

**PEOPLE OF THE PHILIPPINES, REPRESENTED BY 5TH ASSISTANT
PROVINCIAL FISCAL RODOLFO R. AQUINO, OF PANGASINAN,
PETITIONER, VS. HON. MAGNO B. PABLO, JUDGE OF THE COURT OF
FIRST INST...**

G.R. No. L-37270. July 30, 1982

Ponente: RELOVA, J.

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RELOVA, J.:

The Acting Chief of Police of Bolinao, Pangasinan filed with the Municipal Court of that municipality a complaint, docketed as Criminal Case No. 2341, against herein private respondent Florendo Caracas, Jr. for serious physical injuries, as follows:

"That on or about the 4th day of March, 1973, at about 6:00 P.M., in sitio Ogalde, Binabalian, Bolinao, Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon one MARIANO CAASI Y ROMERO, by then and there striking him with a stone, thereby inflicting upon the latter lacerated wound about 1 inch at the buccal surface of the upper and lower lips; TEETH UPROOTED

A. UPPER TEETH-

- (1) 2 central incisors
- (2) 1 lateral incisor
- (3) 1 cuspid incisor
- (4) 1st bicuspid incisor

B. LOWER TEETH-

- (1) 1 central lower incisor
- (2) 1 lower lateral incisor
- (3) 1 cuspid

which injuries cause the deformation of the mouth of Mariano Caasi y Romero for having lost his seven (7) teeth thereof.

"CONTRARY TO LAW, with the aggravating circumstances that the said Offense was committed during night time."

The Municipal Court of Bolinao forwarded the case to the Court of First Instance of Pangasinan, docketed as Criminal Case No. 283-A, following a "waiver" by Caracas of the preliminary investigation. The records were then sent by the Clerk of Court to Assistant Provincial Fiscal Rodolfo R. Aquino for the refiling of the

corresponding information. Instead of filing the information, Fiscal Aquino filed a motion to remand the case to the "court of origin with the order that the Municipal Court of Bolinao, Pangasinan try the case on its merits."

The motion to remand alleged that:

"1. The accused herein is charged with the crime of Serious Physical Injuries punishable under paragraph 3 of Article 263 of the Revised Penal Code the penalty for which is prision correccional in its minimum and medium periods;

"2. This is a case which falls under the concurrent jurisdiction of the municipal court of Bolinao, Pangasinan and this Honorable Court in accordance with paragraph 2 of Section 87 of the Judiciary Act of 1948, as amended, which provides that municipal judges shall have original jurisdiction over 'Assault where the intent to kill is not charged or evident upon the trial;'

"3. Inasmuch as the municipal court of Bolinao, Pangasinan first acquired jurisdiction over the case this Court is excluded from trying the case following the principle that where two courts have concurrent jurisdiction over a certain case the first court which acquires jurisdiction thereof, acquires it to the exclusion of the other."

Respondent CFI Judge Magno B. Pablo to whom the case had been assigned denied the motion on the ground that the case did not fall within the concurrent jurisdiction of the two courts. He also denied petitioner's motion for reconsideration. Hence, this petition for certiorari, prohibition and mandamus with preliminary prohibitory injunction praying that:

(a) respondent court's order of July 17, 1973 denying the motion to remand and the order of July 20, 1973 denying the motion for reconsideration be declared null and void;

(b) respondent court desist from further proceeding in the case;

(c) respondent court remand the case to the Municipal Court of Bolinao for trial on the merits.

It is the position of petitioner that the municipal court acquired jurisdiction of the case upon the filing of the complaint which did not contain the customary phrase "for preliminary investigation," in which case the complaint must be deemed to have been filed for the purpose of commencing prosecution and not merely for preliminary investigation; that the action of the Chief of Police in filing the case in the Municipal Court can only mean that he was filing it for trial rather than for preliminary investigation; that the prior assumption of jurisdiction by the Municipal Court precluded the Court of First Instance from acquiring jurisdiction; and that the Municipal Court erred when it forwarded the case to the Court of First Instance on the basis of a waiver by the accused of his right to a preliminary investigation.

On the other hand, respondent Judge argued that when an offense is cognizable by the Court of First Instance (Serious Physical Injuries in the case), there shall be a preliminary investigation pursuant to Section 1, Rule 112 of the Revised Rules of Court; that the Municipal Court in this case conducted a preliminary investigation leading to the arrest of the accused who, on May 21, 1973, waived the second stage of the preliminary investigation following which the Municipal Court forwarded the case to the Court of First Instance for further proceedings; that there is no circumstance whatsoever that would indicate that the Municipal Court intended to try the case in order to acquire jurisdiction to the exclusion of the Court of First Instance; that the mere filing of the case by the Chief of Police with the Municipal Court did not vest jurisdiction in the said court to try the case on the merits.

Under the law, assault where the intent to kill is not charged or evident upon the trial comes within the concurrent jurisdiction of the municipal court and the Court of First Instance. The complaint filed by the Chief of Police shows that Mariano Caasi y Romero suffered loss of teeth and which injuries caused the deformation of his mouth "for having lost 7 teeth thereof."

The decisive consideration is whether or not the Municipal Judge of Bolinao has the authority to conduct any preliminary investigation over a case which falls within the concurrent jurisdiction of the Inferior Court and the Court of First Instance.

This issue has been resolved in the cases of *People of the Philippines vs. Abejuela* and *People of the Philippines vs. Endan*, 38 SCRA 324. This Court, speaking through Mr. Justice Teehankee, held that the accused in an offense falling within the concurrent jurisdiction of the Inferior Courts and Courts of First Instance, is not entitled to be heard in a preliminary investigation. By way of explanation, this Court said: "The loss of time entailed in the conduct of preliminary investigations, with the consequent extension of deprivation of the accused's liberty, in case he fails to post bail, which at times outlasts the period of the penalty provided by law for the offense, besides the mental anguish suffered in protracted litigations, are eliminated with the assurance of a speedy and expeditious trial for the accused, upon his arraignment (without having to undergo the second stage of the preliminary investigation), and of a prompt verdict do his guilt or innocence. On the other hand, the so-called first stage of preliminary investigation or the preliminary examination, conducted by the duly authorized officer, as borne out by the examination and sworn written statement of the complainants and their witnesses, generally suffices to establish the existence of reasonable ground to charge the accused with having committed the offense complained of."

Considering the doctrine laid down in said cases, the Municipal Court of Bolinao, Pangasinan should not have conducted a preliminary investigation but should have tried the case on the merits. Besides, there is no showing that when the Chief of Police filed the case with the Municipal Court, it was for preliminary investigation. Upon the filing of said case, the Municipal Court acquired jurisdiction over it to the exclusion of the Court of First Instance.

Thus, the Fiscal was correct in contending that the Municipal Judge erred in forwarding the records of the case to the Court of First Instance; and, that the respondent Judge also erred in refusing to remand the case to the Municipal Court for trial on the merits.

ACCORDINGLY, the petition is granted, respondent court's orders of 17 July and 20 July 1973 are set aside, and respondent Judge is hereby ordered to remand the case to the Municipal Court of Bolinao for trial on the merits.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Melencio-Herrera, Plana, and Vasquez, JJ., concur.
Gutierrez, Jr., J., on leave.

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