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TIME: 10:18 AM

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

MERIAM M. URMAZA,
Petitioner,

G.R. No. 240012

Present:

- versus -

PERLAS-BERNABE, S.A.J.,
Chairperson,
REYES, A., JR.,*
HERNANDO,**
INTING, and
DELOS SANTOS, JJ.

HON. REGIONAL PROSECUTOR NONNATUS CAESAR R. ROJAS/HON. ASSISTANT PROVINCIAL PROSECUTOR JUDYLITO V. ULANDAY, and RAMON TORRES DOMINGO,
Respondents.

Promulgated:

22 JAN 2020

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DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Resolutions dated September 29, 2017² and May 25, 2018³ rendered by the Court of Appeals (CA) in CA-G.R. SP No. 152509 dismissing the petition for *certiorari*⁴ filed by petitioner Meriam M. Urmaza (Urmaza) before it for being the wrong remedy to assail the Resolutions dated April 26, 2017⁵ and June 27, 2017⁶ issued by respondent Regional Prosecutor Nonnatus Caesar R. Rojas.

* On official leave.
** On official leave.
¹ Rollo, pp. 12-26.
² Id. at 31-32. Penned by Associate Justice Elihu A. Ybañez with Associate Justices Fernanda Lampas Peralta and Carmelita Salandanan Manahan, concurring.
³ Id. at 33-35.
⁴ CA rollo, pp. 3-15.
⁵ Rollo, pp. 38-41.
⁶ Id. at 36-37.

The Facts

Records reveal that Urmaza filed a criminal complaint⁷ before the Office of the Provincial Prosecutor of Tayug, Pangasinan (OPP) for Intriguing Against Honor⁸ and/or Oral Defamation⁹ against respondent Ramon Torres Domingo (Domingo) for allegedly spreading rumors in their neighborhood that she is a thief. In the morning of January 22, 2012, she was invited by the barangay chairman for a confrontation with Domingo regarding a missing handgun entrusted to him by its owner. During the confrontation, Domingo allegedly accused her of stealing the gun, which she denied. Susan Maneclang (Maneclang), Urmaza's aunt, claimed that during a casual conversation, Domingo's son, Gian Carlo, told her that they suspected that it was Urmaza who took the gun. Hence, every time Domingo passed in front of Urmaza's house, he would shout, "*MAGNANAKAW, MAGNANAKAW SI MERIAM NG BARIL AT BALASUBAS KAYO.*"¹⁰

In defense, Domingo denied having ever publicly accused Urmaza of stealing the gun, stressing that he merely voiced his suspicion during the confrontation before the barangay chairman. When Urmaza denied having taken it, he reported the incident to the police authorities.¹¹

The OPP Ruling

In a Resolution¹² dated January 24, 2013, the OPP dismissed the complaint for insufficiency of evidence.¹³

Urmaza filed a motion for reconsideration¹⁴ on January 7, 2015,¹⁵ or nearly two (2) years thereafter, claiming, *inter alia*, that she did not receive a copy of the January 24, 2013 Resolution.¹⁶ However, the motion was denied in a Resolution¹⁷ dated January 12, 2015. Aggrieved, she appealed¹⁸ to the Office of the Regional Prosecution of San Fernando City, La Union (ORP).

⁷ Not attached to the *rollo*. Docketed as NPS No. I-01H-INV-12K-00312.

⁸ See Article 364 of the Revised Penal Code (RPC), as amended, which provides:

Article 364. *Intriguing against honor*. – The penalty of *arresto menor* or fine not exceeding Twenty thousand pesos (P20,000) shall be imposed for any intrigue which has for its principal purpose to blemish the honor or reputation of a person.

⁹ See Article 358 of the RPC, as amended, which provides:

Article 358. *Slander*. – Oral defamation shall be punished by *arresto mayor* in its maximum period to *prision correccional* in its minimum period if it is of a serious and insulting nature; otherwise the penalty shall be *arresto menor* or a fine not exceeding Twenty thousand pesos (P20,000).

¹⁰ See *rollo*, pp. 38, 46-47, and 69-72.

¹¹ See *id.* at 38-39 and 46-47.

¹² *Id.* at 46-48. Approved by Acting Provincial Prosecutor Noel C. Bince.

¹³ *Id.* at 48.

¹⁴ See Urgent Motion for Reconsideration dated December 23, 2014; *id.* at 93-98.

¹⁵ *Id.* at 44.

¹⁶ See *id.* at 44 and 96.

¹⁷ *Id.* at 44-45. Approved by Provincial Prosecutor Abraham L. Ramos II.

¹⁸ See Petition for Review dated November 23, 2015; *id.* at 77-84.

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The ORP Ruling

Initially, the ORP dismissed Urmaza's petition on procedural grounds through its Resolution¹⁹ dated February 13, 2017. However, in a subsequent Resolution²⁰ dated April 26, 2017, it gave due course to the petition and resolved the issues on the merits. Nonetheless, it affirmed the OPP's dismissal of Urmaza's complaint for insufficiency of evidence, pointing out the dearth of any credible corroboration to support the allegations in her complaint.²¹

Urmaza's motion for reconsideration²² was denied in a Resolution²³ dated June 27, 2017; hence, she elevated the matter directly to the CA via petition for *certiorari*.²⁴

The CA Ruling

In a Resolution²⁵ dated September 29, 2017, the CA dismissed Urmaza's *certiorari* petition for being the wrong remedy from the adverse resolution of the ORP. The CA explained that under Department of Justice (DOJ) Department Circular No. 70,²⁶ Urmaza should have filed a petition for review before the DOJ, not a petition for *certiorari* before the CA. Moreover, the petition failed to state the material date showing when the motion for reconsideration from the February 13, 2017 Resolution of the ORP was filed, in violation of paragraph 2,²⁷ Section 3, Rule 46 of the Rules of Court.²⁸

Undeterred, Urmaza filed a motion for reconsideration,²⁹ but it was denied in a Resolution³⁰ dated May 25, 2018; hence, this petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly dismissed the *certiorari* petition outright on the ground of improper remedy.

¹⁹ Id. at 42-43. Issued by Regional Prosecutor Nonnatus Caesar R. Rojas.

²⁰ Id. at 38-41.

²¹ See id. at 39-40.

²² Dated June 2, 2017. Id. at 49-55.

²³ Id. at 36-37.

²⁴ CA *rollo*, pp. 3-15.

²⁵ *Rollo*, pp. 31-32.

²⁶ Entitled "2000 NPS RULE ON APPEAL" (July 3, 2000).

²⁷ Section 3. *Contents and filing of petition; effect of non-compliance with requirements.* – x x x

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.

x x x x

²⁸ *Rollo*, pp. 31-32.

²⁹ Dated November 3, 2017. CA *rollo*, pp. 87-96.

³⁰ *Rollo*, pp. 33-35.

The Court's Ruling

The petition must be denied.

I

The appeals process in the National Prosecution Service (NPS) is governed by the DOJ's Department Circular No. 70 dated July 3, 2000, otherwise known as the "2000 NPS Rule on Appeal." Among others, it provides that resolutions of the ORP, in cases subject of preliminary investigation/reinvestigation, shall be appealed by filing a verified petition for review before the Secretary of Justice (SOJ).³¹ This procedure, however, was modified by Department Circular No. 70-A³² dated July 10, 2000, the pertinent portions of which read:

In order to expedite the disposition of appealed cases governed by Department Circular No. 70 dated July 3, 2000 ("2000 NPS RULE ON APPEAL"), **all petitions for review of resolutions of Provincial/City Prosecutors in cases cognizable by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, except in the National Capital Region, shall be filed with the Regional State Prosecutor concerned who shall resolve such petitions with finality** in accordance with the pertinent rules prescribed in the said Department Circular.

The foregoing delegation of authority notwithstanding, the Secretary of Justice may, pursuant to his power of supervision and control over the entire National Prosecution Service and in the interest of justice, review the resolutions of the Regional State Prosecutors in appealed cases. (Emphases and underscoring supplied)

Evidently, Department Circular No. 70-A delegated to the ORPs the authority to rule *with finality* cases subject of preliminary investigation/reinvestigation appealed before it, provided that: (a) the case is not filed in the National Capital Region (NCR); and (b) the case, should it proceed to the courts, is cognizable by the Metropolitan Trial Courts (MeTCs), Municipal Trial Courts (MTCs), and Municipal Circuit Trial Courts (MCTCs) — which includes not only violations of city or municipal ordinances, but also all offenses punishable with imprisonment *not exceeding six (6) years*, irrespective of the amount of fine, and regardless of other imposable accessory or other penalties attached thereto.³³ This is, however, without prejudice on the part of the SOJ to review the ORP's

³¹ See Sections 1 and 4 of Department Circular No. 70.

³² Entitled "DELEGATION OF AUTHORITY TO REGIONAL STATE PROSECUTORS TO RESOLVE APPEALS IN CERTAIN CASES."

³³ See Section 32 of *Batas Pambansa Blg. (BP) 129*, entitled "AN ACT REORGANIZING THE JUDICIARY, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES" (August 14, 1981). See also *Cariaga v. Sapigao*, 811 Phil. 819, 827-828 (2017).

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ruling should the former deem it appropriate to do so in the interest of justice.

This delegation of authority on appealed cases set forth in Department Circular No. 70-A is further strengthened by Department Circular No. 018-14³⁴ dated June 18, 2014, relevant portions of which read:

In the interest of service and pursuant to the provisions of existing laws with the objective of institutionalizing the Department's Zero Backlog Program on appealed cases, the following guidelines shall be observed and implemented in the resolution of appealed cases on Petition for Review and Motions for Reconsideration:

1. Consistent with Department Circular No. 70-A, all appeals from resolutions of Provincial or City Prosecutors, except those from the National Capital Region, in cases cognizable by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, shall be by way of a petition for review to the concerned province or city. ***The Regional Prosecutor shall resolve the petition for review with finality,*** in accordance with the rules prescribed in pertinent rules and circulars of this Department. Provided, however, that the Secretary of Justice may, pursuant to the power of control and supervision over the entire National Prosecution Service, review, modify or reverse, the resolutions of the Regional Prosecutor in these appealed cases.
2. Appeals from resolutions of Provincial or City Prosecutors, except those from the National Capital Region, in all other cases shall be by way of a petition for review to the Office of Secretary of Justice.
3. Appeals from resolutions of the City Prosecutors in the National Capital Region in cases cognizable by Metropolitan Trial Courts shall be by way of a petition for review to the Prosecutor General who shall decide the same with finality. Provided, however that the Secretary of Justice may, pursuant to the power of control and supervision over the entire National Prosecution Service, review, modify or reverse, the resolutions of the Prosecutor General in these appealed cases.
4. Appeals from resolutions of the City Prosecutors in the National Capital Region in all other cases shall be by way of a petition for review to the Office of the Secretary.

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This Circular supersedes all inconsistent issuances, takes effect on 01 July 2014 and shall remain in force until further orders.

For guidance and compliance. (Emphasis and italics supplied)

³⁴ Entitled "REVISED DELEGATION OF AUTHORITY ON APPEALED CASES" (July 1, 2014).

Based on the foregoing issuances, it can be deduced that the prevailing appeals process in the NPS with regard to complaints subject of preliminary investigation would depend on two (2) factors, namely: (1) *where* the complaint was filed, *i.e.*, whether in the NCR or in the provinces; and (2) *which court has original jurisdiction* over the case, *i.e.*, whether or not it is cognizable by the MTCs/MeTCs/MCTCs. Hence, in *Cariaga v. Sapigao*,³⁵ the Court summarized the rule as follows:

(a) If the complaint is filed outside the NCR and is cognizable by the MTCs/MeTCs/MCTCs, the ruling of the OPP may be appealable by way of petition for review before the ORP, which ruling shall be with finality;

(b) If the complaint is filed outside the NCR and is not cognizable by the MTCs/MeTCs/MCTCs, the ruling of the OPP may be appealable by way of petition for review before the SOJ, which ruling shall be with finality;

(c) If the complaint is filed within the NCR and is cognizable by the MTCs/MeTCs/MCTCs, the ruling of the Office of the City Prosecutor (OCP) may be appealable by way of petition for review before the Prosecutor General, whose ruling shall be with finality;

(d) If the complaint is filed within the NCR and is not cognizable by the MTCs/MeTCs/MCTCs, the ruling of the OCP may be appealable by way of petition for review before the SOJ, whose ruling shall be with finality;

(e) Provided, that in instances covered by (a) and (c), the SOJ may, pursuant to his power of control and supervision over the entire NPS, review, modify, or reverse the ruling of the ORP or the Prosecutor General, as the case may be.³⁶

In the present case, Urmaza lodged the criminal complaint for Intriguing Against Honor and/or Oral Defamation against Domingo before the OPP in Tayug, Pangasinan – hence, *outside* the NCR. Both crimes are cognizable by the MTCs/MeTCs/MCTCs.³⁷ Pursuant to the guidelines set forth above, the ruling of the ORP with regard to Urmaza’s appeal should be deemed *final* and thus, may already be elevated to the courts. Hence, based solely on this ground, the CA could take cognizance of the *certiorari* petition and resolve the case on the merits.

³⁵ Supra note 33.

³⁶ See *id.* at 829-830.

³⁷ See Section 32 of BP 129.

However, records reveal that Urmaza failed to state the material dates showing when she filed the motions for reconsideration both from the February 13, 2017 and April 26, 2017 Resolutions of the ORP. Relative to this, Section 3, Rule 46 of the Rules of Court states:

Section 3. *Contents and filing of petition; effect of non-compliance with requirements.* – x x x

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.

x x x x

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition. (Underscoring supplied)

In light of the foregoing procedural infirmity, there was no way for the CA to determine whether the petition for *certiorari* was filed within the 60-day reglementary period³⁸ prescribed under the Rules of Court or if the same was filed out of time. As such, the CA cannot be faulted for dismissing her petition outright.

In any event, assuming that the petition for *certiorari* had been filed on time and in view of Urmaza's prayer for a resolution of the case on the merits, the Court shall endeavor to resolve the substantive issues to prevent further delays in the disposition of the case and to better serve the ends of justice.³⁹

II

In *Hilbero v. Morales, Jr.*,⁴⁰ the Court reiterated the guiding principles in determining whether or not the courts may overturn the findings of the public prosecutor in preliminary investigation proceedings on the ground of grave abuse of discretion in the exercise of his/her functions, *viz.*:

A public prosecutor's determination of probable cause – that is, one made for the purpose of filing an information in court – is essentially an executive function and, therefore, generally lies beyond the pale of judicial scrutiny. The exception to this rule is when such determination is tainted with grave abuse of discretion and perforce becomes correctible through the extraordinary writ of *certiorari*. It is fundamental that the concept of grave abuse of discretion transcends mere judgmental error as it properly pertains

³⁸ See Section 4, Rule 65 of the Rules of Court.

³⁹ *Cariaga v. Sapigao*, supra note 33, at 831.

⁴⁰ 803 Phil. 220 (2017).

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to a jurisdictional aberration. While defying precise [definition], grave abuse of discretion generally refers to a “capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction.” Corollary [thereto], the abuse of discretion must be patent and gross so 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. To note, the underlying principle behind the courts’ power to review a public prosecutor’s determination of probable cause is to ensure that the latter acts within the permissible bounds of his authority or does not gravely abuse the same. This manner of judicial review is a constitutionally-enshrined form of check and balance which underpins the very core of our system of government. x x x

x x x x

In the foregoing context, the Court observes that grave abuse of discretion taints a public prosecutor’s resolution if he arbitrarily disregards the jurisprudential parameters of probable cause. In particular, case law states that probable cause, for the purpose of filing a criminal information, exists when the facts are sufficient to engender a well-founded belief that a crime has been committed and that the respondent is probably guilty thereof. It does not mean “actual and positive cause” nor does it import absolute certainty. Rather, it is merely based on opinion and reasonable belief and, as such, does not require an inquiry into whether there is sufficient evidence to procure a conviction; it is enough that it is believed that the act or omission complained of constitutes the offense charged. x x x A finding of probable cause needs only to rest on evidence showing that more likely than not a crime has been committed by the suspects. It need not be based on clear and convincing evidence of guilt, not on evidence establishing guilt beyond reasonable doubt, and definitely not on evidence establishing absolute certainty of guilt. In determining probable cause, the average man weighs facts and circumstances without resorting to the calibrations of the rules of evidence of which he has no technical knowledge. He relies on common sense. What is determined is whether there is sufficient ground to engender a well-founded belief that a crime has been committed, and that the accused is probably guilty thereof and should be held for trial. It does not require an inquiry as to whether there is sufficient evidence to secure a conviction.⁴¹

Oral Defamation or Slander is libel committed by oral means, instead of in writing. It is defined as “the speaking of base and defamatory words which tend to prejudice another in his reputation, office, trade, business or means of livelihood.” The elements of Oral Defamation are: (1) there must be an imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, status or circumstances; (2) made orally; (3) publicly; (4) and maliciously; (5) directed to a natural or juridical person, or one who is dead; (6) which tends to cause dishonor, discredit or contempt of the person defamed. Oral defamation may either be simple or grave. It becomes grave when it is of a serious and insulting nature. An allegation is considered defamatory if it ascribes to a person the commission of a crime, the possession of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance which tends to dishonor or discredit or put him in contempt or which tends to blacken the memory of one who is

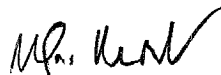
⁴¹ Id. at 250-252, as cited in *Cariaga v. Sapigao*, supra note 33, at 831-833.

dead.⁴² Meanwhile, Intriguing Against Honor penalizes any person who shall create intrigue which has for its principal purpose to blemish the honor or reputation of a person.⁴³

In this case, the OPP, as affirmed by the ORP, found that no sufficient evidence had been adduced to indict Domingo for either of the crimes charged.⁴⁴ As pointed out by the ORP, a prosecution for oral defamation does not only require that the utterance be defamatory, but also that it was made publicly. If it were true that Domingo had been publicly calling Urmaza a “thief” or that every time he passed her house he would shout, “*MAGNANAKAW, MAGNANAKAW SI MERIAM NG BARIL AT BALASUBAS KAYO,*” then there should be no dearth of witnesses to prove it. On this score, the ORP correctly pointed out that there was no corroborative statement from any other witness to substantiate Urmaza’s allegations, and the account of Maneclang, Urmaza’s aunt, that Domingo’s son Gian Carlo mentioned to her during a casual conversation that they suspected Urmaza of taking the gun was nothing but hearsay. As it is, the only time that Domingo accused Urmaza of stealing the missing gun was during the confrontation before the barangay, where the complaint for theft was filed by Domingo.⁴⁵ Under the circumstances, Domingo’s accusation cannot be said to have been made *maliciously*; therefore, he cannot be said to have committed the crimes imputed to him.

WHEREFORE, the petition is **DENIED**.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
 Senior Associate Justice

WE CONCUR:

On official leave
ANDRES B. REYES, JR.
 Associate Justice

On official leave
RAMON PAUL L. HERNANDO
 Associate Justice



HENRI JEAN PAUL B. INTING
 Associate Justice

⁴² *De Leon v. People*, 776 Phil. 701, 717 (2016).

⁴³ See Article 364 of the RPC.

⁴⁴ See *rollo*, pp. 40 and 48.


⁴⁵ See *id.* at 40.



EDGARDO L. DELOS SANTOS
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.



ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson, Second Division

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.



DIOSDADO M. PERALTA
Chief Justice