

BENITO FERRER Y RODRIGUEZ, PETITIONER, VS. POTENCIANO PECSON, JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.*G.R. No. L-5221. October 27, 1952*

Ponente: MONTEMAYOR, J.

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On March 1, 1949, petitioner Benito Ferrer y Rodriguez was accused before the Municipal Court of Manila of serious physical injuries through reckless imprudence under criminal case No. 10050 of said court. The complaint alleged that on February 2, 1949, in the City of Manila, petitioner, driver of a jeepney, operated it along Dapitan Street in a careless, reckless and imprudent manner as a result of which said jeepney driven by him sidwiped another jeepney thereby causing a collision, inflicting on a passenger named Avelino Tiu physical injuries consisting of fracture compound, comminuted, middle third, humerus left; fracture compound, comminuted, neck, radius, left, fracture, simple, middle third, radius, ulna left, which injuries have required and will require medical attendance for a period of from six (6) to eight (8) months and have prevented and will prevent the said offended party from engaging in his customary labor during the same period of time. After trial the Municipal Court of Manila found him guilty and sentenced him to three (3) months of arresto mayor. Defendant appealed the case to the Court of First Instance of Manila.

On November 27, 1950, petitioner through counsel filed a motion to dismiss the case on the ground that the Municipal Court of Manila had no jurisdiction over the offense and, consequently, the court of first instance had no appellate jurisdiction. The motion to dismiss was denied by Judge Potenciano Pecson presiding over the court of first instance, but upon motion for reconsideration, the same judge in his order of June 6, 1951 (Annex D), granted the motion for reconsideration and dismissed the case for lack of jurisdiction. On a motion for reconsideration filed by the fiscal, Judge Pecson in his order dated August 29, 1951 (Annex E), revoked his order of June 6, 1951 (Annex D) and declared his first order of December 14, 1950, denying the motion to dismiss as in force. Counsel for defendant Ferrer asked for a reconsideration of this order and upon denial of his motion by order of the respondent judge dated October 31, 1951 (Annex I), has filed the present petition for certiorari to revoke the order of August 29, 1951 (Annex E), and to reinstate the order of June 6, 1951 (Annex D).

After a careful study of this case, we are inclined to agree with the petitioner. The jurisdiction of a court to try a criminal case is to be determined by the law at the time of the institution of the action (*People vs. Pegarum*, 58 Phil., 715). At the time that the complaint in this case was filed on March 1, 1949, in the Municipal Court of Manila, the law penalizing the act imputed to the petitioner was the Revised Motor Vehicle Law (Act No. 3932), section 67 of which provides that if as a result of negligence or reckless or unreasonably fast driving any accident occurs resulting in death or serious bodily injury to any person, the one responsible upon conviction shall be punished by imprisonment for not less than fifteen (15) days nor more than six (6) years in the discretion of the court.

According to a series of cases decided by this court, among them that of *Eustaquio vs. Liwag* (86 Phil., 540) and *People vs. Moreno* (60 Phil., 712), an act of negligence or reckless or unreasonably fast driving resulting in death or serious physical injuries to any person, should be prosecuted under section 67 of the Revised Motor Vehicle Law and not under the Revised Penal Code.

The criminal jurisdiction of a justice of the peace or a municipal court as defined in the Judiciary Act of 1948 approved in June, 1948, is confined to offenses in which the penalty is not more than six (6) months. From this it is clear that the Municipal Court of Manila had no jurisdiction over this case where a maximum penalty of six (6) years may be imposed; and if it had no original jurisdiction, the court of first instance presided over by Judge Pecson had likewise no appellate jurisdiction.

It is true that section 67 of the Revised Motor Vehicle Law (Act No. 3932) was amended by section 16 of Republic Act No. 587 which went into effect on January 1, 1951, in the sense that acts of negligence or reckless or unreasonably fast driving resulting in death or serious bodily injury upon any person shall be prosecuted and punished under the provisions of the Revised Penal Code. But this Act may not be given retroactive effect so as to confer on the municipal court jurisdiction which it did not have when it tried and decided the case against petitioner. It may be true that the provisions of the Penal Code are more favorable to the petitioner in this case as regards the penalty, but when the very accused (herein petitioner) far from invoking the benefits of said Republic Act No. 587, disregards it and instead, invokes the Revised Motor Vehicle Law (Act No. 3932) which was in force at the time that the acts imputed to him were committed, at least for that reason alone the question of retroactivity can not and will not be considered.

Respondents contend that under the Judiciary Act of 1948 as well as the Charter of the City of Manila, the Municipal Court of Manila is given jurisdiction to try criminal cases of assaults where the intent to kill is not alleged or is not evident from the evidence, regardless of the penalty attached to the crime. But it is obvious that acts of negligence in the operation of a motor vehicle which cause a collision and result in physical injuries can hardly be regarded as assaults without the intent to kill.

For the foregoing reasons, the petition for certiorari is hereby granted and the order of respondent judge of June 6, 1951 (Annex D) dismissing the case for lack of jurisdiction is hereby reinstated. No costs.

Paras C. J., Pablo, Bengzon, Padilla, Jugo, Bautista Angelo, and Labrador, JJ., concur.

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