in Catarman photocopies of page 7 of the 20 March 1992 issue of the *Philippine Daily Inquirer* which contained the following article^[1] -

*SAMAR JUDGE WHO POCKETED BOND
CHARGED WITH GRAFT*

OMBUDSMAN Conrado Vasquez yesterday filed with the Sandiganbayan graft charges against a Northern Samar judge who pocketed the P1,000.00 cash bond posted by a respondent in one of several cases pending in his sala.

Charged was Judge Proceso Sidro of the Northern Samar municipal circuit trial court in Mondragon.

Investigation showed that Sidro failed to deposit the cash bond with his clerk-of-court, and refused to return the money even after the accused who filed the bond was already acquitted in the case.

Private complainant Sidro alleged that petitioner's act greatly prejudiced his reputation as a member of the bench and caused him great distress. Petitioner Vicario on the other hand disclaimed responsibility for the distribution of the alleged libelous article, at the same time asserting that the libel suit against him was ill-motivated for he had filed a criminal charge for graft and corruption against Judge Sidro before the Ombudsman and an administrative complaint for dishonesty with the Supreme Court, both due to the latter's unjustified refusal and failure to return petitioner's cash bond of P1,000.00.

After trial, the court *a quo* found petitioner Vicario guilty of libel and sentenced him to pay a fine of P200.00 with subsidiary imprisonment in case of insolvency.^[2] The trial court justified its decision by declaring that while no evidence was presented to show that Vicario distributed copies of the news article to several persons, at least he gave one photocopy to prosecution witness Amador Montes which amounted to

publication, and that this act was tainted with malice as it stemmed from Vicario's hatred, as evident from the manner his testimony was delivered, towards complaining witness Sidro.^[3]

On 28 February 1996 respondent Court of Appeals affirmed *in toto* the decision of the trial court.^[4] Hence, this petition for review on *certiorari* predicated on the following propositions^[5] -

First. The news item in question is a privileged matter and since it was published in the Philippine Daily Inquirer, a nationally circulated newspaper, without any intervention of petitioner, his act of giving a copy to a person named Amador Montes is not a libelous act;

Second. Respondent court gravely erred in concluding that Amador Montes saw petitioner distributing copy of the aforesaid issue of the Philippine Daily Inquirer;

Third. Respondent court gravely erred in considering the affidavit-complaint petitioner filed with the Ombudsman which was completely immaterial and impertinent to the issue of whether or not the act of petitioner in giving a copy of the Philippine Daily Inquirer to Amador Montes where the news item was published, constitutes the crime of libel;

Fourth. Respondent court seriously erred in citing authorities which are not applicable in deciding whether petitioner's act of giving a copy of the Philippine Daily Inquirer to Amador Montes constituted the crime of libel;

Fifth. Respondent court gravely erred in adopting the conclusion of the trial court that petitioner's act of giving a copy of the Philippine Daily Inquirer to Amador Montes was motivated by his intense hatred against Judge Sidro, it being clear that such act was an insufficient and inadequate evidence of the alleged intense hatred of petitioner; and,

Sixth. Respondent court gravely erred, in the final analysis, in not acquitting petitioner on the ground of reasonable doubt.

Two (2) main issues are laid before us: (a) whether the act of merely distributing a photocopy of an article in a newspaper reporting that graft charges had been filed against a judge named therein constitutes libel, and (b) whether Vicario's act was proved beyond reasonable doubt.

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 discredit or cause the dishonor or contempt of a natural or juridical person, or to blacken the memory of one who is dead.^[6] Thus, the elements of libel are: (a) imputation of a discreditable act or condition to another; (b) publication of the imputation; (c) identity of the person defamed; and, (d) existence of malice.^[7]

The evidence on record clearly shows that the elements above enumerated have not been satisfactorily established as to conclude that libel was committed by petitioner.

Thus, we rule in his favor. For an incongruity exists between the evidence on one hand, and the findings of fact and of law by the trial court and the appellate court on the other, which we must reconcile, if not rectify.

As found by the trial court, there was no evidence at all to show that petitioner was the source of the statements contained in the news item published by the *Philippine Daily Inquirer*. Indeed, for not only was the news item by itself bereft of this information, the records also confirmed its absence. This is why it was incorrect for the appellate court to find that "*the news item was patently culled from the Affidavit-Complaint of the appellant imputing a criminal act on Judge Sidro filed with the Ombudsman (emphasis ours)*" when no basis, factual or legal, exists for so ruling. To be sure, the Affidavit-Complaint was merely a narration of the facts constituting the cause of action of petitioner. Its contents never appeared in the news article which spoke only of *the filing by the Ombudsman with the Sandiganbayan of graft charges against Judge Sidro after its investigation of a complaint that the judge refused to return the cash bond of an accused after the latter's acquittal in a criminal case*. There is no specific reference therein to petitioner nor to his Affidavit-Complaint. Since it has not been established that he caused the publication of the subject article nor was the source thereof, it would be inappropriate to conclude that through the disputed news item he ascribed a criminal act to Judge Proceso Sidro. Parenthetically, it would have been more accurate for the appellate court to state that the news article was *culled from the resolution of the Ombudsman directing the filing of a criminal charge based on the results of his investigation of a complaint leveled against the named judge*. But then, if it did, it would have been left with no basis at all to hold, as in fact it did, that Vicario maliciously imputed a discreditable act to respondent judge, and there would be no more justification for the finding that the first element of libel was established.

The trial court also opined that no suit arising from the publication was filed against the newspaper because *what appears settled is that the item was merely a fair and true report, with no comments or remarks, of official or judicial proceedings which are not classified as confidential*. Again, a perusal of the subject news item confirms this fact. Then the trial court proceeded to state that the accused (petitioner) however publicized the newspaper item because "*shown by competent and relevant evidence was the giving (by Vicario) of a xerox copy of the publicized item to Amador Montes*." But was petitioner indeed guilty of republication of a libelous article?

In his appeal, petitioner disputes the existence of the elements of publication and malice,^[8] arguing that inasmuch as he was not the author or originator of the subject article in the *Philippine Daily Inquirer* he could not be liable for its publication. The Court of Appeals brushed aside this proposition, declaring in the main that by having the news item machine copied and furnishing prosecution witness Montes a copy thereof, accused-appellant thereby endorsed and adopted the news item and hence was answerable therefor. We note the American citations relied upon by the appellate court to support its conclusions. However, we deem these as not authoritative, much less persuasive upon the Court, considering further that there are dissimilarities in the facts between the cited cases and this case before us.

Contrary to the perception of the appellate court, there was no evidence at all offered to show that petitioner himself photocopied the article. Nor was evidence