Supreme Court E-Library

There appears to be validity in respondent's contention that the subpoena power granted petitioner in its executive charter does not apply to general fact-finding investigations conducted by it.[14] I find no need, however, of going further into this issue, since this dissent is based directly on the fundamental tenet that respondent Manalastas was unquestionably being investigated by petitioner as respondent and a prime suspect (and not as a mere witness) and accordingly, under settled doctrine, he had every right to remain silent and to invoke his right against self-incrimination and to refuse to take the witness stand.

I therefore vote for upholding respondent court's injunction against enforcement of petitioner's subpoena.

FIRST DIVISION

[A.M. No. 6-MJ. November 28, 1975]

PUAHING PAWAKI, *complainant, vs.* **NABDAR J. MALIK, Municipal Judge of Jolo, Sulu,** *respondent.*

SYLLABUS

ADMINISTRATIVE LAW; ADMINISTRATIVE COMPLAINT; SHALL BE DISMISSED IF NOT SUBSTANTIATED. — In this case where no evidence was submitted by complainant to

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[14] *Vide Harriman vs. Interstate Commerce Commission,* 211 U.S. 407 and *Federal Trade Commission vs. American Tobacco Co.,* 264 U.S. 298, where Justice Holmes in the first case ruled out a federal commission's application to require witnesses to testify before it *except* in connection with *specific complaints* for violation of the Interstate Commerce Act or with its investigation of *specific subjects* that might have been the object of complaint. In the second case, Justice Holmes likewise ruled against a federal commission's *fishing expeditions* into private papers on the mere possibility that they may disclose evidence of crime in view of the Constitutional provision against unreasonable searches and seizures.

Supreme Court E-Library

substantiate his charges against a municipal judge, it appearing that upon being asked by the investigating judge if he was ready to proceed with the investigation of the charges against respondent, complainant manifested that he was withdrawing the complaint because he had no evidence to support it, and that its filing was instigated by certain parties, the Supreme Court dismissed the complaint, without prejudice to whatever action respondent judge might take against the persons who caused the filing thereof.

APPEARANCES OF COUNSEL

Nubdar J. Malik for his own behalf as respondent.

RESOLUTION

MUÑOZ PALMA, *J.*:

Respondent is the Municipal Judge of Jolo, Sulu, who, in a verified letter-complaint dated November 25, 1972, was charged by Policeman Puahing Pawaki with immoral conduct alleged to have been committed as follows:

"Last October 1972 I saw a woman, the daughter of Nurijam Mora, go up the Office of respondent Judge at about 5:30 o'clock in the afternoon. Sensing that this was an unusual hour for a woman to go to the Office of the judge, I surreptitiously followed the woman got in. I tiptoed toward the door and I found a small opening in the left side of the door through which I peeped in, and there I saw the respondent judge and that woman having sexual intercourse on the floor of the office.

"This is not the only occasion that I saw the respondent judge have sexual intercourse with a woman in his office. On other occasions women of ill-repute used to go to the Office of respondent judge late in the afternoon and through the same crack or opening on the left side of the door of that Office, I saw respondent judge have sexual intercourse with the women on the floor.

"I am the station guard in the Municipal Building, so, I have all the chances to see this dirty business of this respondent who is making his office a place of sex, thus maligning the good name and prestige of the judiciary in this town." (p. 8, *rollo*)

Supreme Court E-Library

The complaint was referred to the respondent for comment by the Office of the Secretary of Justice on March 8, 1973. On April 28, 1973, the respondent answered the complaint denying vehemently the allegations in the letter, stating that the complainant Policeman Puahing Pawaki is a "member of a syndicate composed of dishonest, corrupt and notoriously undesirable court employees, crook policemen, court fixers and professional bondsmen" who has his own motives for filing the instant complaint, not to mention the fact that complainant was involved in a case of infidelity in the custody of prisoners when in the evening of October 14, 1972, during his tour of duty two detention prisoners escaped from the Municipal Jail of Jolo and that he (respondent) had refused to help said complainant to have the case against him dismissed.

On May 14, 1973, the records of the case were forwarded to this Court pursuant to Presidential Decree No. 185, and on February 8, 1974, the Court resolved to forward the case to the Executive Judge of the Court of First Instance of Jolo, Sulu, for investigation, report and recommendation.

In an Indorsement dated February 20, 1975, Hon. Felino D. Abalos submitted his report to the effect that when the case was called for hearing on February 17, 1975, complainant appeared without counsel and witnesses. Upon being asked if complainant was ready to proceed with the investigation of the charge filed against respondent judge, the former manifested that he was withdrawing his complaint for the simple reason that he had no evidence to support it and that its filing was merely instigated by certain parties. Hence, the investigating judge recommends that the complaint be dismissed.

WHEREFORE, on the basis of the recommendation of the investigating judge, Hon. Felino D. Abalos, and considering that no evidence was submitted by the complainant to substantiate his charges, this complaint is hereby dismissed without prejudice to whatever action respondent Judge may take against the persons who caused the filing of this complaint which appears to be without basis.

Supreme Court E-Library

SO ORDERED.

Teehankee, Makasiar, Esguerra, and *Martin, JJ.*, concur.

Ruiz Castro (Chairman), J., took no part.

EN BANC

[A.M. No. P-25. November 28, 1975]

MURILLO O. OMADTO, *complainant, vs.* **FRANCISCO G. EVANGELISTA, Special Deputy Clerk of Court of First Instance, Pasig, Rizal,** *respondent.*

SYLLABUS

1. ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; DISMISSAL; PROPER IN CASE OF DISHONESTY AND IRREGULARITY IN THE PERFORMANCE OF DUTY.—Where a special deputy clerk of court issued a court clearance to an alien, without adhering strictly to the standard operating procedures laid down by his office, such as requiring the applicant to submit an affidavit subscribed and sworn to before a fiscal that he is not the same person accused in the case on record, should said applicant as in the case at bar, bears a name similar to the one who has a derogatory record in the docket, or requiring said applicant to appear personally for further verification, or nothing the ACR number, the date and place of issue on the face of the clearance thus issued; while on the other hand in the case of another alien with a similar name, respondent adhered strictly to the office procedures; and where it appears furthermore that because of the issuance of said clearance, the alien who was sentenced to life imprisonment for murder was able to leave for abroad, such act of respondent, (coupled with the fact that this was the third administrative case against him involving gross negligence and dishonesty in