

**SANTIAGO MEDRANA, SR. AND SANTIAGO MEDRANA, JR.,
PETITIONERS AND APPELLEES, VS. HON. GAVINO R. SEPULVEDA
AND HON. MANUEL CABAGUIO, IN THEIR CAPACITIES AS JUDGE
AND FISCAL, RESPE...**

G. R. No. L-10450. October 31, 1957

Ponente: REYES, A., J.

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REYES, A., J.:

This is an appeal from an order of the Court of First Instance of Davao Province, requiring the municipal court of Davao City in a murder case pending before it for preliminary investigation to conduct such investigation "by requiring the prosecution to present witnesses or evidence against the accused."

From the stipulation of facts submitted by the parties, it appears that on September 12, 1955, the city fiscal of Davao filed in the municipal court of that city an information for murder against the herein appellees, with a certification to the effect that a preliminary investigation had been conducted in the case and the witnesses examined under oath. On the strength of that certification, the municipal judge had the accused arrested, and after their arraignment and following their plea of not guilty, set a date for the holding of the preliminary investigation. To prepare for the investigation the accused moved that they first be informed of "the substance of the testimony and evidence presented against them" in accordance with section 11 of Rule 108. But the prosecution objected, contending that the reading of the information to them was sufficient compliance with the rule. And the objection having been sustained, the defense petitioned the Court of First Instance of Davao to have the municipal judge grant what was prayed for in its motion.

Acting on the petition, the Court of First Instance, after hearing, handed down its order, which is the subject of the present appeal.

Obviously, the object of the preliminary investigation for which, a day was set by the municipal judge in the present case was to determine if there was reasonable ground for holding the defendants for trial before the Court of First Instance. The procedure for such investigation is outlined in section 11 of Rule 108, which

"SEC. 11. Rights of defendant after arrest.—After the arrest of the defendant and his delivery to the court, he shall be informed of the complaint or information filed against him. He shall also be informed of the substance of the testimony and evidence presented against him, and, if he desires to testify or to present witnesses or evidence in his favor, he may be allowed to do so. The testimony of the witnesses need not be reduced to writing but that of the defendant shall be taken in writing and subscribed by him."

As stated by Chief Justice Moran in his "Comments on the Rules of Court" (1957 ed., Vol. 2, p. 676), the purpose of this section "is to afford the accused an opportunity to show by his own evidence that there is no reasonable ground to believe that he is guilty of the offense charged and that, therefore, there is no good reason for further holding him to await trial in the Court of First Instance." To that end the section requires that the accused be informed not only of the accusation against him but also of the substance of the testimony and other evidence to

support that accusation. Needless to say, merely informing him of the charge by reading to him the information or complaint will not necessarily apprise him of the evidence he has to controvert, thus leaving him in a position where he cannot properly show his innocence or at least the absence of reasonable ground to put him upon trial. It follows that in denying to the present defendants the right to be informed of "the substance of the testimony and evidence presented against them" the municipal judge did not comply with what is clearly required by the Rules.

But while hypothetically conceding this proposition, the city fiscal would still maintain that the Court of First Instance went beyond the law in ordering the municipal judge to require the prosecution to present witnesses. Actually, the order is to require the prosecution "to present witnesses or evidence against the accused." As thus worded, the order does not really require the presentation of witnesses, for it also permits the alternative of requiring other evidence instead, which may be satisfied with the presentation of an abstract or resume of the testimony and evidence against the accused. What the order clearly implies is that the municipal judge should comply with the requirement of section 11 of Rule 108 that the defendants be informed of the evidence presented against them so that they may be in a position to rebut it with evidence of their own.

The claim of the city fiscal that defendants also asked for copies of the affidavits of witnesses against them is denied and is not borne out by the record. It is therefore unnecessary to determine whether defendants were entitled to such copies.

Wherefore, the order complained of is affirmed, without special pronouncement as to costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Concepcion, Reyes, J. B. L., and Endencia. JJ., concur.

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