

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF. CIRILA CABALSE,
COMPLAINANT AND APPELLANT, VS. ANTONIO RODRIGUEZ,
DEFENDANT AND APPELLEE.***G.R. No. L-6582. July 29, 1955*

Ponente: PADILLA, J.

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Antonio Rodriguez was charged with the crime of abduction with consent. On 24 March 1952, having entered a plea of guilty, he was sentenced by the Court of First Instance of Davao to suffer 6 months and 1 day of prison correccional, the accessories of the law, and to pay the costs. On the same day the sentence was read he commenced to serve it.

On 27 March, Cirila Cabalse, the offended party, moved that, as provided for in Article 345 of the Revised Penal Code, the defendant be ordered to indemnify her in the sum of P3,000. On 5 April, the Court ordered the defendant to pay her an indemnity of P1,000 and, in case of non-payment thereof, to suffer subsidiary imprisonment not to exceed one-third of the principal penalty. On 5 May, upon motion of the offended party, the Court issued a writ of execution and on 12 May the sheriff levied upon the house of the defendant. On 9 August, on motion for reconsideration filed by the defendant, the Court set aside the order of 5 April which directed the defendant to indemnify the offended party, as well as the writ of execution issued pursuant thereto, on the ground that the defendant having commenced on 24 March the service of the sentence imposed upon him, the judgment became final on that date and the Court lost jurisdiction to enter the order of 5 April granting indemnity to the offended party. Having failed to have the last order reconsidered, the offended party has appealed.

In *people vs. Ursua*, 60 Phil., 252, where the defendant was found guilty of homicide through reckless imprudence and the trial court, upon motion of the private prosecution, refused to enter judgment with respect to the civil liability of the defendant for the reason that the appeal taken by him divested the trial court of jurisdiction to pass upon the question of indemnity to the heirs of the deceased, we held:

The trial court's resolution that, because the cause had been appealed by the accused, it had lost its jurisdiction to pass upon the motion for reconsideration filed by the private prosecution nine days after the date of the judgment, is unfounded.

The right of the injured persons in an offense to take part in its prosecution and to appeal for purposes of the civil liability of the accused (section 107, General Orders No. 58), necessarily implies that such right is protected in the same manner as the right of the accused to his defense. If the accused has the right within fifteen days to appeal from the judgment of conviction, the offended party should have the right within the same period to appeal from so much of the judgment as is prejudicial to him, and his appeal should not be made dependent on that of the accused. If upon appeal by the accused the court altogether loses its jurisdiction over the cause, the offended party would be deprived of his right to appeal, although fifteen days have not yet elapsed from the date of the judgment, if the accused files his appeal before the expiration of said period. Therefore, if the court, independently of the appeal of the accused, has jurisdiction, within fifteen days from

the date of the judgment, to allow the appeal of the offended party, it also has jurisdiction to pass upon the motion for reconsideration filed by the private prosecution in connection with the civil liability of the accused. (Pp. 254-255.)

and remanded the case to the lower court for determination of the civil liability.

As the trial court did not lose jurisdiction over the civil phase of the case even if the defendant had commenced the service of his sentence, no error was committed by it in ordering him to indemnify the offended party in the amount of P1,000 before the expiration of the 15-day period provided for appeal.

The order of 9 August 1952 setting aside that of 5 April 1952 is reversed and the last mentioned order awarding indemnity to the offended party is revived, without costs.

Bengzon, Acting C.J., Montemayor, Reyes, A., Jugo, Bautista Angelof Labrador, Concepcion, and Reyes, J.B.L., JJ., concur.

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