

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES


ADMINISTRATIVE ORDER NO. 299

EXONERATING MUNICIPAL JUDGE MARCELO S. PE OF GASAN, MARINDUQUE.

This is an administrative case filed by Teodulo Miciano against Municipal Judge Marcelo S. Pe of Gasan, Marinduque, for (1) partiality, (2) grave abuse of authority, (3) denial of justice and (4) ignorance of the law. The case was formally investigated by District Judge Jesus V. Abeleda of the Court of First Instance of Marinduque who found respondent not guilty of the charges and recommended that he be exonerated, in which the Secretary of Justice concurs.

Charges (1), (2) and (3) relate to three cases, namely, the complaint filed on September 30, 1967, by PC Sgt. Andres M. Jinang against Angelito Serdena and Agripino Abling for estafa through falsification of a mercantile document, that filed on November 28, 1964, by Police Sgt. Rafael Semilla against Clarita Olavides for unjust vexation and the one filed on April 13, 1964, by Josefa Sena and Clarita Olavides against Jesus Valencia for slander, which complaints the respondent allegedly refused to accept and/or delayed action thereon despite the sufficiency thereof. The last charge stemmed from the money claim of P200 asserted by Alfredo Mendoza against herein complainant where respondent issued a subpoena to the defendant instead of summons.

Anent the case against Angelito Serdena and Agripino Abling, respondent explains that when the criminal complaint was presented to him, he required Sgt. Jinang and Mrs. Laguio (complaining witness) to secure first a certification from the Manila Office of the Philippine Charity Sweepstakes Office that the sweepstakes ticket sold to her by the accused had been fully examined and found to be falsified; that after having secured the certification, Sgt. Jinang and Mrs. Laguio presented it on October 4, 1967, to respondent who forthwith accepted the complaint and conducted the preliminary examination the following day by taking the statement of the complaining witness in the form of questions and answers; that on October 9, 1967, Mrs. Jovita Uy's statement was also taken in the form of questions and answers; that on October 11, 1967, the statement of Agnes Villanueva was taken, but said witness was unable to sign it because she left and failed to come back for unknown reasons; and that on October 25, 1967, the complaining witness took back the complaint and its supporting papers which she filed with the provincial fiscal.



The circumstance that upon respondent's acceptance of the complaint on October 4, 1967, he conducted the preliminary examination thereof on October 5, 1967, and reset the same on subsequent dates negates the charge of procrastination. Respondent's refusal to admit the complaint at once is supported by Department of Justice Circular No. 48 dated June 14, 1956, which directs that, before accepting a complaint, the judge must first satisfy himself that there exists a prima facie case against the accused in order to avoid the impression that local courts are being used as instruments for harassment.


As regards the complaint for unjust vexation filed by Sgt. Rafael Semilla against Clarita Olavides, there is no basis for respondent's alleged apathy and indifference in not accepting the complaint. Complainant, who was the complaining witness in the case, testified that respondent actually received the complaint, read the same and propounded questions to the witnesses. Respondent, however, returned the complaint because he was of the opinion that there was no case against the accused. Upon respondent's advice, complainant filed another complaint with the provincial fiscal who likewise dismissed it. The case filed by Clarita Olavides against Jesus Valencia was not given due course because the complaining witness failed to redraft the complaint so as to include a certain teacher as offended party.

With respect to the money claim of P200 filed by Alfredo Mendoza against herein complainant, respondent committed no substantial error when he issued a subpoena instead of summons. No harm was done in using the procedure. The charge is flimsy and deserves no consideration.

In view of all the foregoing, and upon the recommendation of the Secretary of Justice and the District Judge-Investigator, Municipal Judge Marcelo S. Pe of Gasan, Marinduque, is hereby exonerated from the charges.

Done in the City of Manila, this 13th day of July ,
in the year of Our Lord, nineteen hundred and seventy-one.

By the President:


ALEJANDRO MELCHOR
Acting Executive Secretary