

MARCELA N. GONZALES, PETITIONER-APPELLEE, VS. HON. GUMERSINDO ARCILLA, CITY JUDGE OF DAVAO CITY (BRANCH III), ALFREDO M. CELI, FIRST ASSISTANT CITY FISCAL OF DAVAO CITY, REPRESE...

G.R. No. L-27923. November 18, 1991

Ponente: DAVIDE, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/66e52ab03f50/>

DAVIDE, JR., J.:

This is an appeal from the Decision dated 7 June 1967 of Branch III of the then Court of First Instance (now Regional Trial Court) of Davao in a petition for certiorari and prohibition (Special Civil Case No. 5270) which granted the petition and enjoined permanently both the City Judge and City Fiscal from taking further cognizance of a criminal case for slander (Criminal Case No. 2273-B) in the City Court of Davao City because said case was not brought at the instance and upon complaint of the offended party, respondent City Fiscal had no authority to file the information, and the City Judge had no jurisdiction over the case.[1]

The factual and procedural antecedents are as follows:

On 17 February 1966, an information for slander against accused Marcela N. Gonzales (hereinafter referred to as the appellee) was filed before the City Court of Davao by Assistant City Fiscal Alfredo Celi. The information reads:

"That on or about December 19, 1965, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused with intent to cast dishonor, discredit and contempt upon one Filipinas Ordoñez, willfully, unlawfully and feloniously and in the heat of anger uttered publicly in the presence and within the hearing of several persons the following defamatory words, to wit: 'MANG-AAGAW NG ASAWA NG MAY ASAWA! TIBIHON! PUTANG INA MO! WALANG HIYA! PATAY GUTOM', which when translated to English runs (sic) as follows: 'Seducer of wives of other husbands or adulteress. Consumptive. Your mother is a prostitute. You do not have a sense of shame. You are a glutton,' to the dishonor, discredit and contempt of said Filipinas Ordoñez."

On 5 August 1966, the appellee moved to quash the information asserting that the City Court has no jurisdiction over the offense charged and that the officer who filed the information had no authority to do so. She claims therein that the alleged defamation imputes the crime of adultery and thus cannot be prosecuted de oficio. The other remarks, however, do not charge a crime. The complaint must, therefore, be brought at the instance of the offended party, which was not done in this case. Hence, the fiscal did not have the authority to file the information and the court did not acquire jurisdiction over the case.

The records do not show that the offended party filed a complaint in the fiscal's office and that the Information was signed by her.

The motion to quash was denied by respondent Judge, prompting appellee to move for its reconsideration. This

second motion was likewise denied. Thus, appellee filed with the then Court of First Instance of Davao a petition for certiorari and prohibition which was docketed as Special Civil Case No. 5270.

Appellee reiterated in her petition the grounds in her motion to quash and elaborated on her arguments in support thereto. On the other hand, respondents maintained that the slanderous words alleged in the "information contain imputations not only to (sic) one crime but to (sic) other offenses like vice, defect and condition which are distinct from and independent of each other; one, admitted to be of adultery and others are public crimes which can be prosecuted de officio."

In deciding Civil Case No. 5270 against respondents, then Judge Alfredo I. Gonzalez opined that "the entire context of the Information should be read together as a whole and not to pick up (sic) particular words and phrases and then detach or isolate them from the rest so as to give them different meaning (sic) that is desired by the one who may use it for his own convenience" and that "the entire defamation in question should be given an ordinary and peculiar significance in order to render it effectual in the sense that is most likely understood by the parties and which is in keeping with the purpose and intent of the party who uttered them." He then concluded and ruled that:

"The first part of the defamation complained of, quoted: 'mang-aagaw ng asawa ng may asawa' may literally mean: 'one who grabs another's husband,' thereby imputing the commission of the crime of adultery wherein the accused maintained an immoral or illicit relations (sic) with another man who is not her husband.

The prosecuting Fiscal has correctly construed in English the significance of the first portion of the defamation in question by imputing the commission of the crime of adultery, in which case, it becomes undisputed that the offended party has the exclusive right to sign and file the complaint and not the Fiscal.

However, the City Fiscal did not interpret the correct meaning of the succeeding group of clauses quoted: 'Putang ina mo, tibi-hon, walang hiya, patay gutom' for he just gave them a strict, literal construction which does not portray the real intent of the accused and does not conform to the sense as it is ordinarily understood by an average person. Expressions of this kind and tenor are commonly used by many people according to their custom specially those who are unschooled and coming from the lower social strata. They are usually uttered by the slip of the tongue and are intended to describe, intensify, explain or emphasize the other parts of the utterances which accompany them or to which they cling or are attached. They may be defamatory or not depending upon the tenor and import conveyed by the accompanying statements.

In the instant case, the above quoted combined utterances expressed in the native dialect are mere accompanying and supporting phrases and terms used to give more vivid color and importance to the first portion, depicting the temper, emotion, demeanor and the hatred of the petitioner (accused in the lower Court) owing perhaps to a fit of jealousy arising from her suspicion that the offended party is having immoral relations with her husband.

It become (sic) clear and logical then to conclude that the next group of words mentioned in the preceding paragraph does not impute the commission of any public offense that may be considered distinct and independent from that conveyed in the first sentence, but they are simply intended to give more spicy flavor to the main thought expressed in the whole statements. No other reasonable and logical conclusion can be drawn from the premises except that the correct imputation to the crime probably committed in this case is that of adultery or a similar offense, private in nature and that there is but one, single and indivisible crime that is described by the whole slanderous statements alleged in the information.

In view of all the foregoing, the Court is convinced and is of the opinion that only the crime of adultery or a kindred offense is imputed to the accused (petitioner herein) for uttering the alleged defamation in question taken as a whole and no imputation to (sic) any other public offense could be logically inferred from the tenor and spirit conveyed therein."

Respondents-appellants challenge the above decision in their four (4) assigned errors, to wit:

"FIRST – The lower court erred in holding that the information alleges only one defamatory remark imputing a private offense which cannot be prosecuted de officio.

SECOND – The lower court erred in holding that the other utterances alleged in the information are not defamatory as to constitute the crime of slander which can be prosecuted de officio.

THIRD – The lower court erred in holding that the fiscal lacks authority to file the information and, therefore, the City Court fails (sic) to acquire jurisdiction over the case.

FOURTH – The lower court erred in permanently enjoining the respondents from taking further cognizance of the information.”[2]

In support thereof, they contend that:

a) It is clear that the information alleges "many remarks or utterances which are all defamatory" and not just one as ruled by the court. Each may constitute a separate offense. However, since they were made on one occasion, and the product of a single criminal intent, there is only one offense of slander.

b) One slanderous remark should not be given more emphasis than the other. Neither should a single remark be considered to suit the purpose of the accused. Rather, the rule is that all the slanderous statements should be treated as one and taken as a single offense of slander.

c) The one remark held by the court to be slanderous as it imputed the crime of adultery is "mang-aagaw ng asawa ng may asawa." Standing by itself, it does not, contrary to the court's ruling, impute the crime of adultery. At most, it implies that the one to whom it is addressed is a flirt, a temptress, or one who indulges in enticing other husbands. It imputes a vice, condition or act which equally casts dishonor and contempt upon the person alluded to. Flirtation is not adultery.

d) All the defamatory statements alleged in the information likewise only impute a vice, defect, act or condition not constituting a crime. The fiscal, therefore, has the authority to file the information and the City Court acquired jurisdiction over the case.

e) Assuming for the sake of argument that the defamatory statements alleged in the information include one imputing an offense which cannot be prosecuted de officio, still the case at bar is one which can be instituted upon the instance of the fiscal on the ground that what then is involved is a compound or complex crime, one of the components of which is a public crime, in which case it can be prosecuted de officio under the theory that public interest is paramount to private interest.[3]

In her Brief,[4] appellee maintains that:

(a) when the slanderous remarks, uttered on one occasion with one criminal intent, also imputes the commission of adultery, regardless of the other imputations, the charge can only be brought at the instance of and upon complaint subscribed and filed by the offended party. Thus, in *People vs. Padilla*,[5] it was held:

“x x x while said Article 364 penalizes any intrigue which has for its purpose to blemish the honor or reputation of a person, the information avers facts which do not merely constitute an incriminatory machination or a defamatory intrigue but go as far as accusing a married woman of having illicit relations with a man not her husband which in effect constitutes the crime of adultery.

x x x

Considering that under Article 360, paragraph 4, of the Revised Penal Code, no criminal action for defamation

which consists in the imputation of a crime which cannot be prosecuted de officio can be brought except upon the complaint filed by the offended party, and the crime of adultery is one that cannot be prosecuted de officio (Article 344, Idem.), it is obvious that the information filed in this case is insufficient to confer jurisdiction upon the court of origin. The trial court was therefore correct in quashing the information."

(b) *People vs. Yu*, cited by appellants, is not applicable in this case because it refers to a complex crime defined under the Revised Penal Code which imposes only one (1) penalty. Appellants admit that in this case there is only one offense, although it involves many slanderous remarks.

Slander is oral defamation while libel is defamation in writing.[6] In both, there is a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead.[7]

In determining whether the offense has been committed, the defamatory words are to be construed in their entirety, and should be taken in their plain, natural and ordinary meaning as they would naturally be understood by persons reading or hearing them, unless it appears that they were used and understood in another sense.[8] In short, the language used must be understood "in its plain and popular sense -- to read the sentences as would the man on the street." [9] The intent or purpose then of the speaker or writer is not relevant.

The issues in this case revolve on the correct appreciation of the statements uttered by appellee and alleged in the information to be slanderous. They read as follows:

"Mang-aagaw ng asawa ng may asawa! Tibihon! Putang Ina Mo! Walang Hiya! Patay Gutom!"

The fiscal translated them as follows:

"Seducer of wives of other husbands or adulteress. Consumptive. Your mother is a prostitute. You do not have a sense of shame. You are a glutton."

Judge Gonzalez, after postulating the major premise that the entire defamation in question should be given an ordinary and peculiar significance in order to render it effectual in the sense most likely understood by the parties and which is in keeping with the purpose and intent of the party who uttered them, held that the controlling slanderous utterance is the first part which literally means: "one who grabs another's husband," thereby "imputing the commission of the crime of adultery," while the rest are mere "accompanying and supporting phrases and terms used to give more vivid color and importance to the first portion."

In the light of the above rule of determining whether the offense of oral defamation or libel has been committed, it is evident that the last part of Judge Gonzalez' major premise focusing on the purpose and intent of the speaker is erroneous.

Equally erroneous is his literal translation of the first portion of the alleged defamatory utterance. We agree with appellants that "mang-aagaw ng asawa may asawa," even if translated as "one who grabs another's husband," does not necessarily mean an adulteress. At most, it may imply that the person to whom it is addressed is a "flirt, a temptress, or one who indulges in enticing other husbands;" hence, it is more of an imputation of a vice, condition or act not constituting a crime.

If indeed it were the intention of the appellee to impute upon the offended party the crime of adultery, then in the light of the charge that the remarks were made "in the heat of anger" or that, as Judge Gonzalez described it, they were uttered in a manner "depicting the temper, emotion, demeanor and the hatred of the petitioner (accused in the lower court) owing perhaps to a fit of jealousy arising from her suspicion that the offended party is having

immoral relations with her husband," appellee should have used more direct, pointed and descriptive terms to convey the accusation that the offended party is an adulteress. Under such circumstances, she would not have the luxury of time to choose less offensive or even harmless words to camouflage a clear intent to defame the other and thus avoid criminal or civil liability for the utterance. On its face, her statement is merely suggestive of a doubt as to the kind of relationship the offended party would have with married men. It is thus an imputation of some kind of moral depravity, immoral conduct or a vice, but certainly not of a crime.

Neither do we agree with Judge Gonzalez' conclusion that the other portions of the alleged slanderous remarks "are mere accompanying and supporting phrases and terms used to give more vivid color and importance to the first portion." The other remarks are by themselves defamatory and are not at all related to the first portion. They were uttered to impute a condition, defect, status or vice intended to cause dishonor, discredit or contempt on the offended party. "Tibihon" means a person suffering from tuberculosis, and not "consumptive" as translated by the fiscal. "Putang Ina Mo," although referring to a mother, was meant to suggest that the offended party is not a legitimate daughter of her mother. "Walang-Hiya," which means "shameless," could relate to the offended party's being a flirt, seducer, or a daughter of a prostitute. "Patay-Gutom" is a derogatory remark connoting abject poverty entirely unrelated to the first portion. In short, the other imputations did not give color and importance to the first portion; they were uttered merely to expose all the possible vices, defects, real or imaginary, status, or condition of the offended party. None of these, however, imputed any crime.

Accordingly, the last paragraph of Article 360 of the Revised Penal Code which provides that:

"No criminal action for defamation which consists in the imputation of a crime which cannot be prosecuted de oficio shall be brought except at the instance of and upon complaint expressly filed by the offended party."

which has specific reference to the crimes against chastity,[10] and the second paragraph of Section 5, Rule 110 of the Rules of Court which provides:

"The crimes of adultery and concubinage shall not be prosecuted except upon a complaint filed by the offended spouse. x x x"

are not applicable in this case since, as above discussed, the alleged slanderous utterances subject of the assailed information do not impute any crime which cannot be prosecuted de oficio.

The foregoing considered, neither *People vs. Yu*, cited by the appellant, nor *People vs. Padilla*, cited by appellee, is applicable in this case. The first refers to a prosecution "for rape with murder" (included in the generic term homicide) under Article 335 in relation to Article 48 of the Revised Penal Code. A single act resulted in two (2) grave felonies. Appellants admit that in the instant case, the remarks were made in one occasion and that even granting for the sake of argument that one portion imputes a crime which cannot be prosecuted de oficio, the rest, however, can be, hence the applicability of *People vs. Yu*. The argument is flawed by the wrong assumption that Article 48 of the Revised Penal Code applies in this case. Under said Article, there is a complex crime when a single act constitutes two (2) or more grave or less grave felonies, or when an offense is a necessary means for committing another. Appellants apparently forgot that it is their thesis that the rest of the utterances did not impute any crime but merely a "vice, defect, act, and condition not constituting a crime;" otherwise stated, regardless of the number of defamatory utterances, the appellee can only be prosecuted for a single offense.

Neither is *People vs. Padilla* applicable. In that case, the special counsel of Pasay City accused Lydia Padilla of the offense of intriguing against honor[11] in an information which alleges that "with the principal purpose of blemishing the honor and reputation of one Fausta Bravo, a married woman, (the accused did) circulate and spread gossips, rumors or stories highly offensive and defamatory to her honor, virtue and reputation, by then and there telling some people in the neighborhood that said Fausta Bravo was a paramour of one Sangalang, a man not

her husband.”[12] The lower court dismissed the case on the ground that it was not initiated by a complaint filed by the offended party pursuant to paragraph 4 of Article 360 of the Revised Penal Code, considering that it involves an imputation of a crime which cannot be prosecuted de officio. This Court sustained the dismissal for the reason that the import of the allegation in the information cannot be mistaken -- “[I]t charges Fausta Bravo with committing adultery pure and simple.” Contrary then to the pretension of appellee, only one (1) crime was imputed -- adultery.

WHEREFORE, the Decision appealed from in SP Civil Case No. 5270 of the court below dated 7 June 1967 is hereby REVERSED. The Order of the City Court of Davao City of 27 July 1966 in Criminal Case No. 2273-B denying the motion to quash is hereby REINSTATED and said court is directed to proceed with the arraignment, if one has not yet been had, and the trial of the case on its merits.

Costs against petitioner-appellee.

IT IS SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Bidin, and Romero, JJ., concur.

[1] Rollo, 23, et seq.

[2] Brief for Respondents-Appellant, 1-2; 5-13.

[3] People vs. Yu, L-13780, 28 January 1961, 1 SCRA 199.

[4] Rollo, 27, et seq.

[5] L-11575, 24 January 1959, 105 Phil. 45.

[6] People vs. Castro, 43 Phil. 842; 53 C.J.S. 34-35.

[7] Article 353, Revised Penal Code.

[8] 53 C.J.S 283.

[9] U.S. vs. O'connell, 37 Phil. 767.

[10] Article 344 of the Revised Penal Code.

[11] Article 364 of the Revised Penal Code.

[12] Underscoring supplied for emphasis.

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.