

RAQUEL G. DOCE, PETITIONER, VS. BRANCH II OF THE COURT OF FIRST INSTANCE OF QUEZON, THE PROVINCIAL FISCAL OF QUEZON AND ARACELI TORRE-CHANTE, RESPONDENTS.*G.R. No. L-26437. March 13, 1968*

Ponente: BENGZON, J.P., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/3485f990f4ae/>**BENGZON, J.P., J.:**

Respondent Araceli Torrechante filed on July 21, 1964 a complaint for libel against petitioner Raquel Doce before the Municipal Court of Real, Quezon Province. Attached to the complaint were the affidavits of respondent and her witness, one Dionisio Destojo. According to respondent, also annexed to the complaint was a photostatic copy of the letter[1] sent by petitioner to her which was the basis of the complaint.

The complaint was amended on August 4, 1964, with the further allegation that Torrechante suffered moral damages on account of the libelous letter sent by petitioner. On August 12, 1964, Judge Cabungcal, the Municipal Judge at Real, was allowed by the Court of First Instance to inhibit himself from the case. Accordingly, Judge Juntereal of the Municipality of Infanta, Quezon, was designated to hear the case at the Municipality of Real in place of Judge Cabungcal.

On October 28, 1964, Judge Juntereal issued a warrant of arrest for petitioner. The officer's return shows that this was served on petitioner on December 16, 1964.[2] She was not detained however, because of the bail bond admittedly prepared and filed by her even as early as July 24, 1964 yet.[3]

On April 23, 1965, the case was called for the second stage of the preliminary investigation. Petitioner appeared without counsel and she asked for postponement which was granted. On December 4, 1965, petitioner filed a manifestation requesting that the preliminary investigation which had been reset to December 11, 1965 be conducted in Lucena City where she resides instead of at the Municipality of Real.

Petitioner apparently failed to show up at Real on December 11, 1965 for the municipal court subsequently issued an order, dated January 13, 1966, stating that petitioner's manifestation was an implied waiver of her right to the preliminary investigation and ruling "x x x that there is a prima-facie case against the accused."[4] The case was then forwarded to the Court of First Instance.

On February 21, 1966, the provincial fiscal filed the information for libel against petitioner before the Court of First Instance of Quezon sitting at Lucena City. Petitioner was then able to secure postponements of the first two dates set for the arraignment, which was 'final-ly reset on June 21, 1966. On this latter date, without being arraigned, petitioner filed a motion to quash on the ground that there had neither been a preliminary examination nor investigation in the case.

The court a quo denied the motion, by its order dated June 22, 1966, ruling that it had jurisdiction over the person of petitioner and "x x x that a preliminary investigation had been previously conducted in accordance with established procedure.[5] When her motion for reconsideration failed, petitioner instituted the present petition for

certiorari and prohibition.

It is petitioner's principal submission that the court a quo did not acquire jurisdiction to try her for the offense Charged because: (1) the warrant of arrest was defectively issued, and (2) there was no preliminary investigation.

There is merit in the assertion that the warrant of arrest was irregularly issued. Section 87 of the Judiciary Act as amended by Republic Act 3828[6] requires that the Municipal Judge issuing the same, personally examine under oath the witnesses, and by searching questions and answers which are to be reduced to writing. Here, instead of searching questions and answers, we have only the affidavits of respondent and her one witness. Moreover, said affidavits were sworn to before Judge Cabungcal, not before Judge Juntereal who issued the warrant of arrest.

However, the giving of bail bond by petitioner constitutes a waiver of the irregularity attending her arrest.[7] Besides, by her other personal appearances before the municipal court and the court a quo, petitioner voluntarily submitted herself to the court's Jurisdiction. Hence, the absence of preliminary examination becomes moot already, the court having acquired jurisdiction over the person of petitioner and could therefore proceed with the preliminary investigation proper.

Now, it was petitioner's fault that no full dress preliminary investigation proper as contemplated in Rule 112, Section 10, of the Rules of Court was conducted. She was aware that it had been set on December 11, 1965, but apparently, petitioner failed to show up in court. She must have assumed that her request-manifestation of December 4, 1965 would be granted. Following the ordinary course of Judicial procedure, it must be presumed that the criminal case was called for preliminary investigation on December 11, 1965. Since petitioner did not show up, the court considered this as waiver on her part. There was nothing more left for the court to do but forward the records of the case to the Court of First Instance upon finding the existence of prima facie case against the accused.

Since petitioner had already been afforded the opportunity for preliminary investigation proper and considering further that the municipal judge, herself had already found a prima facie case for libel,[8] there was no more need for the provincial fiscal to conduct his own preliminary investigation under Section 14 of Rule 112. Anyway, petitioner's rights could still be amply protected in the forthcoming trial of the cause.

WHEREFORE, the petition, for lack of merit, is hereby dismissed. Costs against petitioner Raquel Doce.

SO ORDERED.

Reyes, Acting Chief Justice, Dizon, Makalintal, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

[1] This is alleged to form part of the records below.

[2] See back of Annex "D", Rollo, p. 25.

[3] Memorandum for Petitioner, Rollo, pp. 92-93.

[4] Annex "G" of Petition, Rollo, p. 28.

[5] Annex "J" of Petition, Rollo: p. 36.

[6] Took effect on June 22, 1963.

[7] U.S. v. Grant, 18 Phil. 122; Carrington v. Peterson, 4 Phil. 134.

[8] Note 4, supra

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.