

SECOND DIVISION

G.R. No. 212623 – ENRIQUE G. DE LEON, Petitioner, v. PEOPLE OF THE PHILIPPINES and SPO3 PEDRITO L. LEONARDO, Respondents.

Promulgated:

11 JAN 2016

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Hon. Salvador R. Pangilinan

DISSENTING OPINION

LEONEN, J.:

I vote to grant the Petition. Petitioner should be acquitted of the crime of oral defamation.

The Decision downgrades petitioner's liability from grave oral defamation to slight oral defamation. This is due to the following circumstances: firstly, petitioner and SPO3 Pedrito L. Leonardo (SPO3 Leonardo) had been acquaintances and jogging buddies prior to their dispute. Petitioner allegedly had no reason to harbor ill feelings towards SPO3 Leonardo before the gun-pointing incident.¹ Secondly, the alleged defamation occurred during the first administrative hearing of SPO3 Leonardo's Grave Misconduct case. At that time, petitioner's emotions, brought about by the gun-pointing incident, could have still been in a heightened state and could have led to the utterances.² Lastly, petitioner's words could not be considered as having been driven by the intent to ridicule or humiliate, but were a mere expression of his disappointment over SPO3 Leonardo's actions as a police officer.³

In *Victorio v. Court of Appeals*,⁴ oral defamation or slander was defined as “the speaking of base and defamatory words [that] tend to prejudice another in his reputation, office, trade, business or means of livelihood[.]”⁵ In *Sazon v. Court of Appeals*,⁶ which involved a libel case, this court discussed the test to determine whether the words chosen by an accused are defamatory:

Jurisprudence has laid down a test to determine the defamatory character of words used in the following manner, *viz.*

¹ Ponencia, p. 11.

² Id. at 2 and 11–12.

³ Id. at 12.

⁴ 255 Phil. 630 (1989) [Per J. Bidin, Third Division].

⁵ Id. at 636. It is noted that the case referred to American jurisprudence for this definition.

⁶ 325 Phil. 1053 (1996) [Per J. Hermosisima, Jr., First Division].

“Words calculated to induce suspicion are sometimes more effective to destroy reputation than false charges directly made. Ironical and metaphorical language is a favored vehicle for slander. A *charge is sufficient if the words are calculated to induce the hearers to suppose and understand that the person or persons against whom they were uttered were guilty of certain offenses, or are sufficient to impeach their honesty, virtue, or reputation, or to hold the person or persons up to public ridicule[.]*”⁷ (Emphasis in the original, citation omitted)

Petitioner should be absolved of any criminal liability. The words he allegedly used against SPO3 Leonardo were “walanghiya,” “mangongotong na pulis,” and “ang yabang[-]yabang.”⁸ These utterances must be assessed against the following context: the backdrop of SPO3 Leonardo being a public servant, and that the incident allegedly happened as the parties were about to enter the People’s Law Enforcement Board for SPO3 Leonardo’s administrative hearing. The words chosen by petitioner could hardly be considered to ascribe to SPO3 Leonardo anything seriously offensive, much less to impute a vice that would put to question the police officer’s morality or professionalism. As a public servant, SPO3 Leonardo cannot be thin-skinned, as criticism is a natural consequence of being a person clothed with authority. Petitioner’s choice of words could hardly be considered “personal,” especially in light of the heightened emotions brought about by the gun-pointing incident. That the incident allegedly happened just before the parties entered the People’s Law Enforcement Board’s office also diminishes any claim that the utterances were made to publicly embarrass SPO3 Leonardo.

It is my position that the standard for oral defamation, especially in cases involving persons of authority, should be subject to a re-evaluation. In *Chavez v. Court of Appeals*,⁹ the objective of libel laws was explained, thus:

Libel stands as an exception to one of the most cherished constitutional rights, that of free expression. *While libel laws ensure a modicum of responsibility in one’s own speech or expression, a prescribed legal standard that conveniences the easy proliferation of libel suits fosters an atmosphere that inhibits the right to speak freely.* When such a prescribed standard is submitted for affirmation before this Court, as is done in this petition, it must receive the highest possible scrutiny, as it may

⁷ Id. at 1063–1064.

⁸ Ponencia, p. 2. The Ponencia quotes the Information in Criminal Case No. 453376-CR for Grave Oral Defamation.

⁹ 543 Phil. 262 [Per J. Tinga, Second Division].

interfere with the most basic of democratic rights.¹⁰ (Emphasis supplied)

A police officer, who is a public servant cloaked with authority, should be prepared to take criticism especially in instances where emotions are running high and there is no apparent intent to malign his or her person. Being "sensitive" has no place in this line of service, more so when allowing otherwise has the potential to create a chilling effect on the public. In a democratic country like ours, the protection of free expression is primordial as it is tantamount to upholding the sovereignty of the People. The People should be allowed to express themselves without the threat of government reprisal over the slightest feeling of offense.

ACCORDINGLY, I vote to **GRANT** the Petition.



MARVIC M.V.F. LEONEN
Associate Justice

¹⁰ Id. at 274.