

ANTONIO Y. MAYUGA, PETITIONER-APPELLANT, VS. CESAR R. MARAVILLA, JUSTICE OF THE PEACE OF THE MUNICIPALITY OF ODIONGAN AND AQUILINO GALLOMOSA, RESPONDENTS-APPELLEES.

G.R. No. L-18826. December 17, 1966

Ponente: BENGZON, J.P., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/689350c17893/>

BENGZON, J.P., J.:

On March 22, 1960, Aquilino Galloraosa, through then acting Provincial Fiscal Edmundo Ruado, filed before the Justice of the Peace of Odiongan, Romblon an information (Criminal Case No. 4720) against Antonio Mayuga, charging him of Homicide Through Reckless Imprudence, alleging that he failed to remove an intestinal pack (rolled gauze) from the surgical opening which he, as a medical practitioner, made in a cesarean operation on Gallomosa's wife, Avelina Gallomosa, causing infection and leading to her death on December 8, 1956.

After conducting a preliminary examination, the Justice of the Peace, Cesar Maravilla, found that a prima facie case existed and ordered Mayuga's arrest.

Before the preliminary investigation, Mayuga, on August 30, 1960 moved to quash the information on the ground that the accompanying annexes and oral testimonies made in the preliminary examination conducted by the Justice of the Peace were all hearsay and insufficient to establish a prima facie case.

When the Justice of the Peace after due hearing denied the motion to quash as well as subsequent motions for reconsideration as being without merit, the accused on November 20, 1960 petitioned for certiorari before the Court of First Instance of Romblon alleging grave abuse of discretion on the part of the Justice of the Peace and seeking the annulment of his orders and the dismissal of the information.

On January 21, 1961 the Court of First Instance issued an order dismissing the petition for lack of merit and directed the Justice of the Peace to continue with the preliminary investigation of Criminal Case No. 4720.

After denial on February 8, 1961 of motion for reconsideration the accused appealed the order of dismissal to the Court of Appeals. The latter however certified the case to Us on questions of law: (1) Was the Court of First Instance in error in upholding the actuations of the Justice of the Peace? (2) Was the outright dismissal of the petition for certiorari also an error?

Appellant objects to the following, as insufficient basis for the existence of a prima facie case:

- 1) Exhibit A—an allegedly unsigned, unauthenticated and unidentified true copy of a purported autopsy report issued by Dr. Perpetua Penales on March 4, 1957. She was not presented for cross examination.
- 2) Exhibit B—a certificate stating that Avelina Gallomosa died on December 8, 1956 signed by the Municipal Treasurer, whose signature was not identified.

3) Exhibit C—a partly accomplished, unsigned and unattested form of certificate of death of the Bureau of Health later substituted by a photostatic copy marked as Exhibit C-1.

4) The testimonies of the deceased's husband Aquilino Gallomosa, Sancho Pargao, rural health nurse who attended during the autopsy, and Dr. Godofredo Fatalla, incumbent Municipal Health Officer.

Appellant should bear in mind that a preliminary examination such as was conducted by the Justice of the Peace has for its purpose only the determination of whether a crime has been committed and whether there is probable cause to believe the accused guilty thereof,[1] and if so, the issuance of a warrant of arrest. And it should not be forgotten that a preliminary investigation has two stages:[2] First, a preliminary examination of the complainant and his witnesses prior to the arrest of the accused;[3] and, second, the reading to the accused after his arrest of the complaint or information filed against him, and his being informed of the substance of the evidence against him, after which he is allowed to present evidence in his favor, if he desires.[4] Probable cause, in regard to the first stage of preliminary investigation, depends on the discretion of the Judge or magistrate empowered to issue the warrant of arrest. It suffices that facts are presented to him to convince him, not that a person has committed the crime, but that there is probable cause to believe that such person committed the crime charged.[5] The proceeding is generally *ex parte*[6] unless the defendant desires to be present and while under the old Rules the Justice of the Peace or investigating officer must take the testimony of the complainant and the latter's witnesses under oath, only the testimony of the complainant shall be in writing and only an abstract or brief statement of the substance of the testimony of the other is required.[7] Regarding preliminary investigation, it has thus been ruled that "the occasion is not for the full and exhaustive display of the parties' evidence; it is for the presentation of such evidence only as may engender well-grounded belief that an offense has been committed and that the accused is probably guilty thereof.[8] Accordingly, it has been ruled that "a justice of the peace court is not prohibited by any law "from reaching the conclusion that "probable cause" exists from the statement of the prosecuting attorney alone or any other person whose statement or affidavit is entitled to credit in the opinion of the judge or magistrate." "[9]

We note that aside from the above-enumerated documentary evidence alleged to be hearsay, there are testimonies of witnesses and also the affidavits of the complaining witness Aquilino Gallomosa and of Dr. Perpetua Penales, attached to the petition for certiorari as annexes A and B, respectively. These testimonies alone even excluding said documents alleged to be hearsay evidence, under the rules then applicable and the jurisprudence, are sufficient to uphold the conclusion of the Justice of the Peace in his finding that a *prima facie* case existed. In fact We find that in looking into the matters objected to as inadmissible and insufficient, the Justice of the Peace did more than that required to form his conclusion, an act commendable of him in his efforts to clear his mind of doubts in forming his opinion which the Court of First Instance correctly upheld.

Appellant further argues that under Section 6 of Rule 67, now Section 6 of Rule 65, Rules of Court, a petition for certiorari, once sufficient in form and substance, should be answered and the Court of First Instance should have required the Justice of the Peace to do so before dismissing the petition. Suffice it to observe that precisely in this case the petition is deficient in substance. And as held in *Arvisu v. Vergara*, 90 Phil. 621, 623-623: "On principle, dismissal (of a petition for certiorari) would also be proper if before answer is filed, the attention of the court is called to the fact that from its own allegations the petition appears to be without merit." "[10]

WHEREFORE, the order of dismissal appealed from is hereby affirmed and respondent Justice of the Peace is directed to proceed with the preliminary investigation of Criminal Case No. 4720, with costs against the appellant.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Barrera, Dizon, Regala, Makalintal, Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

[1] Lozada v. Hernandez, 92 Phil. 1051.

[2] Biron v. Cea, 73 Phil. 673; Rodriguez v. Arellano, L-8332, April 30, 1955.

[3] Rule 108, Sec. 1 of old Rules of Court, Now Rule 112, Sec. 1, with modifications.

[4] Rule 108, Sec. 11 of old Rules of Court, now Rule 112, Sec. 10.

[5] U.S. v. Ocampo, 18 Phil. 1.

[6] People v. Moreno, 77 Phil. 548.

[7] Rule 108, Sec. 6 of old Rules of Court, now Rule 112, Sec. 5, with modifications.

[8] Hashim v. Boncan, 71 Phil. 216, 225.

[9] People v. Olandag, 92 Phil. 286, 288, citing U.S. v. Ocampo, 18 Phil. 1.

[10] Reiterated in Santos Chan v. Galang, L-21732, Oct. 17, 1966.

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.