Supreme Court E-Library

SECOND DIVISION

[G.R. No. L-37396. April 30, 1979]

MARCELINO LONTOK, JR., *petitioner, vs.* **HON. ALFREDO GORGONIO, as Presiding Judge of the Municipal Court of San Juan, Rizal,** *respondent.*

SYLLABUS

1. **CRIMINAL LAW; COMPLEX CRIME; DEFINED.** — There is a complex crime when a single act constitutes two or more grave or less grave felonies or when a grave or less grave offense is a means of committing another grave or less grave offense. Thus, the light felonies of damage to property and slight physical injuries, both resulting from a single act of imprudence, do not constitute a complex crime. They cannot be charged in one information. They are separate offenses subject to distinct penalties.

2. **ID.; ID.; CONCEPT APPLIED IN CRIMINAL NEGLIGENCE.** — The concept of complex crime is applied in criminal negligence or quasi-offenses regarding multiple homicide through reckless imprudence; malversation through falsification by reckless negligence; estafa through falsification by reckless negligence; and homicide, grave physical injuries and grave damage to property, all through reckless imprudence.

3. **ID.; CRIMINAL NEGLIGENCE; RECKLESS IMPRUDENCE; NOT A CRIME IN ITSELF.** — Reckless imprudence is not a crime in itself but is simply a way of committing a crime and it merely determines a lower degree of criminal liability. Negligence becomes a punishable act when it results in a crime.

4. **ID.; PRESCRIPTION OF OFFENSES;** ***LESIONES LEVES*****, PRESCRIBES IN TWO MONTHS.** — *Lesiones leves*, a light offense, prescribes in two months.

5. **REMEDIAL LAW; SPECIAL CIVIL ACTIONS;** ***CERTIORARI*****; GRAVE ABUSE OF DISCRETION; COMMITTED IN CASE OF REFUSAL TO QUASH PART OF INFORMATION CHARGING AN OFFENSE WHICH HAS PRESCRIBED.** — The trial court committed a grave abuse of discretion in not sustaining a motion

Supreme Court E-Library

to quash that part of the information charging accused with a light offense that had already prescribed.

APPEARANCES OF COUNSEL

Marcelino Lontok, Jr., in his own behalf.
Office of the Solicitor General for respondent.

D E C I S I O N

AQUINO, *J.*:

This case is about the propriety of an information containing the charge of "reckless imprudence resulting in damage to property and multiple physical injuries".

On March 29, 1973, Marcelino Lontok, Jr. was charged with that *delito compuesto* in the municipal court of San Juan, Rizal. In the information, it was alleged that on November 14, 1972, while Lontok was recklessly driving his Mercedes Benz car, he bumped a passenger jeep and caused damaged to it in the sum of ₱780 and that the bumping also caused physical injuries to three passengers who were incapacitated from performing their customary labor for a period of less than ten days (Criminal Case No. 26116).

Lontok filed a motion to quash that part of the information wherein the offense of *lesiones leves* through reckless imprudence is charged. He contended that, because that offense prescribes in two months and it was committed on November 14, 1972, the last day of the sixty-day period for filing the charge as to that offense was January 14, 1973. He prayed that the information be amended by excluding that light offense.

The fiscal opposed the motion to quash. The municipal court denied it. Lontok pleaded not guilty upon arraignment. But instead of going to trial, he filed in this Court on August 30, 1973 a petition wherein he prayed that the amendment of the information be ordered by deleting the portion thereof wherein the offense of slight physical injuries through reckless imprudence is charged.

Supreme Court E-Library

The Solicitor General in his comment agrees with Lontok's view that damage to property through reckless imprudence cannot be complexed with a light offense, that the light offense had already prescribed, and that two informations should have been filed. He manifested that he would ask the prosecuting fiscal to amend the information. Nevertheless, he concluded that since Lontok did not raise any jurisdictional issue, his petition for *certiorari* was not proper and, therefore, it should be dismissed.

The issue is whether Lontok, over his objection, can be tried by the municipal court on an information charging the complex crime of damage to property in the sum of ₱780 and *lesiones leves* through reckless imprudence.

We hold that he should be tried only for damage to property through reckless imprudence, which, being punished by a maximum fine of ₱2,340, a correctional penalty, is a less grave felony (Arts. 9, 25 and 26 and 365, Revised Penal Code). As such, it cannot be complexed with the light offense of *lesiones leves* through reckless imprudence which, as correctly contended by Lontok, had already prescribed since that crime prescribes in sixty days.

There is a complex crime when a single act constitutes two or more grave or less grave felonies or when a grave or less grave offense is a means of committing another grave or less grave offense.

As originally enacted, Article 48 of the Revised Penal Code provided that the crime is complex when a single act constitutes two or more crimes, or when an offense is a necessary means of committing the other. Commonwealth Act No. 4000 amended Article 48 by substituting the words "grave or less grave felonies" for the word "crimes" in the original version, thus eliminating a light felony as a component part of a complex crime.

Parenthetically, it may be noted in passing that the concept of complex crime was applied in criminal negligence or quasi-offenses (*People vs. Lara*, 75; Phil. 786 and *People vs. Agito*, 103 Phil. 526, regarding multiple homicide through reckless imprudence; *People vs. Rodis*, 105 Phil. 1294, regarding

Supreme Court E-Library

malversation through falsification by reckless negligence; *Samson vs. Court of Appeals*, 103 Phil. 277, regarding estafa through falsification by reckless negligence; *Angeles vs. Jose*, 96 Phil. 151; *Lapuz vs. Court of Appeals*, 94 Phil. 710 and *People vs. Vendiola*, 115 Phil. 122, regarding homicide, grave physical injuries and grave damage to property, all through reckless imprudence).

In all the foregoing cases, it is assumed that reckless imprudence is not a crime in itself but is simply a way of committing a crime and it merely determines a lower degree of criminal liability. Negligence becomes a punishable act when it results in a crime (*People vs. Faller*, 67 Phil. 529).

Applying Article 48, it follows that if one offense is light, there is no complex crime. The resulting offenses may be treated as a separate or the light felony may be absorbed by the grave felony. Thus, the light felonies of damage to property and slight physical injuries, both resulting from a single act of imprudence, do not constitute a complex crime. They cannot be charged in one information. They are separate offenses subject to distinct penalties (*People vs. Turla,* 50 Phil. 1001; See *People vs. Estipona*, 70 Phil. 513).

Where the single act of imprudence resulted in double less serious physical injuries, damage to property amounting to ₱10,000 and slight physical injuries, a chief of police did not err in filing a separate complaint for the slight physical injuries and another complaint for the *lesiones menos graves* and damage to property (*Arcaya vs. Teleron*, L-37446, May 31, 1974, 57 SCRA 363, 365).

A chief of police likewise did not err in filing separate complaints for slight physical injuries and grave oral defamation committed on the same occasion by one person against the same victim (*Manduriao vs. Habana*, L-28069, August 18, 1977, 78 SCRA 241).

Where a complaint for slight physical injuries and grave threats was filed in the justice of the peace court under the old Judiciary Law, the said court had jurisdiction to try the slight physical

Supreme Court E-Library

injuries case and could only undertake the preliminary investigation of the latter offense (*People vs. Linatoc*, 74 Phil. 586. See *People vs. Acierto*, 57 Phil. 614 and *People vs. Benitez*, 73 Phil. 671).

The case of *Angeles vs. Jose*, 96 Phil. 151, cited by investigating fiscal, is different from the instant case because in that case the negligent act resulted in the offenses of *lesiones menos graves* and damage to property which were both less grave felonies and which, therefore, constituted a complex crime.

In the instant case, following the ruling in the *Turla* case, the offense of *lesiones leves* through reckless imprudence should have been charged in a separate information. And since, as a light offense, it prescribes in two months, Lontok's criminal liability therefor was already extinguished (Arts. 89[5], 90 and 91, Revised Penal Code in relation to Sec. 2[e] and [f], Rule 117, Rules of Court). The trial court committed a grave abuse of discretion in not sustaining Lontok's motion to quash that part of the information charging him with that light offense.

WHEREFORE, the lower court's orders of May 21 and July 12, 1973 are set aside. It is ordered to try Lontok only for damage to property through reckless imprudence. The information need not be amended, it being understood that Lontok has no more culpability for the offense of slight physical injuries through reckless imprudence charged therein. No costs.

SO ORDERED.

Fernando (Acting C.J.), Barredo (Acting Chariman), Antonio, Concepcion Jr., and *Santos, JJ.*, concur.

Abad Santos, J., took no part.