

SECOND DIVISION

[G.R. No. 121180, July 05, 1996]

GERARD A. MOSQUERA, PETITIONER, VS. HON. DELIA H. PANGANIBAN, IN HER CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 64, CITY OF MAKATI, METRO MANILA, HON.FELICIDAD Y. NAVARRO-QUIAMBAO, IN HER CAPACITY AS PRESIDING JUDGE OF THE METROPOLITAN TRIAL COURT, BRANCH 65, CITY OF MAKATI, METRO MANILA, AND MARK F. JALANDONI, RESPONDENTS.

D E C I S I O N

MENDOZA, J.:

This is a petition for review on certiorari of orders dated June 9, 1995 and July 19, 1995 of the Regional Trial Court of Makati (Branch 64) sustaining an order of the Metropolitan Trial Court (Branch 65) for the reinstatement of the information for less serious physical injuries against petitioner Gerard S. Mosquera, which the MeTC had previously allowed to be withdrawn by the prosecution. The reinstatement of the case was made on motion of the offended party.

The prosecution in the MeTC arose out of a physical encounter between petitioner and private respondent Mark E. Jalandoni within the premises of the Ateneo Law School on June 21, 1993. Petitioner is a graduate of the law school and a member of a fraternity in that school. On the other hand, private respondent was then a third-year student enrolled in the law school. There is considerable dispute how the fight took place. Petitioner's version was that he had gone to the law school and happened to meet respondent Jalandoni. Because Jalandoni had a previous altercation with another member of petitioner's fraternity, petitioner tried to talk to Jalandoni, but the latter reacted belligerently and the two had a fight. On the other hand, Jalandoni claimed that petitioner and members of petitioner's fraternity simply attacked him upon seeing him, for a remark which they claimed he (Jalandoni) had made, which caused a female student to cry. The female student was a friend of one of the fraternity members.

Be that as it may, as a result of the scuffle, a criminal complaint for frustrated homicide was filed by private respondent against petitioner and five others, namely, Gavino R. Meneses, Jr., Ronald B. Almeida, Alfredo B. Lagamon, Jr., Walter S. Ong, and Jayme A. Sy, Jr., before the Office of the Provincial Prosecutor of Rizal.

After the usual preliminary investigation, Second Assistant Provincial Prosecutor Herminio T. Ubana, Sr. recommended the filing of an information for less serious physical injuries against petitioner, Gavino R. Meneses, Jr., Ronald B. Almeida and Alfredo B. Lagamon, Jr. and the dismissal of the charges against Walter S. Ong and Jayme Sy, Jr. The recommendation was approved by Rizal Provincial Prosecutor Mauro M. Castro on January 10, 1994.

Accordingly, an information for less serious physical injuries was filed with the Metropolitan Trial Court of Makati, Metro Manila on January 17, 1994 against petitioner and Gavino R. Meneses, Jr., Ronaldo B. Almeida and Alfredo B. Lagamon, Jr. The case, docketed as Criminal Case No. 147366, was assigned to Branch 65 of the MeTC and tried in accordance with the Rule on Summary Procedure. The arraignment was set on July 29, 1994, at 8:30 A.M., but petitioner filed a motion before the Office of the Provincial Prosecutor for the reconsideration of the resolution finding probable cause against him. As his motion was denied by the Provincial Prosecutor, petitioner appealed to the Department of Justice which, on July 20, 1994, directed the Provincial Prosecutor to withdraw the information.

Accordingly, Second Assistant Prosecutor Benjamin R. Bautista filed a motion to withdraw the information in Criminal Case No. 147366. Private respondent in turn moved for reconsideration of the resolution of the Department of Justice but his motion was denied.

In its order dated October 13, 1994,^[1] the MeTC, presided over by respondent Judge Felicidad Y. Navarro-Quiambao, granted the motion of the prosecution and considered the information against petitioner withdrawn. The MeTC stated in its order:

Considering the time limit given by the Court to said counsel in the order dated August 15, 1994 within which to pursue the motion for reconsideration [of DOJ Resolution No. 525, Series of 1994] and without said counsel having informed this Court of the outcome of the same,^[2] it can safely be concluded that private counsel had lost interest to further prosecute the case. Moreover, Atty. Valdez acting as private counsel in the prosecution of the instant criminal case is under the direct control and supervision of the Trial Fiscal, who by virtue of the Department of Justice resolution was impliedly ordered to desist from prosecuting the case for lack of probable cause. In view thereof, the Court is of the opinion that the motion of the Trial Fiscal should be accorded weight and significance, as it was premised on the findings that the filing of the information in question has no legal basis.

On motion of private respondent, however, the MeTC reconsidered its order. In its order dated December 29, 1994, the MeTC said:^[3]

After carefully weighing the arguments of the parties in support of their respective claims, the Court believes that the weight of the evidence and the jurisprudence on the matter which is now presented for resolution heavily leaned in favor of complainant's contention. As held in the cases recently decided by the Hon. Supreme Court, once a case is filed in Court, the latter acquires complete jurisdiction over the same without regard to technicalities and personal beliefs.

That while there is merit in the accused Gerard A. Mosquera's claim that

the institution of a criminal action depends upon the sound discretion of the Fiscal who may or may not file the complaint or information, when in his opinion the evidence is insufficient to establish the guilt of the accused beyond reasonable doubt, the same is true only when the case is not in Court yet because after the case is already forwarded, raffled and assigned to a particular branch the Public Prosecutor loses control over the case.

It required the parties to appear before it on January 20, 1995, at 9:00 A.M.

Petitioner moved for reconsideration but his motion was denied.^[4] In its order, dated April 24, 1995, the MeTC also set the arraignment of petitioner and Meneses, Jr. on May 19, 1995.

Petitioner then filed a petition for certiorari and prohibition in the Regional Trial Court of Makati. The case, docketed as Special Civil Case No. 95-718, was assigned to Branch 65, presided over by respondent Judge Delia H. Panganiban.

Initially the RTC issued a temporary restraining order but, on June 9, 1995,^[5] it denied petitioner's application for preliminary injunction. The RTC upheld the reinstatement of the information against petitioner and the other accused. With its denial of injunction the RTC considered the petition for certiorari and prohibition as having been rendered moot and academic. Petitioner filed a motion for reconsideration which the RTC denied in its order of July 19, 1995.

Hence this petition for review on certiorari and for an order:

- a. Reversing the Orders dated 09 June 1995 and 19 July 1995 (cf. Annexes "A" and "B") issued by respondent Judge Panganiban;
- b. Setting aside, as null and void, the Orders dated 29 December 1994 and 24 April 1995 (cf. Annexes "R" and "T") issued by respondent Judge Quiambao;
- c. Making the preliminary injunction final;
- d. Prohibiting respondent Judge Quiambao from trying and hearing Criminal Case No. 147366; and
- e. Declaring the dismissal of Criminal Case No. 147366 as final and executory in accordance with the Order dated 13 October 1994 issued by respondent Judge Quiambao.

Petitioner's contention is that, because the direction and control of criminal prosecutions are vested in the public prosecutor, the motion for reconsideration of the order of October 13, 1994, which the private prosecutor filed without the conformity by the public prosecutor, was a nullity and did not prevent the order of

dismissal from becoming final. Consequently, the MeTC gravely abused its discretion in afterward reinstating the information.

Undoubtedly private respondent, as complainant, has an interest in the maintenance of the criminal prosecution. The right of offended parties to appeal an order of the trial court which deprives them of due process has always been recognized, the only limitation being that they cannot appeal any adverse ruling if to do so would place the accused in double jeopardy.^[6] We recently had occasion to reiterate this rule in *Martinez v. Court of Appeals*,^[7] where, through the Chief Justice, we held:

Under Section 2, Rule 122 of the 1988 Rules of Criminal Procedure, the right to appeal from a final judgment or order in a criminal case is granted to "any party," except when the accused is placed thereby in double jeopardy.

In *People v. Guido*, [57 Phil. 52 (1932)] this Court ruled that the word "party" must be understood to mean not only the government and the accused, but also other persons who may be affected by the judgment rendered in the criminal proceeding. Thus, the party injured by the crime has been held to have the right to appeal from a resolution of the court which is derogatory to his right to demand civil liability arising from the offense. The right of the offended party to file a special civil action of prohibition and certiorari from an [interlocutory] order rendered in a criminal case was likewise recognized in the cases of *Paredes v. Gopengco* [29 SCRA 688 (1969)] and *People v. Calo, Jr.*, [186 SCRA 620 (1990)] which held that "offended parties in criminal cases have sufficient interest and personality as "person(s) aggrieved" to file the special civil action of prohibition and certiorari under Sections 1 and 2 of Rule 65 in line with the underlying spirit of the liberal construction of the Rules of Court in order to promote their object. . . .

Petitioner cites the following statement in *Cabral v. Puno*^[8] in support of his contention that private respondent has no personality to file the motion in question:

While it is true that the offended party, Silvino San Diego, through the private prosecutor, filed a motion for reconsideration within the reglementary fifteen-day period, such move did not stop the running of the period for appeal [from the order of dismissal of the information]. He did not have the legal personality to appeal or file the motion for reconsideration on his behalf. The prosecution in a criminal case through the private prosecutor is under the direction and control of the Fiscal, and only the motion for reconsideration or appeal filed by the Fiscal could have interrupted the period for appeal.

The case of *Cabral*, however, differs materially from this case. In *Cabral*, the offended party had lost his right to intervene because prior to the filing of the