



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

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THIRD DIVISION

JERRY SIA YAP, GLORIA M. GALUNO, EDWIN R. ALCALA
and BECKY RODRIGUEZ,
Petitioners, G.R. No. 227534

Present:

LEONEN, J., Chairperson,
CARANDANG,
INTING*,
ROSARIO, and
MARQUEZ, JJ.

-versus-

POLICE SENIOR INSPECTOR
ROSALINO P. IBAY, JR.,
Respondent.

Promulgated:
November 29, 2021
MISPOCBAH

X-----X

DECISION

LEONEN, J.:

When the offended party is a public officer, they may institute the action for libel in the Regional Trial Court where they held office, or in the province or city where the libelous article was printed and first published.

For this Court's resolution is a Petition for Review on Certiorari¹ filed by Jerry Sia Yap, Gloria M. Galuno, Edwin R. Alcala, and Becky Rodriguez (Yap, et al.), who were indicted for libel. They assail the Court of Appeals'

* Designated additional Member per Raffle dated November 24, 2021.
¹ Rollo, pp. 3-23.

Resolutions dated May 6, 2016² and October 12, 2016,³ which dismissed their petition for certiorari seeking the reversal of the Regional Trial Court Order⁴ denying their motion to quash.

In an Information,⁵ columnist Jerry S. Yap, Managing Editor Gloria Galuno, and Circulation Manager Edwin Alcala of Hataw Newspaper were charged with libel based on the article "*Salot na Tulak sa Distrito Uno ng Maynila (Attention: PDEA)*" they published. The Information reads:

The undersigned accuses **JERRY S. YAP, GLORIA GALUNO, and EDWIN ACALA** of the crime of Libel, committed as follows:

That on or about **October 3, 2014 in the City of Manila, Philippines, accused JERRY S. YAP writes an article entitled "SALOT NA TULAK SA DISTRITO UNO NG MAYNILA (ATTENTION: PDEA)"** written by accused Jerry S. Yap and approved for publication by his Managing Editor Gloria Galino and Edwin Alcala as its circulation manager in the HATAW News paper which is printed and first published in the City of Manila the pertinent portion of which reads as follows:

"SALOT NA TULAK SA DISTRITO UNO NG MAYNILA (ATTENTION: PDEA)"

Isang pusakal na [drug] pusher d'yan sa Area of Responsibility (AOR) ng Manila Police District (MPD) Tondo 1 Police Station ang tila naglalabas-pasok lang sa kanilang presinto kapag nasasakote ng mga pulis!?

Yan tulak na yan umano ay kaanak ng isang barangay official sa Brgy. 101 Zone 8 District 1.

Hindi natin alam kung kakontsaba ng tinutukoy na drug pusher and kanyang kaanak na barangay official o ginagamit lang niya ang impluwensiya nito.

Dalawang beses nang nahuli ang "tulak" pero kara-karakang nakalalabas ng kulungan.

Residente umano sa Brgy. 116 Zone 9 ang nasabing drug pusher pero nakararating sa mga kalapit barangay para mag-supply doon ng "bato".

² Id. at 71–74. The May 6, 2016 Resolution in CA-G.R. SP No. 145150 was penned by Associate Justice Pedro B. Corales, and concurred in by Associate Justices Franchito N. Diamante and Rodil V. Zalameda (now a member of this Court) of the Former Special Eleventh Division, Court of Appeals, Manila.

³ Id. at 107–109. The October 12, 2016 Resolution in CA-G.R. SP No. 145150 was penned by Associate Justice Pedro B. Corales, and concurred in by Associate Justices Franchito N. Diamante and Rodil V. Zalameda (now a member of this Court) of the Former Special Eleventh Division, Court of Appeals, Manila.

⁴ Id. at 127–131. The November 26, 2015 Order in Criminal Case No. 15-313953-54 was penned by Presiding Judge Noli C. Diaz of the Regional Trial Court, Branch 39, Manila.

⁵ Id. at 66–67.

Una umanong nahuli ang nasabing tulak noong third week ng Agosto sa isang check point ng MPD-PSI-PCP DON BOSCO. Panahon pa umano ito ni S/Insp Rizalino Ibay, Jr. at Supt. Anonuevo. Ang sabi pa, nahulihan ng kalibre .45 at droga pero kinabukasan nakapagtata kang nakalabas agad ng kulungan!?

MPD district director, Gen Rolando Asuncion, grabe na ang proliferation ng droga sa Tondo lalo na d'yan sa area of responsibility (AOR) ng Tondo 1 na ang itinuturong No. 1 supplier ng illegal na droga lalo na ng shabu ay kaanak ng isang opisyal ng barangay.

Pwede bang pakiimbestigahan kung bakit mabilis na nakalalaya 'yang notorious drug pusher sa [Tondo!?!]

Pakibusisi na rin ninyo ang mga lespu ninyo kung bakit madaling nakalulusot ang pusher na 'yan.

*Magkano 'este' ano ang dahilan!?*⁶ (Emphasis in the original)

An Information was also filed against columnist Jerry Yap and Becky Rodriguez who was indicted for approving the publication of the article in X-Files Newspaper. It reads in part:

The undersigned accuses **JERRY S. YAP** and **BECKY RODRIGUEZ**, of the crime Libel, committed as follows:

That on or about **October 4, 2014 in the City of Manila, Philippines, accused JERRY S. YAP writes an article entitled "SALOT NA TULAK SA DISTRITO UNO NG MAYNILA (ATTENTION: PDEA)"** written by accused Jerry S. Yap and approved for publication by Becky Rodriguez in the X-Files Newspaper which is printed and first published in the City of Manila[.]⁷ (Emphasis in the original)

On October 13, 2015, Yap, et al. filed a Motion to Quash⁸ the Informations on the ground that the trial court lacked jurisdiction to try the case. They argued that the Informations identified private complainant Police Senior Inspector Rosalino P. Ibay, Jr. (PSI Ibay) as a police officer, but did not aver that he held office in Manila at the time of the newspaper's publication, as required by Article 360 of the Revised Penal Code. It also allegedly failed to indicate where the article was printed and first published:

It is noted that the Office of City Prosecutor, through its Assistant City Prosecutor AIDA D. COLIFLORES-ROMERO, wrote the

⁶ Id. at 66–67, 90.

⁷ Id. at 68.

⁸ Id. at 132–137.

information by saying that at the time of the writing of the same information on 25th of February 2015 the newspaper HATAW was first published and printed in Manila.

So where was Hataw first published and printed on 3 October 2014, the day of publication of the questioned article entitled “SALOT NA TULAK SA DISTRITO UNO NG MAYNILA (ATTENTION PDEA)”?

If on 3 October 2014 the libel[ous] article was first published and printed in Manila, the same facts must be stated in the information if only to confer upon the Manila RTC the jurisdiction to hear and decide the instant case for libel.⁹

In its November 26, 2015 Order,¹⁰ the Regional Trial Court denied the motion and upheld its jurisdiction. It found that since the article stated that PSI Ibay was stationed at Manila Police District, Police Station 1, Tondo, Manila, this sufficed to vest jurisdiction upon it. It held that this substantially complied with the provisions of Article 360 of the Revised Penal Code.¹¹ The dispositive portion of the Order reads:

WHEREFORE, the Motion to Quash filed by the accused through counsel is hereby DENIED for lack of merit.

SO ORDERED.¹²

In their Motion for Reconsideration with prayer to defer their arraignment, Yap, et al. insisted that the trial court had no jurisdiction over the case. They argued that the information should have clearly stated that PSI Ibay was holding office in Manila on October 3, 2014, when the article was published. They claimed that the trial court erroneously inferred this jurisdictional fact.¹³

On March 9, 2016, the Regional Trial Court issued its Resolution denying the motion. It also set the arraignment on April 13, 2016.¹⁴

On April 18, 2016, Yap, et al. filed their Petition for Certiorari with Application for Temporary Restraining Order¹⁵ assailing the Regional Trial Court Resolutions before the Court of Appeals. They argued that the Regional Trial Court gravely abused its discretion when it denied their motion to quash. They stressed that the lower court did not acquire jurisdiction because the two Informations did not identify Manila as the city where the newspaper containing the supposedly libelous article was printed

⁹ Id. at 137.

¹⁰ Id. at 127–131.

¹¹ Id. at 130–131.

¹² Id. at 131.

¹³ Id. at 114–119.

¹⁴ Id. at 112–113.

¹⁵ Id. at 24–39.

and first published.¹⁶ They also maintained that the Regional Trial Court erred when it held that the opinion article, quoted in the Information, may be the basis for inferring that PSI Ibay's official station is in Manila, and that this sufficed to confer jurisdiction.¹⁷

In its May 6, 2016 Resolution,¹⁸ the Court of Appeals dismissed the Petition for Certiorari for being defective. It found that Yap, et al. not only failed to comply with Rule 46, Section 3 but they also availed of the wrong remedy.¹⁹ The dispositive portion of the Resolution reads:

WHEREFORE, the instant Petition for Certiorari is hereby
DISMISSED.

SO ORDERED.²⁰ (Emphasis in the original)

Yap, et al.'s Motion for Reconsideration was denied in the Court of Appeals' October 12, 2016 Resolution.²¹

Undeterred, Yap, et al. filed this Petition for Review on Certiorari before this Court.²²

In a November 21, 2016 Resolution,²³ this Court required respondent PSI Ibay to file his comment on the Petition.

Respondent filed his Comment,²⁴ which this Court noted in its March 6, 2017 Resolution.²⁵

On June 5, 2017, this Court required petitioners to file their reply within 10 days from notice, which they did.²⁶

Arguing that the Court of Appeals erred in not finding that the Regional Trial Court gravely abused its discretion, petitioners point out that the Informations did not specify Manila as the city where the newspaper containing the allegedly libelous article was printed and first published.²⁷ They claim the Informations only mentioned that when these were issued,

¹⁶ Id. at 28.

¹⁷ Id. at 24–38.

¹⁸ Id. at 71–74.

¹⁹ Id.

²⁰ Id. at 73–74.

²¹ Id. at 107–109.

²² Id. at 3–23.

²³ Id. at 180–181.

²⁴ Id. at 182–186.

²⁵ Id. at 201–202.

²⁶ Id. at 203–215.

²⁷ Id. at 11.

Hataw newspaper was printed and published in Manila. They maintain that the Manila Regional Trial Court had no jurisdiction over the cases.²⁸

Petitioners add that nothing in the article quoted in the Information stated that respondent police officer was assigned in Manila when the newspaper was published, dispelling the Regional Trial Court's ratiocination in justifying its jurisdiction over the case. They stress that the article clearly stated that respondent police officer was no longer assigned in Manila.²⁹

Respondent counters that the assailed Regional Trial Court order denying petitioners' motion to quash was an interlocutory order which may not be generally appealed, unless special circumstances exist.³⁰ He narrates that this is the latest among petitioners' dilatory tactics which included filing a Motion to Dismiss for Lack of Probable Cause, a Motion to Inhibit Presiding Judge, and two Motions to Quash Information.³¹ He points out that their arraignment had been delayed for more than two years.³²

For resolution is the issue of whether or not the Court of Appeals erred in dismissing the petition assailing an interlocutory order.

This Court denies the Petition. Nothing warrants a reversal of the assailed resolutions. We sustain the denial of petitioners' motion to quash information.

The denial of a motion to quash is an interlocutory order that is generally not appealable. Rule 41, Section 1(c) of the Rules of Court is categorical:

RULE 41

Appeal from the Regional Trial Courts

SECTION 1. *Subject of Appeal.* — An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

....

(c) An interlocutory order;

....

²⁸ Id.

²⁹ Id. at 12-14.

³⁰ Id. at 183.

³¹ Id. at 183-184. One Motion to Quash was based on the ground that the allegations do not constitute the offense charged, the other was for utter lack of probable cause.

³² Id. at 184.

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

While an aggrieved party may file a petition for certiorari, it is a remedy available only “*in the absence of an appeal or any other adequate, plain and speedy remedy. The plain and speedy remedy upon denial of an interlocutory order is to proceed to trial[.]*”³³ As *Galzote v. Briones*³⁴ explained:

In the usual course of procedure, a denial of a motion to quash filed by the accused results in the continuation of the trial and the determination of the guilt or innocence of the accused. If a judgment of conviction is rendered and the lower court's decision of conviction is appealed, the accused can then raise the denial of his motion to quash not only as an error committed by the trial court but as an added ground to overturn the latter's ruling.³⁵

Alleging that the denial of their motion was tainted with grave abuse of discretion, petitioners filed a Petition for Certiorari under Rule 65 before the Court of Appeals.

Not every erroneous conclusion of law or fact constitutes grave abuse of discretion. In *Singian, Jr. v. Sandiganbayan*,³⁶ we defined grave abuse of discretion as:

... the capricious and whimsical exercise of judgment on the part of the public officer concerned which is equivalent to an excess or lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility[.]³⁷ (Citation omitted)

Petitioners insist that the Regional Trial Court had no jurisdiction to try the case considering that the Informations did not allege why they were filed in the Regional Trial Court of Manila. They claim that respondent police officer was no longer assigned in Manila, as clearly stated in the article, and hence, the Regional Trial Court of Manila had no jurisdiction to try the case.

Article 360 of the Revised Penal Code, as amended, provides:

³³ *Galzote v. Briones*, 673 Phil. 165, 172 (2011) [Per J. Brion, Second Division].

³⁴ *Galzote v. Briones*, 673 Phil. 165 (2011) [Per J. Brion, Second Division].

³⁵ *Id.* at 172 citing *Santos v. People*, 585 Phil. 337 (2008) [Per J. Chico-Nazario, Third Division].

³⁶ 718 Phil. 455 (2013) [Per J. Del Castillo, Second Division].

³⁷ *Id.* at 473.

ARTICLE 360. *Persons Responsible.* — Persons responsible. — Any person who shall publish, exhibit, or cause the publication or exhibition of any defamation in writing or by similar means, shall be responsible for the same.

The author or editor of a book or pamphlet, or the editor or business manager of a daily newspaper, magazine or serial publication, shall be responsible for the defamations contained therein to the same extent as if he were the author thereof.

The criminal and civil action for damages in cases of written defamations as provided for in this chapter, shall be filed simultaneously or separately with the court of first instance of the province or city where the libelous article is printed and first published or where any of the offended parties actually resides at the time of the commission of the offense: Provided, however, *That where one of the offended parties is a public officer whose office is in the City of Manila at the time of the commission of the offense, the action shall be filed in the Court of First Instance of the City of Manila or of the city or province where the libelous article is printed and first published*, and in case such public officer does not hold office in the City of Manila, the action shall be filed in the Court of First Instance of the province or city where he held office at the time of the commission of the offense or where the libelous article is printed and first published and in case one of the offended parties is a private individual, the action shall be filed in the Court of First Instance of the province or city where he actually resides at the time of the commission of the offense or where the libelous matter is printed and first published: Provided, further, That the civil action shall be filed in the same court where the criminal action is filed or vice versa: Provided, furthermore, That the court where the criminal action or civil action for damages is first filed, shall acquire jurisdiction to the exclusion of other courts: And provided, finally, That this amendment shall not apply to cases of written defamation, the civil and/or criminal actions for which have been filed in court at the time of the effectivity of this law.

Preliminary investigation of criminal actions for written defamations as provided for in this chapter shall be conducted by the provincial or city fiscal of the province or city, or by the municipal court of the city or capital of the province where such action may be instituted in accordance with the provisions of this article.

No criminal action for defamation which consists in the imputation of a crime which cannot be prosecuted de officio shall be brought except at the instance of and upon complaint expressly filed by the offended party. (Emphasis supplied)

*Agustin v. Pamintuan*³⁸ enumerated the rules on venue of actions for libel:

1. *Whether the offended party is a public official or a private person, the criminal action may be filed in the Court of First Instance of the province or city where the libelous article is printed and first published.*

³⁸ 505 Phil. 103 (2005) [Per J. Callejo, Sr., Second Division].

2. If the offended party is a private individual, the criminal action may also be filed in the Court of First Instance of the province where he actually resided at the time of the commission of the offense.
3. If the offended party is a public officer whose office is in Manila at the time of the commission of the offense, the action may be filed in the Court of First Instance of Manila.
4. If the offended party is a public officer holding office outside of Manila, the action may be filed in the Court of First Instance of the province or city where he held office at the time of the commission of the offense.³⁹ (Emphasis supplied)

When the offended party is a public officer, they may institute the action for libel in the Regional Trial Court where they held office, or in the province or city where the libelous article was printed and first published.

A plain reading of the allegations in the Informations reveal that they categorically stated that the newspapers where the libelous article appeared were “printed and first published in the City of Manila.” While the Regional Trial Court may have erred in inferring that respondent police officer was still assigned in Manila when the articles were published, this did not operate to divest it of jurisdiction, considering the sufficient allegation of venue in the Informations.

Contrary to petitioners’ argument, a public officer is not restricted in filing a complaint for libel in the city or province where they held office. Here, it was not a jurisdictional defect whether respondent still held office in Manila when the articles were published, since the Informations alleged that the articles were “printed and first published in the City of Manila.”

Further, considering that resort to the special civil action for certiorari is an exception rather than the general rule, petitioners ought to strictly comply with its requirements. We note the procedural infirmities in their petition before the Court of Appeals:

A perusal of the present petition shows that the same is procedurally infirmed warranting its outright dismissal, to wit:

1. Petitioners availed of the wrong remedy in assailing the Order and Resolution denying their motion to quash information and motion for reconsideration respectively.

It is settled that a special civil action for certiorari and prohibition is not the proper remedy to assail the denial of a motion to quash an information. The established rule is that when such an adverse

³⁹ Id. at 111-112.

interlocutory order is rendered, the remedy is to continue with the case in due course and when an unfavorable verdict is handed down, file an appeal. The denial, being an interlocutory order, is not appealable, and may not be the subject of a petition for certiorari because of the availability of other remedies in the ordinary course of law.

2. Petitioners failed to comply with the requirements set forth in Section 3, Rule 46 of the Rules of Court.

- a) The People of the Philippines was not impleaded as respondent and the Office of the Solicitor General was not furnished with a copy of the petition;
- b) The Petition lacks proper verification as the competent proofs of identity of affiants Jerry S. Yap and Becky Rodriguez were not indicated in the Jurat, in violation of Section 12, Rule II of A.M. No. 02-8-13-SC;
- c) Atty. Dervin V. Castro, the Notary Public before whom the verification and certification of non-forum shopping was subscribed and sworn to did not indicate his place of commission as required in Section 2, Rule VIII of the 2004 Rules on Notarial Practice;
- d) Petitioners failed to submit certified true copies of the assailed November 26, 2015 Order, and clear and legible copies of the material portions of the records as would support the allegations of the petition and are relevant to the resolution of this case, such as, but not limited to, the two (2) Informations for Libel, the parties' Complaint- Affidavit, Answer, Reply, Motion for Reconsideration and Motion to Quash as required in Section 3, paragraph 3, Rule 46 of Rules of Court; and
- e) Petitioners failed to state the date of receipt of the assailed November 26, 2015 Order, as required in Section 3, paragraph 2, Rule 46 of the same Rules.

It must be borne in mind that a petition for certiorari is an extraordinary remedy. As such, the party who seeks to avail of the same must strictly observe the procedural rules laid down by law, and non-observance thereof may not be brushed aside as mere technicality. The decision on whether to accept a petition for certiorari, as well as to grant due course thereto, is generally addressed to the sound discretion of the court.⁴⁰

Thus, we affirm the denial of the petition for certiorari before the Court of Appeals which, in turn, affirmed the Regional Trial Court's denial of petitioners' motion to quash the informations.


Finally, our laws on libel should be reexamined. Libel is of doubtful constitutionality, remains inconsistent with our democratic values, and must be decriminalized.⁴¹

⁴⁰ *Rollo*, pp. 72-73.

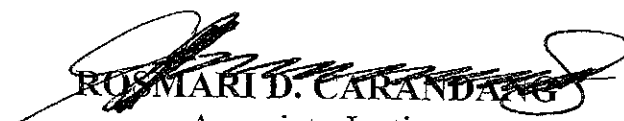
⁴¹ J. Leonen, Dissenting Opinion in *Disini, Jr. v. Secretary of Justice*, 727 Phil. 28, 386 (2014) [Per J. Abad, En Banc].


WHEREFORE, the Petition is **DENIED**. The Court of Appeals' Resolutions dated May 6, 2016 and October 12, 2016 in CA-G.R. SP No. 145150 are **AFFIRMED**.

SO ORDERED.



MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


ROSMARI D. CARANDANG
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

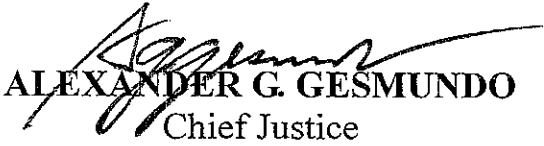
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice