

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

CLAUDIO DAQUER, JR.,
Petitioner,

G.R. No. 206015

Present:

-versus-

LEONEN, J., *Chairperson*,
HERNANDO,
INTING,
ROSARIO*, and
LOPEZ, J., *JJ*.

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:
June 30, 2021

MISDOCBAH

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DECISION

LEONEN, J.:

In cases of criminal libel where public figures, particularly public officers, are private complainants, actual malice—knowledge that the defamatory statement was false or with reckless disregard as to its falsity—must be proved. It is the burden of the prosecution to prove actual malice, and not the defense’s burden to disprove.

This Court resolves a Petition for Review on Certiorari¹ under Rule 45 of the Rules of Court, assailing the Court of Appeals Decision² and

* Designated additional member per Special Order No. 2833.

¹ *Rollo*, pp. 7-42.

² Id. at 46–60. The October 11, 2012 Decision in CA-G.R. CR No. 33446 was penned by Associate Justice Jane Aurora C. Lantion and concurred in by Associate Justices Vicente S. E. Veloso and Eduardo B. Peralta, Jr. of the Twelfth Division, Court of Appeals, Manila.

Resolution³ affirming the Regional Trial Court Decision,⁴ which found Claudio Daquer, Jr. (Daquer) guilty of two counts of libel under Articles 353 to 355 of the Revised Penal Code,⁵ sentencing him with a fine of ₱6,000.00, with subsidiary imprisonment in case of insolvency, for each count.

Daquer was charged with libel under two November 3, 2003 Informations over two articles he wrote which were published in the newspaper Palawan Mirror. Also charged was Virginia A. Amarillo,⁶ publisher of the Palawan Mirror.⁷

The first Information, subject of Criminal Case No. 18814, pertained to an April 4, 2003 article titled “KUTO NA NAIS MAGING KALABAW SA CITY HALL” in the column “Nitpicks.” The information stated, in part:

That on or about the 4th day of April 2003, at Puerto Princesa City, Palawan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then the News Editor/Writer and publisher of the publication known as “The Palawan Mirror”, edited and published in the City of Puerto Princesa, which has a considerable circulation in said city and in the Province of Palawan, conspiring, confederating and mutually helping one another, did then and there willfully (sic), unlawfully, and feloniously, and with malicious intent of impeaching the honesty, virtue and reputation of Anrie A. Grande, Sports Development Office III-Program Manager of the City Government of Puerto Princesa, and with malicious intent of injuring and exposing said Anrie A. Grande to public hatred, contempt and ridicule, write and publish in the regular issue of its weekly publication of the Palawan Mirror dated April 4-10, 2003, Volume XXI Number 12, a certain article entitled “KUTO NA NAIS MAGING KALABAW SA CITY HALL”, quoted verbatim hereinunder, to wit:

³ Id. at 122–123. The February 22, 2013 Resolution in CA-G.R. CR No. 33446 was penned by Associate Justice Jane Aurora C. Lantien and concurred in by Associate Justices Vicente S. E. Veloso and Eduardo B. Peralta, Jr. of the Twelfth Division, Court of Appeals, Manila.

⁴ Not attached to the *rollo*. The Decision was issued by the Regional Trial Court of Palawan and Puerto Princesa City, Branch 47 in Criminal Case No. 18814–15.

⁵ REV. PEN. CODE, arts. 353–355 state:

ARTICLE 353. Definition of Libel. — A libel is a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead.

ARTICLE 354. Requirement for Publicity. — Every defamatory imputation is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown, except in the following cases:

1. A private communication made by any person to another in the performance of any legal, moral or social duty; and

2. A fair and true report, made in good faith, without any comments or remarks, of any judicial, legislative or other official proceedings which are not of confidential nature, or of any statement, report or speech delivered in said proceedings, or of any other act performed by public officers in the exercise of their functions.

ARTICLE 355. Libel by Means Writings or Similar Means. — A libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be punished by prisión correccional in its minimum and medium periods or a fine ranging from 200 to 6,000 pesos, or both, in addition to the civil action which may be brought by the offended party.

⁶ While an arrest warrant was issued against Amarillo, she remained at large. Eventually, the case against her was archived pending her arrest.

⁷ *Rollo*, p. 47.

Nitpicks

By Claudio Daquer, Jr.

Tila yata hindi maiwasan ng kuto na magkaroon ng sungay habang lumalaki ang kanyang ulo sa loob ng isang opisina sa tabi ng swimming pool diyan sa tabi ng Sports Complex.

Maging si ex-vice mayor Vicky de Guzman ay pilit na sinusuwag ni Andrie Granda at siya ay pilit na naghahagilap ng butas para kanyang masingitan si De Guzman. Itinalaga si De Guzman ni city mayor Edward Hagedorn sa City Sports bilang consultant matapos na mabulabog ang opisina ng magpumilit si Grande na makuha ang posisyon bilang city sports development director na unang inilaan ni Hagedorn para kay Councilor Al Go.

Nagsilbi bilang taga-pamayapa si De Guzman para di mahalata ang power struggle sa pagitan ni Grande at Go.

Mahigit isang buwan na rin tahimik ang Sports office. Ngunit pagkatapos nito ay may nag alburoto na naman, si Grande.

Siya ay naging inatagumpay sa pag-bully kay Go at ngayon si De Guzman na naman ang kanyang target.

Parang di makuntento sa kanyang pwesto at gusting (sic) maghari sa Sports office. At di lang yan, tila nais pang saklawan ang Palawan Press Club at nais kontrolin ang mga reporter. Kung umasta, akala mo gago.

Sa dalawang nakalipas na sports event ng lungsod, ang Batang Pinoy at ang MIMAROPA Cup, ang pagiging overall coordinator na itinalaga ni Hagedorn ay si De Guzman.

Dito iginigiit ni Grande na dapat sya ang nasa katayuan ni De Guzman.

Tila takam sa mga nagiging responsibilidad ni De Guzman o baka may motibo na marahil ay alam ni Hagedorn na makasisira sa kanyang administrasyon kaya hindi binigyan ng laya sa sports si Grande.

Siyempre, mahirap na tawaran ang tiwala ni Hagedorn kay ex-vice mayor De Guzman. Subok na niya ito, maraming beses na sa maraming pagkakataon.

Para bang umiikot ang pwet ni Grande twing tatanggap ng pagsaludo si De Guzman dahil sa nagiging success ng dalawang sports event.

Hindi naman siguro kulang sa pansin. At marahil ay sadyang nanininwala siya na kaya niyang gampanan ang

mga ginagawa ni De Guzman.

O baka naman inggit ang umiiral at utak tukmol na pilit niyang hinihila yung mga nagbibigay ng “feathers” sa administrasyon ni Hagedorn.

Baka gusto niya siya ang lagging bida. Dapat siguro na humihingi siya ng permiso kay Hagedorn na bigyan siya ng break... Oops! Teka... Di sa city hall. Sa pelikula... mahilig naman siya ng EKSENA. (Hindi ko sana papatulan, kaso lumalaki ang kuto.)

Wherein the said Anrie A. Grande is depicted and portrayed as stupid and a louse aspiring to be a carabao and other vices or defects, when in truth and in fact the said Anrie A. Grande he is not, thereby bringing him to dishonor, discredit and public hatred, contempt and ridicule and for which he should be entitled to be compensated for actual damages, moral damages, exemplary damages, attorneys fees and litigation expenses with the total amount of TWO MILLION FIVE HUNDRED THOUSAND (P2,500,000.00) PESOS, Philippine Currency.

CONTRARY TO LAW.⁸

Meanwhile, Criminal Case No. 18815 was for Daquer’s April 11, 2003 follow-up article, also published under the “Nitpicks” column, entitled “Unsolicited advice *para sa* ‘media pracs’.” The Information reads:

That on or about 11th day of April 2003, at Puerto Princesa City, Palawan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then the News Editor/Writer and publisher of the publications known as “The Palawan Mirror,” edited and published in the City of Puerto Princesa, which has a considerable circulation in said city and in the Province of Palawan, conspiring, confederating and mutually helping one another, did then and there wilfully, unlawfully, and feloniously, and with malicious intent of impeaching the honesty, virtue and reputation of Anrie A. Grande, Sports Development Officer III Program Manager of the City Government of Puerto Princesa, and with malicious intent of injuring and exposing said Anrie A. Grande to public hatred, contempt and ridicule, write and publish in the regular issue of its weekly publication of the Palawan Mirror dated April 11-17, 2003, Volume XXI Number 13, a certain article entitled “UNSOLICITED ADVICE SA MEDIA PRACS” quoted verbatim hereunder, to wit:

NITPICKS

By Claudio Daquer, Jr.

Unsolicited advice para sa “media pracs”
DAHIL sa nobelity ng trabaho at responsibilidad ng isang mamamahayag ay marami ang nais na makipag-kaibigan sa kanya.

Hindi maiiwasan na kabilang sa mga ito ay yaong

⁸ Id. at 47-49.

may maruming intension. Pansariling interest ang nasa ibabaw. Ooops! Lahat na marahil.

Ngunit, hindi masama na maging malapit sa karamihan lalo nasa news sources. Isang karangalan para sa media practitioner ang may magandang rapport sa halos karamihan.

Lalo na kapag parati itong nagagamit bilang advantage para sa "fair and responsible" na pamamahayag.

Napakahirap bigyan ng limitasyon ang pakikipagkaibigan. Kinakailangan ng malawak na kaisipan sa pagitan ng media practitioner at ng isang partido upang manatili ang magandang relasyon.

May mga taong lubos ang kagalakan kapag naging bukas ang kanyang linya tungo sa isang reporter. Ngunit, marami ang umaabuso! Marami ang mapagsamantala at kung umasta'y sila ang sinusunod ng mamahayag.

Tulad ni Andrei Grande na nais maghari sa City Sports. Noon ay nakisuyo na bigyan ng pansin ang mga isyu na kanyang tangan-tangan. Matapos ang "verification" at nakitang valid ang reporting and public consumption ay pinagbigyan ng ilan sa miyembro ng Palawan Press Club.

Sobra naman ata ang bilib sa sarili nitong akala mo'y mokong. Sa hangarin niyang makuha ang magandang pwesto sa city hall ay ginamit na sangkalan ang pagiging malapit sa local media practitioners.

Ilang beses niyang inangalandakan sa city hall na "hawak nya sa leeg ang media ng Palawan!" Na para bang tumatago sa saya ng Palawan Press Club.

Sinubukan nyang mag-radyo para sabihin na siya'y lehitimong media practitioner. Pinagsisiksikan pa ni Grande ang sarili sa Press Club at gusto na maging "regular member". Para bang hindi katanggap-tanggap asa kanya ang pagiging "associate" o di kaya'y "honorary member".

Mantakin mo pati ang nakalipas na press club elections ay gustong pakialaman at dikathin ang mga miyembro kung sino ang ilagay na mga opisalyes. Kapal!!!

Iginigiit nya na "may blessing si mayor Hagedorn sa kanyang pakikialam sa internal affairs ng Palawan Press Club.

Para bang sinabi nya na makitid ang pagiisip ni Hagedorn at di nabigyan ng pansin nab aka makasama ang kanyang pakikialam. Magaling ang pag-panggap ni Grande na siya'y sugo ni Hagedorn, at akala niya'y di marunong mag-isip ang mga miyembro ng local press.

Marami sa miyembro ng Palawan Press Club and



nag-verify at nabisto na walang alam si Hagedorn sa mga ginawa ni Grande.

Walang inidorsong kandidato sa pagka-presidente ng Press Club noon si Hagedorn at hallucinations lamang ni Grande ang sinasabi niyang “blessing” mula kay mayor.

Buti na lamang ay may sariling paninindigan ang media practitioners. Yun nga lang, baka iba ang lumusot na president. Dahil, marami na ang tumanggi sa kandidato na iginapang ni Grande.

Noong una ay suportado nila itong kandidato ngunit dahil sa mga pakiki-alam ni Grande ay naghanap na lang sila ng iba.

Malakas ang dating ni Grande, lalo na ang kanyang pretensions.

Ngunit di na uobra Ngayon. Kilala na siya nilang “great pretender”.

Ingat lang mga tol, dahil kalat na isa siya sa mga ahas na gumagala sa City Hall Ngayon.

Masyadong polluted at baka ka magamit sa mga nais niyang tuklawin sa city hall.

Muntil (sic) na nga raw nagkasuntukan sa isang miting, di lang daw natuloy dahil ang sabi sa kalaban “ikaw rin hawak ko ang media at kaya kitang pabanatan”.

wherein the said Anrie A. Grande is depicted and portrayed as stupid and a louse aspiring to be a carabao and other vices or defects, when in truth and in fact the said Anrie A. Grande he (sic) is not, thereby bringing him to dishonor, discredit and public hatred, contempt and ridicule and for which he should be entitled to be compensated for actual damages, moral damages, exemplary damages, attorneys fees and litigation expenses with the total amount of TWO MILLION FIVE HUNDRED THOUSAND (P2,500,000.00) PESOS, Philippine Currency.

CONTRARY TO LAW.⁹

On arraignment, Daquer pleaded not guilty to the charges. Trial on the merits then ensued. The prosecution presented private complainant Anrie Grande (Grande), Grande’s staff member Siriaco Pascua (Pascua), and Palawan State University instructor Cornelio Villegas, Jr. (Villegas).¹⁰ According to the prosecution, Pascua and Villegas showed Grande the April 4, 2003 article. Grande later saw the April 11, 2003 article. While these articles mentioned a certain “Andrie Grande,” Grande stated that this was a common misspelling of his given name “Anrie.”¹¹

⁹ Id. at 49–51.

¹⁰ Id. at 51.

¹¹ Id. at 52.

The defense presented Daquer and Edgar Javarez, the managing editor of the Palawan Mirror.¹²

On May 14, 2008, the Regional Trial Court issued its Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the prosecution having successfully proved the guilt of the accused beyond reasonable doubt, accused CLAUDIO DAQUER, JR. is hereby found GUILTY of two (2) counts of Libel under Articles 353 to 355 of the Revised Penal Code (RPC). Pursuant to Supreme Court Administrative Circular No. 08-2008, and finding that the accused believes that he acted pursuant to a duty against the acts of the complainant who was then a public officer, in lieu of imprisonment, the penalty imposed upon the said accused is a fine of SIX THOUSAND (P6,000.00) PESOS with subsidiary imprisonment in case of insolvency, for each of the two (2) above captioned cases, thus the total amount of fine is TWELVE THOUSAND (P12,000.00) PESOS. No actual or compensatory damages is awarded for lack of factual basis because to be entitled to actual and compensatory damages, there must be competent proof constituting evidence of the actual amount thereof. The private nominal complainant had not presented evidence in support thereof.

Anent the accused Virginia A. Amarillo, let this case be sent to the archives to be revived as soon as this Court acquires jurisdiction over the person of the said accused. Meanwhile, let alias warrant of arrest issued against Virginia A. Amarillo to be served by the Chief of Police of this City and send copy to the Chief of Police of Iloilo City where the accused is said to be residing.

SO ORDERED.¹³

Upon appeal, the Court of Appeals affirmed the Regional Trial Court Decision. The dispositive portion of its Decision reads:

WHEREFORE, the appeal is **DENIED**. The Decision dated 14 May 2008 of the Regional Trial Court of Palawan and Puerto Princesa City, Branch 47 in Criminal Case No. 18814-15 is hereby **AFFIRMED**.

SO ORDERED.¹⁴ (Emphasis in the original)

It found that the prosecution successfully proved the elements of the crime of libel: (1) the allegation of a discreditable act or condition concerning another; (2) publication of the charge; (3) identity of the person defamed; and (4) existence of malice.¹⁵

¹² Id. at 51.

¹³ Id. at 46-47.

¹⁴ Id. at 60.

¹⁵ Id. at 54.

First, Daquer's articles explicitly referred to Grande with the defamatory statements "*mokong*," "*ahas*," "*kuto*," "*gago*," and "*utak tukmol*." Second, these defamatory statements were published in the Palawan Mirror on April 4, 2003 and April 11, 2003. Third, Daquer admitted that the "Andrie Grande" referred to in the two articles was Grande, who had been a Sports Development Officer II-Program Manager with the City Government of Puerto Princesa at the time of the publications. Finally, the prosecution proved that the statements were made with malice.¹⁶

The Court of Appeals did not give credence to Daquer's claim that the presumption of malice did not apply because articles were fair commentaries on matters of public interest, which would have made them "qualifiedly privileged information" under Article 354 of the Revised Penal Code. It conceded that the articles were covered by Article 354, because Grande was a public officer and the articles' topic covered an alleged local government power struggle.¹⁷

However, even qualifiedly privileged communications were actionable when made with actual malice. According to the Court of Appeals, the prosecution proved that there was actual malice. By calling Grande "*kuto na magkaroon ng sungay habang lumalaki and kanyang ulo*," "*kung umasta akala mo gago*," "*baka naman inggit ang umiiral at utak tukmol na pilit niyang hinihila yaong mga nagbibigay ng 'feathers' sa administrasyon ni Hagedorn*," Daquer meant to discredit, dishonor, and subject Grande to public hatred, contempt, and ridicule. Daquer also failed to show that he had any good intentions or a justifiable motive for writing and publishing these statements.¹⁸

Moreover, the Court of Appeals found that Daquer published the articles in reckless disregard of the truth or falsity of the statements in them. He was unable to prove that the contents were true, or that he had exercised a reasonable degree of care to determine the truth of the articles' contents before publication. The Court of Appeals pointed to Daquer's testimony that he merely asked his source to verify the report of Grande's alleged wrongdoing, without counter-checking the information given to him.¹⁹

Subsequently, the Court of Appeals denied Daquer's Motion for Reconsideration in a February 22, 2013 Resolution.²⁰

On April 1, 2013, Daquer filed before this Court a Petition for Review on Certiorari²¹ under Rule 45 of the Rules of Court, assailing the Court of

¹⁶ Id. at 54-55.

¹⁷ Id. at 58.

¹⁸ Id.

¹⁹ Id.

²⁰ Id. at 122-123.

²¹ Id. at 7-42.

Appeals Decision and Resolution. He argues that the Informations filed against him were defective because they failed to state the element of actual malice. Since actual malice is required when the private offended party is a public officer, the failure to state this element renders the Informations void.²²

According to petitioner, there is actual malice when a false, defamatory item is published despite the author's knowledge of the falsity, or publishing with reckless disregard of the falsity of the defamatory item.²³ It is not enough to merely state "knowingly, willfully, unlawfully, and feloniously, and with malicious intent of impeaching the honesty, virtue and reputation of" in the Informations.²⁴

Petitioner further points out that the articles he wrote were opinion articles, which, under the standard of *Borjal v. Court of Appeals*,²⁵ contained comments which were in the public interest.²⁶ He cites *United States v. Bustos*²⁷ to claim that more criticisms of public officers are necessary as public service is a public trust. Moreover, petitioner claims that any criticism of the conduct of public officers is absolutely privileged. There should be no requirement that the facts on which an opinion is based must be true, consistent with *Bustos*.²⁸

Petitioner further argues that the Regional Trial Court and the Court of Appeals erred in requiring him to verify the facts on which he based the opinions in the articles. Grande should have been the party required to prove that the statements in the articles were false. Further, even if the statements in the articles were false, petitioner claims that the prosecution was unable to prove that he knew that these were false prior to the publication of the articles.²⁹

To petitioner, the Court of Appeals also erred in not applying the "falsity malice" test, in which the prosecution must show that: (1) the facts in the defamatory article are false; (2) the author knew that the facts were false prior to publications; and (3) that the author published the article even if they had prior knowledge of the false facts. He claims that the prosecution failed to disprove his allegations regarding Grande and the City Government of Puerto Princesa. The Court of Appeals' use of the "reckless disregard malice" test was erroneous, because what should be examined is not the defamatory statements, but the circumstances of the private offended party. Here, any doubts over whether or not criticism of a public official is for the common

²² Id. at 20.

²³ Id. at 22.

²⁴ Id. at 25.

²⁵ 361 Phil. 1 (1999) [Per J. Bellosillo, Second Division].

²⁶ *Rollo*, p. 29.

²⁷ 37 Phil. 731 (1918) [Per J. Malcolm, First Division].

²⁸ *Rollo*, p. 31-33.

²⁹ Id. at 35-36.

good should be resolved in petitioner's favor.³⁰

On October 30, 2013, the prosecution filed its Comment,³¹ to which petitioner filed his Reply³² on December 11, 2013.

In its Comment, respondent argues that the allegations in the two Informations comply with Rule 110, Section 6 of the Rules of Criminal Procedure. It claims that the Informations sufficiently alleged the essential elements of libel when they stated that petitioner:

. . . knowingly, willfully, unlawfully, and feloniously, and with malicious intent of impeaching the honesty, virtue and reputation of Anrie A. Grande, Sports Development Officer III-Program Manager of the City Government of Puerto Princesa, and with malicious intent of injuring and exposing said Anrie A. Grande to public hatred, contempt, and ridicule, write and publish in the regular issue of its weekly publication of the Palawan Mirror[.]³³
(Citation omitted)

To respondent, the existence of actual malice was a matter to be threshed out during trial.³⁴

Moreover, petitioner had failed to raise the issue of the allegedly defective informations in a motion to quash, and thus should be deemed to have waived this ground.³⁵

Respondent further argues that it had proved petitioner's guilt beyond reasonable doubt. With regard to the element of malice, it points out that, under Article 354 of the Revised Penal Code, every defamatory imputation is presumed malicious, even if true, if no good intention and justifiable motive is shown. Here, the prosecution argues that there was no justification for petitioner to refer to Grande as "*mokong*," "*ahas*," "*kuto*," "*gago*," and "*utak tukmol*," if petitioner's intent was to inform the public about an abusive public official.³⁶

Moreover, respondent argues that for the protection of qualifiedly privileged communication to apply to petitioner, he should have proved that what he had written was based on established facts, as required in *Borjal*. Petitioner had failed to meet this burden of proof: he did not present his alleged sources in court, and his testimony was uncorroborated by testimonial or documentary evidence. The prosecution argues that, consistent with *Tulfo*

³⁰ Id. at 33.

³¹ Id. at 137-157.

³² Id. at 163-167.

³³ Id. at 147-148.

³⁴ Id. at 148.

³⁵ Id. at 148-149.

³⁶ Id. at 149-151.



v. People,³⁷ the accused in a libel case bears the burden of substantiating the claims made in the defamatory statements. When petitioner failed to prove that his articles were based on truth, the element of malice was proved.³⁸

In his Reply, petitioner reiterates that the articles were his opinions protected by the Constitution, as well as by decisions of this Court, namely, *Bustos*. He argues that respondent erred in stating that privileged communication is a matter of defense, because it was clear here that the private offended party was a public officer.³⁹ Further, *Tulfo* was inapplicable to his case because here, petitioner attempted to corroborate his sources' claims with Grande, who refused to do so. The language petitioner used in his articles were ordinary vernacular words that do not qualify as "most corrupt," like in *Tulfo*. The statements made against Grande were also not as damaging because, unlike *Tulfo* which involved a lawyer who was bound by a lawyer's oath, Grande had no oath of ethics here, other than being a public officer.⁴⁰

On July 14, 2014, this Court granted due course to the Petition for Review and ordered the parties to submit their memoranda. Respondent filed its Memorandum⁴¹ on September 29, 2014, while petitioner filed his Memorandum⁴² on October 1, 2014.

The issue to be resolved in this case is whether or not petitioner Claudio Daquer, Jr. is guilty beyond reasonable doubt of the crime of libel.

As early as *United States v. Bustos*,⁴³ this Court has recognized that the law on libel is tempered by the fundamental right of freedom of expression. Philippine history itself has been shaped by this right:

Turning to the pages of history, we state nothing new when we set down the freedom of speech as cherished in democratic countries was unknown in the Philippine Islands before 1900. A prime cause for revolt was consequently ready made. Jose Rizal in "Filipinas Despues de Cien Anos" (The Philippines a Century Hence, pages 62 et seq.) describing "the reforms sine quibus non," which the Filipinos insist upon, said:

"The minister, . . . who wants his reforms to be reforms, must begin by declaring the press in the Philippines free and by instituting Filipino delegates."

The Filipino patriots in Spain, through the columns of "La Solidaridad" and by other means invariably in exposing the wants of the

³⁷ 587 Phil. 64 (2008) [Per J. Velasco, Jr., Second Division].

³⁸ Id. at 151-156.

³⁹ Id. at 164-165.

⁴⁰ Id. at 166-167.

⁴¹ Id. at 187-213.

⁴² Id. at 215-252.

⁴³ 37 Phil. 731 (1918) [Per J. Malcolm, First Division].

Filipino people demanded." (See Mabini, *La Revolucion Filipina*.) The Malolos Constitution, the work of the Revolutionary Congress, in its Bill of Rights, zealously guarded freedom of speech and press and assembly and petition.

Mention is made of the foregoing data only to deduce the proposition that a reform so sacred to the people of these Islands and won at so dear as one would protect and preserve the covenant of liberty itself.

Next comes the period of American-Filipino cooperative effort. The Constitution of the United States and the State constitutions guarantee the right of freedom of speech and press and the right of assembly and petition. We are therefore, not surprised to find President McKinley in that Magna Charta of Philippine Liberty, the Instruction to the Second Philippine Commission, of April 7, 1900, laying down the inviolable rule "That no law shall be passed abridging the freedom of speech or of the press or of the rights of the people to peaceably assemble and petition the Government for a redress of grievances."

The Philippine Bill, the Act of Congress of July 1, 1902, and the Jones Law, the Act of Congress of August 29, 1916, in the nature of organic acts for the Philippines, continued this guaranty. The words quoted are not unfamiliar to students of Constitutional Law, for they are the counterpart of the first amendment to the Constitution of the United States, which the American people demanded before giving their approval to the Constitution.

We mention the foregoing facts only to deduce the proposition never to be forgotten for an instant that the guaranties mentioned are part and parcel of the Organic Law — of the Constitution — of the Philippines Islands.

These paragraphs found in the Philippine Bill of Rights are not threadbare verbiage. The language carries with it all the applicable jurisprudence of great English and American Constitutional cases[.]⁴⁴ (Citation omitted)

This is especially true under our Constitution, which not only protects comments on the acts of public officials as exercises of the right to free speech, but equally as manifestations of the fundamental principles of popular sovereignty⁴⁵ and the trust reposed in public office.⁴⁶ Accountability to the people is demanded by the Constitution itself. The checks on governmental power are not confined to the three branches of government. The people—as citizens, electors, taxpayers—have an equal stake in participative democracy, which includes holding public officials rigorously answerable to their oaths of service. As this Court reminded public officials in *United States v.*

⁴⁴ *Id.* at 739–740.

⁴⁵ CONST., art. II, sec. 1 states:
SECTION 1. The Philippines is a democratic and republican State. Sovereignty resides in the people and all government authority emanates from them.

⁴⁶ CONST., art. XI, sec. 1 states:
SECTION 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.

Perfecto:⁴⁷

The development of an informed public opinion in the Philippines can certainly not be brought by the constant prosecution of those citizens who have the courage to denounce the maladministration of public affairs. The time of prosecuting officers could be better served, in bringing to stern account the many who profit by the vices of the country, than by prosecution which amounts to persecution of the few who are helping to make, what the country so much needs, and enlightened public.⁴⁸

On behalf of the people, the press serves as a constant watchdog, relieving the “abscesses of officialdom”⁴⁹ with its biting scrutiny. At times, in the face of the outrages perpetrated by public officers, people may resort to intemperance and impertinence, but a milquetoast sentiment is not a prerequisite for constitutional protection. “Rising superior to any official, or set of officials, to the Chief Executive, to the Legislature, to the Judiciary—to any or all the agencies of Government—public opinion should be the constant source of liberty and democracy.”⁵⁰

Based on these principles, this Court has imposed a higher standard for criminal libel where the complainant is a public figure, particularly a public officer. Actual malice—knowledge that the defamatory statement was false, or with reckless disregard as to its falsity—must be proved.⁵¹ It is the burden of the prosecution to prove actual malice, not the defense’s to disprove.⁵² In *Guinguing v. Court of Appeals*:⁵³

We considered the following proposition as settled in this jurisdiction: that in order to justify a conviction for criminal libel against a public figure, it must be established beyond reasonable doubt that the libelous statements were made or published with actual malice, meaning knowledge that the statement was false or with reckless disregard as to whether or not it was true.⁵⁴

“Reckless disregard” is determined on a case-by-case basis.⁵⁵ There is reckless disregard if the accused was found to have entertained serious doubts of the truth of the published statements, or if the statements were of a matter

⁴⁷ 43 Phil. 225 (1922) [Per J. Malcolm, First Division].

⁴⁸ *Id.* at 232.

⁴⁹ *United States v. Bustos*, 37 Phil. 731, 741 (1918) [Per J. Malcolm, First Division].

⁵⁰ *Id.*

⁵¹ *Soriano v. People*, G.R. No. 225010, November 21, 2018, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64717>> [Per J. Tijam, First Division]; *Flor v. People*, 494 Phil. 439 (2005) [Per J. Chico-Nazario, Second Division].

⁵² *People v. Pascual*, 102 Phil. 503–515 (1957) [Per J. Concepcion, First Division]; *People v. Monton*, 116 Phil. 1116–1122 (1962) [Per J. Makalintal, *En Banc*]; *Co v. Muñoz*, 722 Phil. 729–743 (2013) [Per J. Brion, Second Division].

⁵³ 508 Phil. 192 (2005) [Per J. Tinga, Second Division].

⁵⁴ *Id.* at 216.

⁵⁵ *Flor v. People*, 494 Phil. 439 (2005) [Per J. Chico-Nazario, Second Division].

not determined to be a legitimate topic in the area.⁵⁶ Errors or misstatements by themselves are insufficient to be considered reckless disregard, unless shown that the accused possessed a high degree of awareness of the falsity.⁵⁷ Mere negligence is not enough:

To be considered to have reckless disregard for the truth, the false statements must have been made with a definite awareness that they are untrue. That the accused was negligent of the facts is not enough. The accused must have doubted the veracity of the statements that he or she was making. Thus, errors and inaccuracies may be excused so long as they were made with the belief that what was being stated is true.⁵⁸ (Citations omitted)

To burden the accused with proving that allegations of official misconduct are true, or that the allegations were made with good motives and justifiable ends, is repugnant to the Constitution.⁵⁹

Here, the Court of Appeals correctly identified petitioner's two articles as being a form of fair commentary on a matter of public interest, as it involves the dealings of a public officer in relation to his public office:

Records show that private complainant, Anrie Grande, is a public officer being the Sports Development Officer III-Program Manager of the City Government of Puerto Princesa and the topic of the subject articles is the alleged power struggle that occurred within the City Sports Office involving Grande and certain local officials therein and Grande's alleged meddling with the affairs of the Palawan Press Club. Hence, We can conclude that the subject articles fall within the scope of fair commentaries on matters of public interest and, as such, is covered under "qualified privileged communication."⁶⁰

The Court of Appeals then found that petitioner failed to prove that the articles' contents were true, or that he exercised a reasonable degree of care to determine their veracity before publication.⁶¹ This approach is contrary to this Court's doctrines. When the allegedly libelous statement pertains to a matter of public interest, more so when the subject of the statement is a public officer, the prosecution must satisfactorily prove that the petitioner either knew that the statement was false, or that he acted with reckless disregard as to whether or not the statement is true.

The Court of Appeals erred in imposing the burden of proof on petitioner to prove that the statements in his articles are true. Moreover, the

⁵⁶ *Id.*; *Borjal v. Court of Appeals*, 361 Phil. 1–29 (1999) [Per J. Bellosillo, Second Division].

⁵⁷ *Villanueva v. Philippine Daily Inquirer, Inc.*, 605 Phil. 926 (2009) [Per J. Quisumbing, Second Division].

⁵⁸ J. Leonen, Dissenting Opinion in *Belen v. People*, 805 Phil. 628, 669 (2017) [Per J. Peralta, Second Division].

⁵⁹ *Vasquez v. Court of Appeals*, 373 Phil. 238 (1999) [Per J. Mendoza, En Banc].

⁶⁰ *Rollo*, p. 57.

⁶¹ *Id.* at 58.

prosecution did not present enough evidence that either the two articles are false, or that petitioner wrote the articles with reckless disregard, instead claiming that petitioner's testimony should suffice. Proof of guilt in all criminal cases must be beyond reasonable doubt, and the dearth of prosecution evidence cannot be held to a standard of moral certainty. The prosecution failed to discharge this burden, actual malice was not satisfactorily proved, and petitioner should be acquitted.

WHEREFORE, the Petition for Review on Certiorari is **GRANTED**. The Decision and Resolution of the Court of Appeals, Manila, in CA-G.R. CR No. 33446 are **REVERSED AND SET ASIDE**. Petitioner Claudio Daquer, Jr. is **ACQUITTED** of the charge of libel. Criminal Case Nos. 18814 and 18815 against Virginia A. Amarillo are **DISMISSED**.

SO ORDERED.


MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


RAMON PAUL L. HERNANDO
Associate Justice

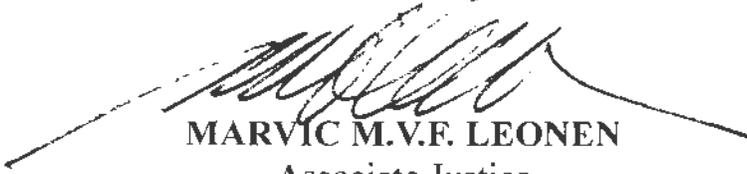

HENRI JEAN PAUL B. INTING
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JHOSEP LOPEZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice