

**ERNESTO VILLANUEVA ET AL., PETITIONERS AND APPELLANTS, VS.
EULALIO CHAVEZ ET AL., RESPONDENTS AND APPELLEES.***G.R. No. L-3472. November 28, 1950*

Ponente: BENGZON, J.

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Barrio Bolbok, Batangas, Batangas was the scene of a street fight in the night of May 16, 1949 between Paterno Biseocho on one side and Ernesto Villanueva and companions on the other. Biseocho suffered some injuries even as Villanueva received a stab wound in the stomach.

Before the justice of the peace of that town, the Chief of Police filed against Paterno Biscocho a complaint for frustrated homicide, which after the corresponding preliminary investigation was forwarded to the superior court. There the fiscal filed the appropriate information for the same offense, and the case is numbered 11611.

Subsequently, i.e. on July 28, 1949, presumably at the suggestion of Paterno Biscocho, the police of the aforesaid municipality of Batangas initiated another investigation of the encounter and presented a complaint for less serious physical injuries against Ernesto Villanueva and his companions. At the trial of this second case the defendants' attorney moved that it be dismissed or that at least it be suspended until the other case No. 11611 in the court of first instance shall have been terminated. He earnestly argued that the prosecution could not possibly maintain two inconsistent positions. Denial of that motion prompted the institution in the court of first instance, of prohibition proceedings against the justice of the peace, the chief of police and other officers. That court, Judge E. Soriano presiding, denied the petition after hearing the parties, holding mainly that the justice of the peace court had jurisdiction, and that the petitioners had an adequate remedy by appeal should they be convicted by the judge thereof.

We are now asked to review and reverse that order of denial.

Although at first glance the prosecution's stand in the second case seems to be inconsistent with the information it had previously filed against Paterno Biscocho,[1] it should be clear that such circumstance alone does not operate to deprive the justice of the peace of its jurisdiction to try the prosecution for physical injuries. As to abuse of discretion, we do not believe the respondent justice of the peace gravely erred in refusing to suspend, because he either expected that such apparent inconsistency will be explained at the trial or otherwise he thought that such contradictory stand may and should be taken into account in passing judgment on the culpability of the accused.

Anyway, as His Honor correctly observed, the remedy of the petitioners is to defend themselves before the justice of the peace, and to appeal in case they are convicted. Writs of prohibition have generally been denied where there is a remedy by appeal. Because petitions of the kind besides unnecessarily clogging the docket, have often been employed either to delay the proceedings or otherwise to obtain undue advantage.

Judgment affirmed, with costs.

Moran, C.J., Paras, Pablo, Padilla, Tuason, Montemayor, Reyes, Jugo, and Bautista, JJ., concur.

[1] Not necessarily, because both sides may be criminally responsible if they had previously agreed to fight. (People vs. Macaspac, 60 Phil., 683; People vs. Bauden, 43 Off. Gaz., No. 6, p. 2020; People vs. Marasigan, 51 Phil., 701).

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