

**REGINO EUSTAQUIO, PETITIONER, VS. JUAN R. LIWAG, ETC., ET AL.,
RESPONDENTS.***G.R. No. L-3343. May 31, 1950*

Ponente: REYES, J.

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This is a petition to enjoin further prosecution of a defendant in a criminal case.

It appears that on January 29, 1949, a bus driven by the petitioner hit one Demetria Ganadin on one of the streets of the municipality of San Juan del Monte, Rizal, causing her various physical injuries. Charged with responsibility for the mishap, petitioner was named defendant in a complaint for serious physical injuries thru reckless imprudence filed by the chief of police in the justice of the peace court of the municipality. Acting on the complaint, the justice of the peace cited petitioner to appear before him at a specified date and hour for "arraignments and trial.n We have no record of these proceedings, but it would appear from petitioner's own memorandum that the private prosecutor objected to trial on the merits on the ground that the offense charged was punishable under Section 67(d) of the Revised Motor Vehicle Law with imprisonment for 15 days to 6 years and was therefore beyond the jurisdiction of the justice of the peace court. Obviously impressed by this objection, the justice of the peace gave the hearing, the character of a mere preliminary investigation, and finding the evidence insufficient to warrant elevation of the record to the Court of First Instance, dismissed the case upon motion of the accused. At first the provincial fiscal did not protest against this dismissal. But he later filed in the Court of First Instance an information, charging petitioner with the crime of serious physical injuries thru reckless imprudence committed according to said information as follows:

"That on or about the 29th day of January, 1949 in the municipality of San Juan, Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then the driver and person in charge of bus bearing Plate No. TPU-3036-48, without taking the necessary care and precaution to avoid injury to person, in a reckless and imprudent manner did then and there willfully, unlawfully and feloniously operate and drive his said bus thereby Causing it to hit on Demetria Ganadin, inflicting upon her person physical injuries which necessitates medical attention for a period of from 6 to 8 months and incapacitate her to perform her customary labor for the same period of time."

"Contrary to Law."

Acting on the above information, the respondent Judge of First Instance issued an order in accordance with Section 2 of Rule 10# of the Rules of Court, directing the justice of the peace court of the capital "to conduct the preliminary investigation of this case." The accused claims that this new prosecution would again place him in jeopardy for the same offense. Hence this petition to have the Judge of First Instance, the provincial fiscal, and the justice of the peace of Pasig, Rizal, enjoined from further proceeding with the case.

The petition must be denied. Neither the complaint presented by the chief of police nor the information filed by the provincial fiscal mentions the statute under which the petitioner was being prosecuted. But the facts alleged in

both clearly constitute a violation of the Revised Motor Vehicle Law, punishable under section 67(d) thereof with imprisonment for 15 days to 6 years. The offense, it is true, also comes under the Revised Penal Code. But it is now settled that section 67(d) of the Revised Motor Vehicle Law supersedes the corresponding provisions of the Revised Penal Code with respect to the penalty in cases of automobile accidents resulting in death or serious bodily injuries to a person as a consequence of negligent or reckless driving. (*People vs. Moreno*, 60 Phil, 712.) Petitioner, however, contends that the rule in the case cited applies only where the penalty imposable under the Revised Motor Vehicle Law would be lighter than that under the Revised Penal Code and therefore more favorable to the accused. To this contention we can not agree. The decision in the case establishes no such distinction. And there is nothing in the Revised Motor Vehicle Law to indicate an intention to confine the application of its section 67(d) only to cases of automobile accidents resulting in the death of a person. On the contrary, it seems obvious from the provisions of said section that the legislative intent is to make them apply to a wider range of cases from mere physical injuries to death, since the range of penalty provided is from 15 days to 6 years of imprisonment. The minimum penalty of 15 days imprisonment is eloquent proof that the said section is also meant to be applied to cases of mere physical injuries.

Since the offense charged in the complaint filed by the chief of police was, because of the extent of the penalty that could be imposed, beyond the jurisdiction of the justice of the peace court, that court could not have law-fully acquitted the accused, even had it been his intention to do so. The fact, however, is that the justice of the peace did not acquit the accused but merely dismissed the complaint on the ground that the evidence adduced by the prosecution during the preliminary investigation did not establish a *prima facie* case to warrant elevation of the record to the Court of First Instance.

The facts disclosed by the pleadings do not show that petitioner is being placed in double jeopardy for the same offense. The petition is, therefore, denied with costs against the petitioner.

Ozaeta, Pablo, Bengzon, Tuason, and Montemayor, JJ., concur.

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