

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS.
EDUARDO RAMIREZ, DEFENDANT-APPELLEE.***G.R. No. L-10085. May 23, 1958*

Ponente: PARAS, C.J.

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The defendant was charged in the Municipal Court of Manila with having orally threatened to inflict some bodily harm upon the persons of Martina de Lara, Marcela Manucum, Lorenzo Santos, Dolores Bacalso, Anaqureta Diaz and Eugenia de Lara, without however showing by his posterior acts that he persisted in his threats. The defendant filed a motion to quash, alleging that as the crime was committed on July 28, 1955 and the information was filed on September 27, 1955, or after 61 days, it had already prescribed in accordance with Article 90 of the Revised Penal Code. The Municipal Court dismissed the case, and the appeal taken by the Assistant City Fiscal to the Court of First Instance of Manila having been also dismissed, the plaintiff has again appealed.

According to the appellant, the crime charged falls under Article 282, paragraph 2, of the Revised Penal Code; is punished with arresto mayor and a fine not exceeding P500.00; and in accordance with Article 90 of the Revised Penal Code, prescribes in 5 years. Article 282 refers to an act of threatening to inflict upon the person, honor or property of another or of his family any wrong amounting to a crime.

The information recited "that on or about 28th day of July, 1955, in the City of Manila, Philippines, the said accused, in the heat of anger, did then and there wilfully, unlawful and orally threaten to do some bodily harm to the persons of Martina de Lara, Marcela Manucom, Lorenzo Santos, Dolores Bacalso, Anaqureta Diaz and Eugenia de Lara, the said accused, without, however, showing by his posterior acts that he persisted in the idea signified by his threats."

Article 285, paragraph 2, of the Revised Penal Code punishes with arresto menor or a fine not exceeding P200.00 "any person who in the heat of anger, shall orally threaten another with some harm not constituting a crime, and who by his subsequent acts shows that he did not persist in the idea involved in his threat, provided that circumstances of the offense shall not bring it within the provisions of Article 282 of this Code."

We are of the opinion that the information charges light threats defines and penalized by Article 285, paragraph 2, and not grave threats contemplated in Article 282, paragraph 2. The allegations that the threats was oral and made in the heat of anger and that the accused did not by his posterior acts show that he persisted in his threat, are descriptive merely of the light offense. It is true that the information does not allege that the threatened bodily harm is one not constituting a crime, but neither does it allege that it is one amounting to a crime.

The appellant is mistaken in the belief that Article 282, paragraph 2, provides an alternative fine of not less than P200.00 which is a correccional penalty under Article 26 of the Revised Penal Code, because the fine spoken of should not exceed P200.00, of from one to two hundred pesos.

Wherefore, the appealed order is affirmed with costs de oficio. So ordered.

Bengzon, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Endencia, and Felix, JJ., concur.

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