

IN THE MATTER OF PETITION FOR HABEAS CORPUS OF TESSIE ASTERO, TESSIE ASTERO, PETITIONER-APPELLEE, VS. CHIEF OF POLICE OF DAGUPAN CITY, RESPONDENT-APPELLANT.

G.R. No. L-26741. July 31, 1969

Ponente: CONCEPCION, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/074dd6319aaa/>

CONCEPCION, C.J.:

On or about August 18, 1966, Leticia del Pilar, a minor 17 years of age, filed with the City Court of Dagupan a complaint, which was docketed as Criminal Case No. 11037 of said court, charging Lita Mendoza, Susan Dequito, Susana Soriano and herein petitioner Tessie Astero, with "corruption of a minor", in:

"That during and between June 27, 1966 and July 2, 1966 in Dagupan City, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused confederating and mutually helping one another, habitually and/or with abuse of authority or confidence, did then and there willfully, unlawfully, and feloniously by the use of force, threats and intimidation and by taking advantage of the undersigned (Leticia del Pilar), a minor 17 years of age, who was detained at the Mendoza Hotel, Perez Boulevard, Dagupan City, by their confederates, willfully, unlawfully and feloniously promote or facilitate the prostitution or corruption of the undersigned, to satisfy the lust of several men unknown to her and in order to profit therefrom, to her damage and prejudice in the sum of P50,000.00"

After conducting a preliminary examination, said court issued the corresponding warrant of arrest and, in compliance therewith, petitioner was, among others, subsequently apprehended and confined in the City Jail of Dagupan. On October 7, 1966, she commenced, in the Court of First Instance of Pangasinan, the present case[1] for habeas corpus, against the Chief of Police of Dagupan City, upon the ground that said complaint is "null and void x x x be-cause":

"A - Under the City Charter of Dagupan City, it is only the City Fiscal who can institute criminal action;

"B - And, even granting that Leticia del Pilar can institute a criminal action, such is only true where there is the civil liability involved in the case, which is not so in the instant case, because -

"1. Prostitution of minor is a purely public crime, in which there can not be private offended party.

"2. And, even if Leticia del Pilar were the offended party, her interest in the civil aspect has been instituted in criminal case No. 11036, a copy of which is hereto attached, wherein she claimed damages arising out of the same act."

After appropriate proceedings, the court of first instance rendered a decision, dated October 30, 1966, granting the writ prayed for and ordering "the Chief of Police of Dagupan City or any of his officers in charge of the City Jail x x x to release the petitioner, Tessie Astero." Hence, this appeal by the respondent.

The ratio decidendi of said decision is found in the paragraph immediately preceding its dispositive part, which reads:

"Under Section 24 of Republic Act 170 (Charter of Dagupan City), the city attorney (Fiscal) 'shall investigate all charges of crimes, misdemeanors, and violations of laws and city ordinances and prepare the necessary informations or make the necessary complaints against the persons accused'. The wordings of this provision are clear and leave no room for interpretation. Said section has enjoined the city fiscal to 'prepare the necessary informations' or 'make the necessary complaints' against persons accused of 'crimes, misdemeanors, and violations of laws and city ordinances'. The crime for which the petitioner was charged is a public crime and not one of those which may be prosecuted under the law upon the complaint of the offended party. Thus, it devolved upon the city fiscal to file, if the evidence warrants, the complaint or information for corruption of minor against the petitioner, and this mandatory duty cannot be delegated to the offended party himself/herself. Thus, it is the considered opinion of this court that the said complaint (Criminal Case No. 11037 of the City Court of Dagupan) and all proceedings thereunder are of no effect inasmuch as the complaint filed by the offended party in that court is not valid."

The premise to the effect that a public crime, such as that of corruption of minors "is not one of those which may be prosecuted x x x upon the complaint of the offended party", is manifestly erroneous. Indeed, Section 1 of Rule 110 of the Rules of Court, explicitly provides that "(a)ll criminal actions must be commenced either by complaint or information x x x." In fact, as early as U.S. v. Narvas[2], it was held:

"The Code of Criminal Procedure contains the following:

'Sec. 2. All prosecutions for public offenses shall be in the name of the United States (now Philippines) against the persons charged with the offenses.

'Sec. 3. All public offenses triable in Courts of First Instance or in courts of similar jurisdiction, now established or that hereafter may be established, must be prosecuted by complaint or information.

'Sec. 4. A complaint is a sworn written statement made to a court or magistrate that a person has been guilty of a designated offense.

'Sec. 5. An information is an accusation in writing charging a person with a public offense, pre-sented and signed by the promotor fiscal or his deputy and filed with the clerk of court.'

"Under the provisions of these sections a criminal action or prosecution may be instituted in the courts specified therein in either one of two ways. In the first place it may be commenced by any person resenting to a court or to a magistrate the complaint above defined. Such complaint is the process which begins the action and gives the court or magistrate jurisdiction of the person of the defendant and the subject-matter of the action. Where such complaint has been presented no other or further pleading on the part of the government is necessary. The prosecution proceeds upon the complaint alone. In the second place the action may be commenced by the promotor fiscal by presenting to the court and filing with the clerk thereof the information defined and set forth in the section above quoted. In that case such information is the process which institutes the action and the prosecution proceeds upon it as, the people's pleading. It is the duty of the fiscal to prosecute the action whether commenced by complaint or information. This enables him to prevent malicious or unfounded prosecutions by private persons." [3]

Again, pursuant to section 2 of said Rule 110:

"Complaint is a sworn written statement charging a person with an offense, subscribed by the offended party, any peace officer or other employee of the government or governmental institution in charge of the enforcement or execution of the law violated."

As a consequence, in *People v. Hernandez*[4], this Court used the following language:

"The fact that the information was filed in court on a complaint by a private individual is of no consequence for the reason that, as has been held in the case of *United States vs. Yu Tuico* (34 Phil., 209), except where the

law specifically provides the contrary, a complaint that a public crime has been committed can be laid by any competent person. x x x."[5]

It is true that section 24 of the Charter of Dagupan City (R.A. No. 170) imposes upon its city attorney the duty to "investigate all charges of crimes, misdemeanors, and violations of laws and city ordinances" and to "prepare the necessary informations or make the necessary complaints against the person accused x x x." There is every reason to believe that the conclusion drawn therefrom by His Honor, the trial Judge, was influenced, to a considerable degree, by a similar provision in the Charter of the City of Manila, which has been construed to mean that in that city "criminal complaints may be filed only with the City Fiscal, who is thereby given, by implication, the exclusive authority to institute criminal cases in the different courts of said City x x x."[6] It should be noted, however, that, in the language of *Sayo v. Chief of Police*[7]:

"Under the law, a complaint charging a person with the commission of an offense cognizable by the courts of Manila is not filed with the municipal court or the Court of First Instance of Manila, because as above stated, the latter do not make or conduct a preliminary investigation proper. x x x."

This view was reiterated by Chief Justice Moran in *Espiritu v. De la Rosa*[8], and quoted with approval, as well as applied to the City of Bacolod, in *Montelibano v. Ferrer*.[9]

Seemingly, the lower court overlooked, however, the fact that, unlike the courts of Manila and Bacolod, the city court of Dagupan is explicitly vested with the power to "conduct preliminary investigation for any offense, without regard to the limits of punishment, and may release, or commit and bind over any person charged with such offense to secure his appearance before the proper court." [10] Thus, the legal basis for the exclusive power of the City Fiscal of Manila or City Attorney of Bacolod to initiate criminal actions in their respective jurisdictions is wanting in the case of Dagupan. What is more, the express grant to its city court of the authority to conduct preliminary investigations, necessarily connotes that the City Attorney of Dagupan shares that function with said court, and that, accordingly, the latter may entertain complaints filed by a person other than said officer. Indeed, the initiation of a criminal action by the City Attorney would imply that he had conducted the requisite preliminary investigation, so that none would have to be made by the City Court.

In other words, we can not sustain the alleged sole power of said officer to institute criminal actions in Dagupan City without setting at naught or nullifying the authority of the city court, under section 77 of R.A. No. 170, to conduct preliminary investigations. It is well settled that the different provisions of a statute should be so construed as to harmonize the same, and that, "when there are inconsistent provisions in the same statute, the last in point of time or order of arrangement prevails." [11]

It is clear, therefore, that the aforementioned complaint filed by Leticia del Pilar was perfectly valid; that so was the warrant of arrest issued by the city court, after making the corresponding preliminary examination; and that, consequently, the apprehension and confinement of petitioner herein were, likewise, lawful and valid.

It should be noted, also, that the decision appealed from ordered the release of petitioner herein, without requiring the posting of a bond to secure her appearance before the appellate court, in violation of Section 20, Rule 41 of the Rules of Court, reading:

"A judgment remanding the person detained to the custody of the officer or person detaining him, shall not be stayed by appeal. A judgment releasing the person detained shall not be effective until the officer or person detaining has been given opportunity to appeal. An appeal taken by such officer or person shall stay the order of release, unless the person detained shall furnish a satisfactory bond in an amount fixed by the court or judge rendering the judgment. The bond shall be so conditioned for the appearance of the person detained before the appellate court to abide its order in the appeal." [12]

WHEREFORE, the decision appealed from is hereby reversed, and the petitioner ordered re-arrested and re-committed to the custody of respondent herein, unless a satisfactory bond in an amount to be fixed by the City Court of Dagupan, shall have been furnished, with costs against the petitioner.

SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Sanchez, Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.
Zaldivar, J., took no part.

[1] Special Proceedings No. 526 of the Court of First Instance of Pangasinan, Branch VIII.

[2] 14 Phil. 410, 411.

[3] Underscoring supplied.

[4] 59 Phil. 272, 277.

[5] Underscoring supplied.

[6] Montelibano v. Ferrer, 97 Phil. 228, 233.

[7] 80 Phil. 859, 869.

[8] 78 Phil. 827, 830.

[9] Supra.

[10] Section 77, R.A. No. 170.

[11] People v. Laba, L-28022, July 30, 1969; PNB v. Court of Appeals, L-27117, July 30, 1969; State v. City, 109 So. 2d. 368; Town of Homecroft v. Macbeth, 148 N.E. 2d. 563.

[12] Underscoring supplied.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.