

JOSE B. VILLACORTA, ETC., PETITIONER, VS. THE HONORABLE, FERNANDO VILLAROSA, ETC., ET AL., RESPONDENT.

G.R. No. L-13417. September 30, 1960

Ponente: PARAS, C. J.

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PARAS, C. J.:

This is an appeal from the decision of the Court of First Instance of Rizal, Branch VII, Pasay City, promulgated in a proceeding for certiorari and mandamus with preliminary injunction, setting aside the order of the respondent municipal judge denying permission to a prosecution witness whose name was omitted from the list of witnesses appearing in the information to testify in a criminal case in the Municipal Court of Pasay City, Branch II.

An examination of the information shows that there is at the bottom a list of names and at the end are added the words "and other witnesses." It appears that the reason for not indicating the name of the particular witness in the list is the fear of the city attorney that said witness, who is material, may be approached and tampered by the accused. The only issue, therefore is whether a prosecution witness, whose name does not appear in the list of witnesses may still be called upon to testify.

We have already held in a long line of decisions^[1] that the prosecution is allowed to call witnesses other than those named in the complaint or information. We see no reason to deviate from said rule. Section 1, Rule 112 of the Rules of Court expressly permits the prosecution to present an unlisted witness at the trial and there is nothing in said section which requires the previous consent of the court before the prosecution can present such witness.

Wherefore, the judgment appealed from is hereby affirmed with costs against respondents-appellants other than respondent-appellant Judge, Municipal Court, Pasay City. So ordered.

Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Gutierrez David, and Paredes, JJ., concur.

[1] People vs. Santos, G. R. No. L-7315, July 27, 1955; People vs. Manabat, 100 Phil., 603; 53 Off. Gaz., 6090; People vs. Namoc, G. R. No. L-11877, November 23, 1955; and People vs. Palacio, 108 Phil., 220; 58 Off. Gaz., (24) 4498.

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