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**SUPREME COURT
SECOND DIVISION**

**PHILIPPINE ASSOCIATION OF FREE
LABOR UNIONS (PAFLU), CATALINO
LUZANO, FELICIANO RUBIO,
PRUDENCIO JALANDONI, RODOLFO
ANASTACIO, DOMINADOR REUBAL,
DOMINGO BARREDO, ELISEO
CARPIO, LEONARDO ESPEJON,
RUFINO AGUA, WILFREDO ADEFUIN,
NICASIO MORDENO, JOSE
FERRERAS, HONORIO UNTAL and
APOLINARIO DIZON,**

Petitioners,

-versus-

**G.R. No. L-49580
January 17, 1983**

**COURT OF FIRST INSTANCE OF RIZAL,
HON. EUTROPIO MIGRINO,
PHILIPPINE BLOOMING MILLS
COMPANY, INC. and ALFREDO CHING,**

Respondents.

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DECISION

FERNANDO, J.:

The question raised in this *Certiorari* and prohibition proceeding is the lack of jurisdiction of respondent Court of First Instance of Rizal to entertain a criminal suit arising from what is alleged to be an illegal strike. Such a question was raised in a motion to quash on the ground that the then applicable Presidential Decrees^[1] precluded the fiscal from filing any information without exhausting the jurisdictional requisites. The failure to do so was for petitioner even more objectionable because the labor dispute which gave rise to such a strike had been settled.

The information sets forth the acts by which the criminal liability of petitioners is predicated. Thus: “That on or about the 19th day of February, 1976, in the Municipality of Pasig, Province of Rizal, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, who are officers and/or members of the Philippine Association of Free Labor Unions (PAFLU) Luzano Faction and who are laborers of the Philippine Blooming Mills Company, Inc., a corporation duly organized and existing under Philippine Laws which is engaged in the manufacture, production and/or processing of various steel products, a VITAL INDUSTRY, conspiring and confederating together, did, then and there willfully, unlawfully, and feloniously stage or declare a strike by establishing picket lines in front of the factory of the Philippine Blooming Mills Company, Inc., thus resulting in work stoppage and paralization of various works and projects in the factory premises, to the damage and prejudice of the said factory.”^[2] Upon the filing of the petition, this Court required comment on the part of the respondents and issued a temporary restraining order. The jurisdictional question involved arose from the fact that there was then a pending case before the National Labor Relations Commission. For petitioners, it was impressed with a prejudicial character. Its resolution then was called for before a strike can be stigmatized as illegal. Moreover, it was contended that the National Labor Relations Commission and eventually the then Secretary of Labor, not the courts that should determine its legality or illegality. In their comment, private respondents argued that the criminal case could proceed as no labor dispute was involved. Hence, there was no jurisdictional infirmity that could call for the grant of the writ prayed for.

For reasons to be given, we find for petitioners.

1. There is much to be said for the jurisdictional issue raised. If apparently there is a failure on the part of respondents to take into consideration the force and effect of Presidential Decree No. 849 amending Presidential Decree No. 823. Section 1 of the latter decree reads as follows: "It is the policy of the State to encourage trade unionism and free collective bargaining within the framework of compulsory and voluntary arbitration and therefore all forms of strikes, picketing and lockouts are hereby strictly prohibited." 3 It was issued on November 3, 1975. Clearly there was a flat prohibition of the right to strike. Then came on December 16, 1975 the amendatory Presidential Decree. By virtue thereof, certain strikes were deemed illegal primarily those in vital industries. There is even then exception provided for, namely that "any legitimate labor union may strike and any employer may lockout in establishments not covered by General Order No. 5 only on grounds of unresolved economic issues in collective bargaining, in which case the union or the employer shall file a notice with the Bureau of Labor Relations at least 30 days before the intended strike or lockout."^[4] The Decree goes on to state: "Should the dispute remain unsettled thereafter, the union, may go on strike and the employer may lockout unless the President or his duly authorized representative certifies the dispute to the National Labor Relations Commission for compulsory arbitration in the interest of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedom of others. Such certification shall have the effect of automatically enjoining the strike or lockout."^[5] What is more the amendatory Decree specifically recognizes the right to strike. Thus: "If not certified, the union may strike and the employer may lockout."^[6] Even if it be assumed, therefore, that private respondents are engaged in a vital industry, a point this Court does not have to decide, the question of whether or not the strike is tainted with illegality remains. At the very least then, the filing of the information on July 1, 1976 was premature.

2. That conclusion receives reinforcement from the submission of petitioners that the National Labor Relations Commission, ultimately the President for certification purposes, that determines the question of legality or lack of it. That is to conform with what this Court has so long and so consistently held on this issue. That principle was followed as far back as the Court of Industrial Relations Act. It was to such tribunal that the primary jurisdiction was vested. The rationale is not difficult to discern. For in the language of *Security Bank Employees Union-NATU vs. Security Bank & Trust Co.*,^[7] it was “better equipped by training, experience, and background to handle labor controversies.”^[8] In the *Philippine American Management & Financing Co., Inc. vs. Management & Supervisors Association of the Phil-American Mgt. & Financing Co., Inc.*,^[9] this Court even went to the extent of holding that a petition for declaratory relief regarding the interpretation of a collective bargaining agreement was within the jurisdiction of the then Court of Industrial Relations. So it should be under the present Labor Code, with its avowed philosophy of leaving to the appropriate Ministry of Labor agencies, rather than to the Court, the settlement of labor disputes. For respondents to assert that a strike does not involve a controversy of that kind is to lose sight of realities.

3. What justifies the interposition of the corrective authority of this Tribunal even more is the fact that the information is limited to petitioners having engaged in picketing. It need not be stressed that peaceful picketing is embraced in freedom of expression. As emphatically declared in *Philippine Commercial & Industrial Bank vs. Philnabank Employees’ Association*:^[10] “From the time of *Mortera vs. Court of Industrial Relations*, a 1947 decision this Court has been committed to the view that peaceful picketing is part of the freedom of speech guarantee of the Constitution.”^[11] Reference was made in such opinion to *Associated Labor Union vs. Gomez*.^[12] In that case, the Court characterized the orders complained of as being “fatally defective, suffering as it did from the infirmity that peaceful picketing was enjoined.”^[13] It is in that sense that Presidential Decree No.

849 was a step in the right direction for the status of picketing was again accorded due recognition.

4. The present law on the subject, Batas Pambansa Blg. 227, is even more emphatic: “(e) No person engaged in picketing shall commit any act of violence, coercion or intimidation or obstruct the free ingress to or egress from the employer’s premises for lawful purposes, or obstruct public thoroughfares.”^[14] That makes it even more imperative that this petition be granted. For it is therein provided: “All laws, decrees, rules and regulations or parts thereof inconsistent herewith are hereby repealed or modified accordingly.”^[15] The Act was made to take effect upon its approval which took place on June 1, 1982, when President Marcos affixed his signature. Since it is the penal aspect of Presidential Decree No. 823 as amended by Presidential Decree No. 849 that is the basis for the criminal action, it follows that whatever offense might have been committed is now no longer punishable.

WHEREFORE, the Writ of *Certiorari* is granted and the proceedings in Criminal Case No. 19214 of the Court of First Instance of Rizal, Branch VI, declared null and void and of no force and effect. The writ of prohibition is likewise granted, respondent Judge Eutropio Migrño or whoever would be appointed to the appropriate branch of the Regional Trial Court prohibited from acting in any wise or form except to dismiss the aforesaid case. The temporary restraining order issued in this case is made permanent. Costs against private respondent.

Makasiar, Concepcion Jr., Guerrero, Abad Santos, De Castro and Escolin, JJ., concur.
Aquino, J., took no part.

[1] Presidential Decree Nos. 823 (1975) and 849 (1975).
[2] Annex D to Petition.
[3] Sec. 1 of Presidential Decree No. 823.
[4] Sec. 1 of Presidential Decree No. 849.
[5] Ibid.

- [6] Ibid.
- [7] L-28536, April 30, 1968, 23 SCRA 503.
- [8] Ibid, 513.
- [9] L-27953, November 29, 1972, 48 SCRA 187. Cf. Bay View Hotel Inc. vs. Manila Hotel Workers Union, L-21803, December 17, 1966, 18 SCRA 946; Manila Hotel Co. vs. Pines Hotel Employees Asso., L-24314, September 28, 1970, 35 SCRA 96; Alhambra Industries, Inc. vs. Court of Industrial Relations, L-25984, October 30, 1970, 35 SCRA 550; Espanilla vs. La Carlota Sugar Central, L-23722, March 31, 1971, 38 SCRA 186.
- [10] L-29630, July 2, 1981, 105 SCRA 314.
- [11] Ibid, 318. Mortera is reported in 79 Phil. 345 (1947).
- [12] L-27743, March 28, 1980, 96 SCRA 551.
- [13] Ibid, 553-554. The cases referred to started with Paflu vs. Barot, a 1956 decision, reported in 99 Phil. 1008. Nine other decisions were cited in the opinion starting from De Leon vs. National Labor Union, 100 Phil. 789 (1957) to Litton Mills Workers Union vs. Reyes, L-23745, January 22, 1975, 62 SCRA 98.
- [14] Batas Pambansa Blg. 227, Section 6 (1982).
- [15] Ibid, Section 8.