

**PAULA MANDURIAO, PETITIONER-APPELLANT, VS. ROQUE HABANA,
JUANITO DAYSON AND GLORIA SERRANO,
RESPONDENTS-APPELLEES.**

G.R. No. L-28069. August 18, 1977

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about prescription of the crime of lesiones leves.

On February 24, 1962 the acting chief of police of Bacon, Sorsogon filed in the justice of the peace court a complaint im-puting to Paula Manduriao grave slander with slight physical injuries. He alleged that Paula uttered against Gloria Serrano on February 21, 1962 the following defamatory words:

"You are a prostitute. You are the worst woman in town. Your family is the dirtiest family in town. I did not allow my son Raul to marry you because you were the one who courted him."

It was further alleged in the complaint that after uttering those defamatory words, Paula boxed Gloria on the face and forehead, thus inflicting on her injuries that would heal in eight days (Criminal Case No. 812).

Paula waived the preliminary investigation. The case was elevated to the Court of First Instance (Criminal Case No. 2952).

Because the fiscal thought that the complaint should be signed by the offended party (See art. 360, last paragraph, Revised Penal Code; *People vs. Padilla*, 105 Phil. 45) and that there is no offense of grave slander with lesiones leves, he filed a motion to dismiss the charge of grave slander without prejudice to filing the proper complaint. He also moved for the return of the record to the justice of the peace court for the prosecution of the offense of lesiones leves. The Court of First Instance granted that motion in its order of July 20, 1962.

On September 12, 1962, or after the record was returned to the inferior court, the chief of police filed an amended complaint in Criminal Case No. 812 for lesiones leves only. Paula filed a motion to quash which was denied by the court in its order of October 24, 1962.

On February 23, 1963, or after her motion for reconsideration was denied, Paula filed in the Court of First Instance of Sorsogon a petition for prohibition to restrain the justice of the peace court from trying the case for slight physical injuries against her. She contended that the offense had prescribed and that the justice of the peace court erred in not dismissing the case. (Civil Case No. 1815).

Respondents justice of the peace and Gloria Serrano, the offended party, answered the petition. The parties entered into a stipulation of facts. The lower court in its decision dated March 16, 1975 dismissed the petition. It ruled that the offense had not yet prescribed because the amended complaint retroacted to the filing of the original complaint.

Paula Manduriao appealed to the Court of Appeals. That Court in its resolution of August 31, 1967 elevated the

appeal to this Court because it involves only a question of law. (CA-G. R. No. 36244-R).

Appellant Manduriao contends that the lower court erred in holding that the amended complaint is valid and that the offense of lesiones leves had not yet prescribed. She re-lies on the provision in article 90 of the Revised Penal Code that light offenses prescribe in two months.

She argues that the complaint in Criminal Case No. 812 could not have been amended because after that case was docketed in the Court of First Instance as Criminal Case No. 2952, it was dismissed and so it became "nonexistent".

That is a captious or misleading argument because the trial court unmistakably stated in its order that it was dismissing the complaint for grave slander without prejudice and, at the same time, it was remanding the case for slight physical injuries to the justice of the peace court for trial on the merits. Contrary to appellant's contention, the slight physical injuries case was not terminated.

However, because the two crimes were originally charged in one complaint, the chief of police had no choice but to amend that complaint by eliminating the charge for grave slander so that Paula Manduriao would be tried only for slight physical injuries on the basis of an indictment charging solely that crime. In amending the complaint, the chief of police merely implemented the order of dismissal issued by the Court of First Instance.

The contention that the offense of lesiones leves had in the meantime prescribed is palpably unmeritorious. Article 91 of the Revised Penal Code provides that the period of prescription "shall be interrupted by the filing of the complaint or information, and shall commence to run again when such proceedings terminate without the accused being convicted or acquitted, or are unjustifiably stopped for any reason not imputable to him".

The sixty-day prescriptive period for light offenses was interrupted in this case when the chief of police filed the original complaint for grave slander with slight physical injuries in the justice of the peace court on February 24, 1962. Only three days of that period had elapsed when it was interrupted by the filing of that complaint. That interruption has continued up to this time.

The trial court did not err in holding that the amended complaint retroacted to the time of the filing of the original complaint (*Arcaya vs. Teleron*, L-37446, May 31, 1974, 57 SCRA 363, 366, a case quite similar to the instant case).

Finding no error in the lower court's order dismissing the petition the same is affirmed. The municipal court of Bacon is directed to try Criminal Case No. 812. Costs against the petitioner-appellant.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, Concepcion, Jr., and Santos, JJ., concur.

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