

FOURTEENTH DIVISION

[CA-G.R. SP NO. 129485, March 30, 2015]

PAUL A. SUPNET, PETITIONER, VS. REGIONAL TRIAL COURT OF BAGUIO CITY, BRANCH 3 AND FREDERICK D. PATI, RESPONDENTS.

D E C I S I O N

BATO, JR., J.:

Assailed in this Petition for Certiorari^[1] under Rule 65 of the Rules of Court are the 12 December 2012 and 27 February 2013 Orders of the Regional Trial Court (RTC) of Baguio City, Branch 3. The first assailed Order denied petitioner's Motion to Retrieve the Case from the Archive with Motion to Quash, while the second assailed Order denied petitioner's motion for reconsideration.

Favorably acting on the complaint filed by private respondent Frederick D. Pati, the City Prosecutor's Office of Baguio City filed an Information for libel against petitioner Paul A. Supnet on 02 July 2008. The case was raffled to the court *a quo* and docketed as Criminal Case No. 28483-R. The accusatory portion of the Information reads:

"That on or about the 17th day of March, 2008, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate and malicious intent and evil motive of impeaching the character, integrity, virtue and reputation of FREDERICK PATI y DE AUSEN and to subject his character and reputation to public contempt, ridicule, discredit and dishonor, without any justifiable motive, did then and there willfully, unlawfully and feloniously post in the website of the Baguio Boys Cockers Club (BBCC), the following articles:

x x x

x x x

x x x

'Eric, no one will believe in you being a con artist. You resorted into bluff to evade the money you owe me. You posted statements on this thread to seek sympathy. You have a bad attitude. You're facing several cases, you bastard. I am aware of that. You can ask Wilson, we know your background. You backfighter. You're a sorry ass. In igorot, you're an asshole. Try to speak up and I will reveal all this (sic) bad things I know.'

x x x

x x x

x x x

'Wilson is your lawyer. He is the one handling several cases

filed against you. There's no need to reveal his family name since you know him already. You're just pretending that you don't know him. You're a dirty person. How many Filipinos do you intend to defraud. You should stay in jail, you liar. How many women have you impregnated? You don't have conscience. A lot of people filed cases against you because you're involved into wigwag (2nd hand clothing) scam. You're a menace to the society. Even willord who helped you, you intend to file charges on him. Mr. Eric Pati, they already know your attitude.'

When in truth and in fact said accused well knew that the statements or allegations are false, untrue and malicious, thereby causing dishonor, discredit, ridicule or contempt against said FREDERICK PATI y DE AUSEN.

CONTRARY TO LAW."^[2]

The petitioner remained at large despite the issuance of a warrant of arrest against him. On 24 July 2009, the court *a quo* issued an Order^[3] archiving the case against the petitioner.

On 20 November 2012, petitioner through counsel filed a Motion to Retrieve the Case from the Archive with Motion to Quash.^[4] Petitioner argued that the court *a quo* has no jurisdiction over the offense charged in the information. He pointed out that the Information failed to allege where the offended party was residing. The Information likewise failed to state the place where the written defamation was printed and first published.

By way of Comment/Opposition, private respondent Frederick D. Pati argued that the case against the petitioner had been archived because he has remained at large. It follows therefore that the revival of the case would not be possible when the petitioner remains at large. He further argued that the failure to allege in the Information the place where the offense was committed is insufficient to dismiss the Information since the prosecution can just make a manifestation to amend the information.

On 12 December 2012, the court *a quo*, through Hon. Acting Presiding Judge Rose Mary R. Molina-Alim, issued the first assailed Order^[5] denying petitioner's Motion to Retrieve the Case from the Archive with Motion to Quash. The court *a quo* ruled that the accused must first be placed in the custody of the law, either by his voluntary surrender or upon his posting of the required bail in the amount of Php12,000.00, before his motion can be validly acted upon.

Petitioner filed a Motion for Reconsideration^[6] against said Order, arguing that jurisdiction over the person of the accused is required only in applications for bail. But in cases where an accused invokes the special jurisdiction of the court, an accused can seek judicial relief even though there is neither jurisdiction over the person nor custody of the law.

The court *a quo*, however, denied petitioner's motion in the second assailed Order^[7]

dated 27 February 2013. The court a quo, through Hon. Acting Presiding Judge Rose Mary R. Molina-Alim, ratiocinated as follows:

"In the instant case, although accused maintains, he filed the assailed motion (i.e. motion to retrieve the case from the archive with motion to quash), not to post bail, but directly to question the jurisdiction of the court over the instant case, the court is of the belief that proper dispensation and determination of judgment would be appropriately rendered, if accused would surrender and submit himself first to its jurisdiction, hence, giving him a better chance to defend himself, especially so, when accused has no counter-affidavit to rebut the accusations of the private complainant, which could also be the basis of the court's ruling on the matter; instead, it was only made to act on limited information provided by the record.

Granting the information is defective as alleged by accused, the same shall not amount to automatic dismissal of the information, as the prosecution can still amend the same. But in this case, accused has yet to surrender himself to the Court before his motion to quash could be properly acted upon.

WHEREFORE, premises considered, the Motion for Reconsideration dated 27 December 2012 is hereby DENIED for lack of merit.

SO ORDERED."^[8]

Hence, the instant petition with the following issues for this Court's resolution:

"A. Whether or not the February 27, 2013 Order was issued with grave abuse of discretion amounting to lack of or in excess of jurisdiction in requiring petitioner to surrender himself to the custody of the law or to post bail before his motion to retrieve the case from the archive with motion to quash could be heard by the court.

B. Whether or not the information filed in Criminal Case No. 28483-R may be dismissed for being fatally defective on its face."^[9]

By way of Comment,^[10] private respondent Frederick D. Pati counters that until such time that the petitioner will be arrested or he voluntarily surrenders, the case cannot be revived.

The petition is meritorious.

As defined by jurisprudence, grave abuse of discretion means such capricious and arbitrary exercise of judgment as equivalent, in the eyes of the law, to lack of jurisdiction.^[11] There is grave abuse of discretion where the power is exercised in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility amounting to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.^[12] Through time, the meaning of grave abuse of discretion has been expanded to include any action done contrary to