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answer and that it is, in fact, the court's duty under Rule 20 to first advise the parties to try to settle their differences amicably, but this is because petitioner, who signed the motion, is not a lawyer, and, from all that appears in the record, he was not properly assisted by competent counsel. I simply cannot get out of the impression that something subconscious might have contributed to the uncalled for reaction of respondent judge.

In any event, it is quite apparent from the attitude of respondent reflected in the language of the order in question and the maximum penalty imposed therein upon petitioner that proper restraint was not exercised by him to keep the use of the power to punish for contempt within the bounds marked in existing applicable jurisprudence – for as the majority opinion aptly postulates, the "contempt power ought not to be utilized for the purpose of merely satisfying what is admittedly a natural inclination to strike back at a party who had shown less than full respect for the dignity of the Court." To succumb or yield to such inclination is to commit grave abuse of discretion.

Considering that respondent judge is also facing an administrative complaint relative to the order We are here setting aside, I reserve further discussion as to whether or not the tone and tenor of said order deserves any corresponding sanction from this Court.

[Adm. Matter No. 64-MJ. May 5, 1976]

SECOND DIVISION

CARMELO YANUARIO, as Regional Labor Administrator, complainant, *vs.* FAUSTINO H. PARAGUYA, as Municipal Judge of Placer, Surigao del Norte, respondent.

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ADMINISTRATIVE CASE against a Municipal Judge

SYNOPSIS

Respondent Judge was charged by complainant Regional Labor Administrator with (a) grave abuse of discretion, and (b) gross ignorance of the law based on the alleged highly irregular manner by which the former conducted the preliminary investigation of two cases resulting thereby in the dismissal of said cases for "lack of sufficient evidence to prove a *"prima facie"* case. Exoneration of respondent Judge of the charges for insufficiency of evidence was recommended by the investigating Executive Judge.

The Supreme Court dismissed the case against the respondent but the latter was admonished to be more circumspect in the discharge of his judicial duties, to preclude any suspicion on the impartiality of his actuations.

SYLLABUS

Of the Ruling of the Court

JUDGES; DISCHARGE OF JUDICIAL DUTIES; PRELIMINARY INVESTIGATION.– A judge should not, during the conduct of the preliminary investigation, rely heavily on the sworn statement of a witness without examining the latter more extensively on the matter to ascertain his veracity and credibility. He should be more circumspect in the discharge of his judicial duties to preclude any suspicion on the impartiality of his actuations.

APPEARANCES OF COUNSEL

Estratonico S. Añono for complainant.

S. C. Peñaranda, F. A. Constantino, C. G. Silvosa, Jr., D. C. Rodriguez and *P. Altres* for respondent.

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RESOLUTION

ANTONIO, *J.*:

Respondent Municipal Judge Faustino H. Paraguya, of Placer, Surigao del Norte, is charged by the Regional Labor Administrator with (a) grave abuse of discretion, and (b) gross ignorance of the law.

The complaint is based on the alleged highly irregular manner by which respondent municipal judge conducted the preliminary investigation of two (2) criminal cases, (1) Criminal Case No. 313, for Violation of RA 946, the Blue Sunday Law; and (2) Criminal Case No. 314, for Violation of RA 4119, the Workmen's Compensation Act, resulting in the dismissal of the afore-mentioned cases for "lack of sufficient evidence to prove a *prima facie* case".

Complainant advanced the theory that respondent should have allowed the prosecution to present additional evidence and to cross-examine the witnesses in said criminal cases. He also questions respondent's findings that five (5) of the employees of the accused are not covered by Section 30 of the Workmen's Compensation Act, as amended, requiring an employer to insure their employees to secure the payments of compensation and other benefits to them under the Act.

After the investigation of the charges, the Investigating Executive Judge, Hon. Placido Reyes Roa, recommended the exoneration of the respondent of the charges in view of the insufficiency of evidence.

It has been noted, however, by the Judicial Consultant that in respondent's Order dismissing the criminal cases afore-mentioned, he relied heavily on the sworn statement of Honorio Elizaga, bookkeeper of the Samuel Trading, taken during the conduct of the preliminary examination in

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Criminal Cases Nos. 313 and 314 on July 17, 1970, which upon closer examination, reveals certain inaccuracies or inconsistencies. Thus, while he stated that certain employees of the accused were mere piece workers, the documentary evidence revealed that three (3) of the afore-mentioned workers were actually insured, as shown by WC Policy No. 2925 and WC Policy No. 5078, issued to Samuel Trading on January 1, 1970 and February 2, 1970, respectively. Certainly, those persons would not have been insured if they were not regular employees within the intendment of the law. This belies Elizaga's statement that they were not covered by the aforesaid statutory requirement. To exempt the employer from such obligation, the employment should be purely casual and is not for the purposes of the occupation or business of the employer. Under such circumstances, respondent should have examined Elizaga more extensively on the matter to ascertain his veracity and credibility.

Accordingly, the case against the respondent is dismissed, but he is admonished to be more circumspect in the discharge of his judicial duties, to preclude any suspicion on the impartiality of his actuations.

Fernando, Actg. C.J., Barredo, Actg. Chairman, Aquino and *Martin, JJ.*, concur.

Concepcion Jr., J., is on leave.

Martin, J., was designated to sit in the Second Division.

Petition dismissed.