

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS,
AUSPICIO ROMUALDO, DEFENDANT AND APPELLANT.***G.R. No. L-3686. January 31, 1952*

Ponente: REYES, J.

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REYES, J.:

On April 14, 1947 a passenger truck driven by Auspicio Romualdo ran into a tree on the side of the road due to reckless driving and in consequence several passengers suffered bodily injuries. Two of those injured—Sergia Blaza and Anatecla Abaya—filed a complaint against Auspicio Bomualdo for serious physical injuries in the justice of the peace court. Elevated to the Court of First Instance after the preliminary investigation the case was, upon motion of the fiscal, ordered returned to the justice of the peace court on the ground that it was properly triable there. Once the case was in that court and the complaint amended so as to charge less serious physical injuries through reckless imprudence it was there tried jointly with another case for the same offense filed against the same accused by another injured passenger named Joaquin Julian, the trial resulting in the conviction of the accused in both cases and his being sentenced to 1 month and 1 day of imprisonment and the costs of suit. (Action for civil liability was reserved.) From this sentence the accused appealed to the Court of First Instance where the two cases were docketed as criminal cases Nos. 545 and 546.

In the meantime two other cases for physical injuries through reckless imprudence were filed against the same accused in the same justice of the peace court by two other injured passengers—Artemio Agustin and Remedios Valencia—and (presumably after a preliminary investigation) later forwarded to the Court of First Instance where they were docketed as criminal cases Nos. 506 and 538. With the idea of consolidating all of the cases against the same accused into one, the provincial fiscal moved for the dismissal of cases Nos. 545 and 546, and upon the motion being granted he filed an amended information merging those cases and case No. 538 with case No. 506. But when the consolidated cases were called for hearing the accused filed a motion to quash on the ground that "the dismissal of the appealed criminal cases Nos. 545 and 546 upon motion of the Provincial Fiscal without the knowledge or consent of the accused constitutes double jeopardy and therefore, the accused could no longer be prosecuted for the same offense." But the motion was denied and trial was held, after which the accused was found guilty and sentenced to four months' imprisonment, with the accessories of the law, and to indemnify the offended party Joaquin Julian, in the sum of P270 or suffer subsidiary imprisonment in case of insolvency and to pay the costs, the right of Remedios Valencia to bring a separate civil action being reserved. From this judgment the accused has appealed.

The case hinges on whether the justice of the peace court had jurisdiction to try and decide the two cases that were appealed to the Court of First Instance. And the answer to that question in turn depends upon whether it is the Revised Penal Code or the Revised Motor Vehicle Law that should be applied. The complaints in both cases use the term "less serious physical injuries through reckless imprudence" in characterizing the offense charged, but there is no question that the facts therein alleged do also constitute a violation of section 67 (d) of the Revised Motor Vehicle Law which says:

"SEC. 67 (d)—If, as the result of negligence or reckless or unreasonably fast driving, any accident occurs resulting in death or serious bodily injury to any person, the motor vehicle driver or operator at fault shall, upon conviction, be punished by imprisonment for not less than 15 days nor more than six years in the discretion of the court."

In the case of *People vs. Aquino* (47 Off. Gaz., No. 8, p. 4153) [*] this Court held that the Automobile Law (Act No. 3992) had superseded the provisions of Article 865 of the Revised Penal Code (referring to imprudence and negligence) in cases of offenses resulting from criminal negligence of the offender while operating a motor Vehicle, "the purpose of the lawmaker being to curb such Violations by prescribing therefor a more severe penalty than that provided by the Revised Penal Code for ordinary cases of reckless imprudence." And with particular reference to cases of serious bodily injury caused by reckless driving this Court has specifically ruled that such cases are beyond the jurisdiction of the justice of the peace courts. (*Eustaquio vs. Liwag*, 86 Phil., 540.) In that case we said:

"* * * There is nothing in the Revised Motor Vehicle Law to indicate an intention to confine the application of its section 67 (d) only to cases of automobile accidents resulting in the death of a person. On the contrary, it seems obvious from the provisions of said section that the legislative intent is to make them apply to a wide range of cases from mere physical injuries to death, since the range of penalty provided is 15 days to 6 years of imprisonment. The minimum penalty of 15 days imprisonment is eloquent proof that the said section is also meant to be applied to cases of mere physical injuries."

It is contended, however, that section 67 (d) of the Revised Motor Vehicle Law applies only to automobile accidents resulting in death or serious bodily injury to a person, and the point is made that since the charge against the defendant in the two cases mentioned was for less serious physical injuries those cases come under the Revised Penal Code, and considering the range of penalty therein provided for such offenses they are cognizable by the justice of the peace court. To this contention we can not agree. The phrase "serious bodily injury" used in the automobile law is not necessarily synonymous with the term "serious physical injuries" used in the Revised Penal Code. The automobile law employs the word "serious" 'without regard to the different degrees of seriousness, and the obvious intention is to distinguish a serious bodily injury from a bodily injury which is merely light or trivial. This intention may be deduced from the fact that the minimum of the penalty provided by the Act is only 15 days of imprisonment. This minimum penalty is lower than that provided in the Revised Penal Code for less serious physical injuries through reckless imprudence, which is *arresto mayor* in, its medium and maximum periods. If as already stated by this court in the case of *People vs. Aquino*, above cited, the purpose of the lawmakers is to curb violations of the automobile law through reckless driving by prescribing therefor a more severe penalty than that provided by the Revised Penal Code for ordinary cases of reckless imprudence, there can be no, reason for excepting less serious physical injuries through reckless driving from the purview of section 67 (d) of said law.

Our conclusion, therefore, is that the conviction of the accused by the justice of the peace in the two cases in question was a nullity since those cases were beyond the jurisdiction of that court. At most the proceedings had in that court could only be given the effect of a preliminary investigation so that the elevation of the two cases to the Court of First Instance should not be regarded as an appeal. Such being the case, the filing of a new information after the dismissal of those cases did not expose the accused to double jeopardy.

After this case had reached this Court the Motor Vehicle Law was amended by Republic Act No. 587, which took effect on January 1, 1951, making the infractions committed by appellant punishable under the Penal Code. But the amendment necessitates no change in our conclusion, for "the jurisdiction of a court to try a criminal action is to be determined by the law in force at the time of instituting the action" (*People vs. Pegarum*, 58 Phil. 715), and we find that the penalty imposed below comes within the range of the corresponding penalty in the Penal Code.

The judgment appealed from is, therefore, affirmed, with costs against the appellant.

Paras, C. J., Pablo, Bengzon, Padilla, Tuason, Montemayor, and Jugo, JJ., concur.

* 85 Phil., 604.

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