

## SECOND DIVISION

[ **A.M. No. MTJ-98-1155, July 31, 1998** ]

**DOLORES GOMEZ, COMPLAINANT, VS. JUDGE RODOLFO A. GATDULA, MTC, BALANGA, BATAAN, RESPONDENT.**

### DECISION

**MENDOZA, J.:**

These are letter-complaints, dated October 11, 1995 and October 24, 1995, addressed to the Chief Justice and to then Secretary of Justice Teofisto Guingona, respectively, charging Judge Rodolfo A. Gatdula of the Municipal Trial Court of Balanga, Bataan, with gross incompetence, grave abuse of authority and acts unbecoming a member of the judiciary. The complaints arose from certain incidents in two cases assigned to respondent judge. A third letter, dated January 26, 1996 and addressed to the Chief Justice, was filed by complainant, charging respondent judge with deliberately delaying the proceedings in the case and refusing to inhibit himself from the cases despite earlier statements that he would do so.

In Criminal Case No. 5988 (entitled "People v. Armando Reyes") for reckless imprudence resulting in homicide, serious and less serious physical injuries, and damage to property, the complainant, Rogelio Gomez, is herein complainant's husband. It was in Judge Gatdula's court for preliminary investigation. The case arose out of a collision involving the jitney of Gomez and the car of the accused. On the other hand, in Criminal Case No. 5917 (entitled "People v. Socorro Du") for falsification of public documents, the complainant is Mrs. Dolores Gomez herself.

#### I. CHARGES AGAINST RESPONDENT

A. Complainant alleges that on August 16, 1995, during the preliminary investigation of Criminal Case No. 5988 for reckless imprudence, respondent judge tried to dissuade her from pursuing the case by telling her that the complaint was unmeritorious. When she did not drop the case, respondent judge allegedly asked her to reduce her claim from P40,000 to P25,000. When she refused because one of her employees died in the collision while another one was so injured that his leg had to be amputated, and because, in addition, she incurred considerable expenses for their hospitalization and the burial, respondent judge allegedly cancelled the hearing of August 16, 1995 and postponed it to August 23, 1995. Complainant averred that she asked that a warrant of arrest be issued but Judge Gatdula denied her request, claiming lack of authority to do so. According to complainant, when she asked for a certification to that effect, respondent was irked and told her not to listen to the people who had been giving her advice. Then, Judge Gatdula allegedly said that he did not have to make a certification and told complainant that she could call up even the Chief Justice and the Provincial Prosecutor and he would tell them that what they had been teaching people like her was wrong.

Complainant alleged that Prosecutor Ruben F. Bernardo, whom she requested to help her, found out that the original complaint in Criminal Case No. 5988 was merely for reckless imprudence resulting in less serious physical injuries and damage to property, despite the fact that a person had died and another one had lost his leg in the accident. When the prosecutor asked the judge why these facts were not reflected in the complaint, the judge allegedly pointed to a certain Sonny David, a policeman, as the person who prepared the complaint. When David was summoned, he could not explain the error beyond saying it was because the matter had already been amicably settled ("Naareglo na daw po ang kaso."). It is averred that through the intercession of Prosecutor Bernardo, the complaint was amended in order to charge reckless imprudence resulting in homicide, serious physical injuries, less serious physical injuries, and damage to property. Even then, it is alleged, key witnesses were not included in the list of witnesses. The driver of the jitney, Roberto Chiuco, was not included. When she asked Chiuco and other witnesses why they were not listed as such, she was allegedly told that the judge and the policeman, upon being informed of their fear of being issued subpoenas, promised them that they would not be issued subpoenas for as long as they did not participate in the trial of the case.

B. Earlier, on July 8, 1995, complainant wrote to the Chief Justice asking for the transfer of venue of the trial of Criminal Case No. 5917 (for falsification of public documents) from Balanga, Bataan to Olongapo City. Respondent judge was required by the Court Administrator to comment on August 22, 1995. Instead of filing his comment within ten days from notice, what Judge Gatdula did was to cancel both the hearing scheduled on September 15, 1995 in Criminal Case No. 5917 (for falsification of public documents) and the preliminary investigation scheduled on September 19, 1995 in Criminal Case No. 5988 (for reckless imprudence) allegedly because of the request of complainant for transfer of venue of the first case. Complainant claims that when she inquired why the preliminary investigation was cancelled when it was only the case for falsification which she had asked to be transferred, respondent judge angrily said he was not afraid even if complainant reported him to the Supreme Court.

## **II. RESPONDENT'S ANSWER**

In his comment, Judge Gatdula denied that he had tried to persuade complainant either to drop her case or to reduce the amount of her claim. He claimed that he postponed the preliminary investigation of Criminal Case No. 5988 from August 16, 1995 to August 23 of that year upon the request of Mrs. Gomez herself, after he informed her that she could not appear at the hearings because it was her husband and not she who was the complainant. According to respondent, on the new date set, complainant's husband Rogelio Gomez again failed to appear. Instead, it was Mrs. Gomez who again appeared. Respondent judge claimed that complainant demanded to be paid P40,000.00, but the accused said he could only afford P25,000.00. Complainant allegedly then told the accused to see her husband and discuss the matter with him. However, after a week, complainant appeared in court again to inform respondent judge that the accused and her husband had failed to come to an agreement, for which reason she was asking that a warrant of arrest be issued against the accused. Respondent said he informed her that this could not be done as the preliminary investigation had not yet been terminated.

Anent the allegation that respondent argued against the amendment of the