

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. JUAN DEL ROSARIO, DEFENDANT AND APPELLANT.*G.R. No. L-15140. December 29, 1960*

Ponente: GUTIERREZ DAVID, J.

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Defendant Juan del Rosario was, in an information filed with the Court of First Instance of La Union on October 24, 1957, charged with "maltreatment of a detention prisoner." It is alleged in the information "that on or about the 28th of March, 1957, in the Municipality of Naguilian, Province of La Union," said defendant, then a policeman, "took and confined one Emilio Sy as detention prisoner in the municipal jail thereat and once inside the jail and for the purpose of extorting a confession from the latter, willfully, unlawfully and feloniously maltreated said Emilio Sy by giving him several fist blows, kicked him several times and pulled him by the hair and head and as a result of which said Emilio Sy sustained injuries on the different parts of his body which needed medical treatment for a period from three to four days."

After trial, the lower court found the defendant guilty of mauling Emilio Sy and inflicting upon him the injuries alleged in the information. It did not, however, convict said defendant of the offense charged—there being no showing that the offended party was a prisoner or detention prisoner under his charge—but only of slight physical injuries under Article 266, paragraph 2, of the Revised Penal Code and sentenced him to suffer the penalty of 15 days of *arresto menor*, plus costs. From this sentence, defendant appealed directly to this Court.

In his brief, defendant admits liability for slight physical injuries, a light offense, but contends that the crime has already prescribed, the information against him having been filed more than 6 months after its commission, or beyond the 2-month prescriptive period provided for light offenses.

The Solicitor General, on the other hand, argues that the filing of the complaint or accusation with the office of the Provincial Fiscal for preliminary investigation sometime before April 25, 1957 interrupted the running of the prescriptive period.

Under Article 90 of the Revised Penal Code, light offenses prescribe in two months. Article 91 of the same Code provides that "the period of prescription shall commence to run from the day on which the crime is discovered by the offended party, the authorities, or their agents, and 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 complaint or information referred to in the above quoted provisions which interrupts the running of the prescriptive period, as ruled in the case of *People vs. Tayco* (73 Phil., 509), is that; which is filed in the proper court and not the denuncia or accusation lodged by the offended party in the Fiscals Office. Conformably to this ruling, the defendant cannot legally be convicted of the crime of slight physical injuries, which is a light offense, the information under which he is sought to be held liable having admittedly been filed in court more than two months after the commission and discovery of the offense.

Wherefore, the sentence appealed from is reversed and the case dismissed, with costs de oficio.

Paras, C.J., Bengzon, Padilla, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, and Dizon, JJ., concur.

Judgment reversed.

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