

**PAQUITO SALABSALO, JOSE CARIDAD AND SEVERINO CABALUNA,  
PETITIONERS AND APPELLANTS, VS. FRANCISCO ANGCOY AND  
ATTY. CIPRIANO CABALUNA, JR., AS JUSTICE OF THE PEACE OF  
ALIMODIAN, I...**

*G.R. No. L-15122. May 31, 1960*

Ponente: BENGZON, J.

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**BENGZON, J.:**

The above petitioners have appealed from the order of Hon. Jose R. Querubin, Judge dismissing motu proprio their request for mandamus to compel the respondent justice of the peace Cipriano Cabaluna, Jr., to try on the merits Criminal Case No. 278 of his court in Alimodian, Iloilo.

In the said criminal case Paquito Salabsalo, et al., were charged with assault upon an agent of persons in authority, for having laid their hands upon a barrio lieutenant[1] while the latter was performing his duties as such.

Believing he had no jurisdiction over the crime, the said justice of the peace declined to hear the accusation on the merits. Whereupon, the defendants Paquito Salabsalo, et al. applied to the court of first instance for mandamus, but in vain. The judge, as stated, dismissed the petition, overruling their contention that, as no intent to kill had been charged, the assault constituted an offense within the jurisdiction of the justice of the peace pursuant to sec. 87 par. C, sub-par. 2 of the Judiciary Act of 1948.[2] His Honor said "The assault contemplated in the Judiciary Act cited by counsel refers only to assaults with physical injuries, and not assault upon an agent of persons in authority as provided for by Art. 148 of the Revised Penal Code."

Therein lies the issue in this appeal: does a justice of the peace have jurisdiction over the offense of assault upon an agent of persons in authority, where no intent to kill is charged or evident?

The statute invoked by appellants bestows on j.p. courts original jurisdiction over "assaults where the intent to kill is not charged or evident upon the trial."

We think, His Honor read the section correctly. The words "where the intent to kill" qualifying "assault" give a fair indication that "assault" connotes physical injuries or maltreatment, or crimes against the person. Whereas assault upon an agent of persons in authority falls within the list of crimes against public order, (under Title III of the Revised Penal Code).

Besides, this jurisdiction of inferior courts over "assaults" with no intent to kill was first given to the municipal court in the City of Manila, and the law was then translated as "aggression"[3] whereas "atentado"[4] was then the word for "assault" or "attempt" against persons in authority.

Bearing in mind further, that an assault with intent to kill, punished with prision correccional[5] has been withheld from the j.p. courts, and that assault upon an agent of persons in authority is also punished with prision correccional (Art. 148, Revised Penal Code), we are persuaded to hold the Legislature entertained no idea to

include the latter crime within the cognizance of j.p. courts.

We express identical views in Villanueva vs. Ortiz[6] decided during this Court's summer session in Baguio City.

Accordingly, the appealed order is hereby affirmed, with costs against appellants.

Paras, C. J., Montemayor, Bautista Angelo, Labrador, Concepcion, Barrera and Gutierrez David, JJ., concur.  
Padilla and Endencia, JJ., took no part.

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[1] After June 22, 1957 a barrio lieutenant is considered person in authority (Republic Act 1978)—not mere agent.  
Crime occurred April 28, 1957.

[2] Republic Act 296.

[3]Codigo Administrativo (1916). [4] Art. 263, Codigo Penal.

[5] It is, at least, attempted homicide.

[6] Supra, p. 493.

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