

## THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. OSCAR CASTELO, ET AL., ACCUSED, HERNANDO J. ABAYA, RESPONDENT-APPELLANT.

*G.R. No. 11816. April 23, 1962*

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-11816/>

---

### BAUTISTA ANGELO, J.:

In the issue of March 19, 1955 of the Manila Daily Bulletin an English daily published in the City of Manila while the Monroy murder case was pending decision, the following news story was published:

#### "FOIL EXTORTION TRY ON CASTELO

"Philippine constabulary agents thwarted yesterday an alleged attempt by two society matrons, one of them a parolee, to extort P100,000.00 from former Defense and Justice Secretary Oscar Castelo.

"The two matrons allegedly asked for P100,000 to ensure Castelo's acquittal in the Monroy murder case now awaiting decision by Judge Emilio Rilloraza of the Pasay City Court of First Instance.

"Investigators were questioning the parolee last night and were set to question the other matron on the alleged extortion attempt. The P.C. agents intended to confront the two women with tape recording and pictures taken while the two women were 'negotiating' for the money.

"Castelo confirmed the extortion attempt last night in his Quezon City residence at 25 Sampaloc Avenue. He said the attempt was not consummated because he stopped the transactions. He said he had 'limited' himself to reporting the case to the P.C.

"Castelo said he did not believe Judge Rilloraza had something to do with the attempt of the two women.

"The plan was reportedly broached last March 10 to Miss Adelaida Reyes, one of those originally accused with Castelo in the Monroy murder case. Miss Reyes, who is a friend of the former cabinet member, informed Castelo about the proposal the following day. Castelo in turn reported the matter to the military intelligence service and the constabulary G-2.

"Constabulary agents led by Majors Delfin de la Cruz and Teodulo Natividad laid a trap, using women agents and photographers in the mission. The negotiations reportedly took place in the San Juan de Dios coffee shop on Dewey boulevard.

"The negotiations did not go through because Miss Reyes could not raise the amount. Moreover, Castelo did not approve of the negotiations. He said he would be acquitted anyway in the Monroy murder case.

"In her attempt to help Castelo, Miss Reyes reportedly offered P20,000. She told the two matrons she could raise the amount by selling her house, lot and car. The matrons reportedly laughed at the offer. The amount was reduced to P80,000, but Miss Reyes was still unable to raise it.

"It was during this stage of the negotiations that tape recordings and pictures were taken by P.C. agents in the

coffee shop.

"Miss Reyes gave her written statement yesterday to a constabulary agent. Her narration, which was corroborated by the recordings, in effect follows:

"At 7 p.m., last March 10, she received a telephone call from one of the matrons informing her of 'bad news' about Castelo. The matron allegedly saw Judge Rilloraza's decision sentencing Castelo and the other accused to death for the Monroy case.

"Miss Reyes was told to go to the Dewey Boulevard coffee shop at once if she wanted the decision modified. She met one of the matrons at the shop. She was told to wait for sometime because the other matron was purportedly at the residence of Judge Rilloraza.

"The second matron arrived 20 minutes later. The first matron met and talked with her before she was introduced to Miss Reyes. After the introduction the second matron made the proposal. She tried to make Miss Reyes believe that she actually saw the decision.

"Miss Reyes was asked to pay P100,000 to have the decision changed to one of acquittal. She was made to understand that the second matron and Judge Rilloraza would meet the following day. She was told the two would go together to La Union in connection with a business transaction there.

"Miss Reyes and the two matrons parted. She was given until March 14 to give her answer.

The following day, Miss Reyes informed Castelo. The former cabinet member reportedly got mad. He then reported the matter to the M.I.S. The M.I.S. in turn notified the P.C."

The above news story came to the knowledge of Judge Emilio Rilloraza who was trying the Monroy murder case on December 19, 1955 and so he issued on that date an order citing Hernando Abaya, who admittedly was the news editor who wrote the story, to show cause why he should not be punished for indirect contempt in connection with the publication. A motion to dismiss the contempt citation having been denied, Abaya filed his reply to the citation. Thereafter, the contempt proceeding was set for hearing, after which the court rendered decision finding Abaya guilty of indirect contempt and ordering him to pay a fine of P50.00 payable within 15 days from notice of the decision or to suffer subsidiary imprisonment in case of insolvency. Dissatisfied with this decision, Abaya took the present appeal.

Appellant set up as a defense his constitutional right to publish the news story shielding himself behind the freedom of the press guaranteed by our Constitution. He averred that he published the story in the exercise of the constitutional right of a newsman to report fairly and truthfully all matters of public concern without previous restraint and without fear of subsequent punishment, the publication complained of being a fair and true account of a matter that was at that time under investigation by proper government agencies. The extortion story was news, he said, and he published it in the interest of public service. In effect, the following constitutes his explanation of the publication:

"1. That the publication in question was published in the exercise of the constitutional right of respondent newsman to report publicly and truthfully all matters of public concern without previous restraint and without fear of subsequent punishment, the publication complained of being a fair and true account of a matter at that time under investigation by the proper governmental agencies, without any critical or adverse comment on this Hon. Court:

"a. Any imputation to the contrary as to the motive of respondent newsman is totally bereft of any support in truth and in fact, resting purely in conjecture and indicating a complete failure to appreciate and understand the high standard that animates a news editor when he decides what item is deserving of space in his newspaper, a matter more clearly explained in the words of respondent newsman thus:

'I would like to make a brief statement. In citing me for contempt, this honorable court made the statement, and I quote, "that the news story—whether true or concocted evidently had for its purpose and objective to corrupt and buy the Presiding Judge in order to immorally and unlawfully secure the acquittal of the accused Oscar Castelo in the Monroy murder case—tended directly or indirectly to impede, obstruct or degrade and embarrass the administration of justice."

'This statement hints at motives that never entered in my decision, as a news editor to publish the story. I was guided by only one consideration. The story was news and I was merely performing my duty as a newspaperman in telling the story.

'I might add that in evaluating what constitutes news, I have always relied on my long experience as a newspaperman for 20 years, six of which I spent in big newspapers in the United States.

'The extortion story was news. I published it in the interest of public service.

'I will probably be asked, as other news editors before me had been asked, what the source of the story was, I can only say that the story was written by a member of my editorial staff, whose sense of news value I have no reason to doubt.

'His source of information must remain his secret. He has a right, under the law, to protect his sources of confidential information. Without such protection, persons in possession of information which should belong to the public would be reluctant to pass on tips to the newspapers, or adamant against doing so. Avenues of information leading perhaps to uncovering government graft and corruption would be closed. Wrong-doing would remain hidden.

'There would be no free press in this Republic.'

"2. That on its face, the publication complained of refers to an alleged commission of a crime, and the corresponding information for attempted estafa, after due investigation, has been as a matter of fact, duly filed by the City Fiscal of Pasay City with this Hon. Court;

"3. That such publication, published more than nine (9) months ago, does not constitute improper conduct since as admitted by this Hon. Court itself, it did not influence his decision in the Monroy murder case, nor impede or obstruct the administration of justice, much less degrade any judicial tribunal;

"4. That in the light of the above, it is undeniable that there is no ground for continuing further with this indirect contempt proceedings, the publication not amounting to contempt of court, the order of December 19, 1955 itself containing averments which if true, would constitute a legal excuse and a legal justification; and that any contempt charge, if any exists, has been extinguished by nine (9) months of inaction, all of which would clearly indicate that in this proceeding, there is an infringement on this respondent's constitutional rights sufficient to show that in this particular instance no jurisdiction to cite respondent newsman for contempt exists."

But the trial judge brushed aside the above plea of freedom of the press upon the argument that said freedom is by no means absolute or without limitation. While recognizing that an unmuzzled press must be maintained to the highest level in a democracy like ours, his Honor contended that the right to freedom of the press or freedom of expression, like any other freedom, is not unbridled since the same is subject to certain limitations, such as the laws punishing contempt of court, prohibiting libel and slander, and suppressing sedition, to cite a few, which cannot be transgressed lest we give immunity to license or abuse detrimental to the public good. Indeed, the trial judge said, even the constitutional guaranty of life, liberty and property, or the pursuit of happiness, is subject to such restraints and limitations as are reasonably necessary for the public good. The possession and enjoyment of these rights and freedoms by an individual must be so restricted and limited as to afford their equal possession and enjoyment by his neighbors "for the right of all is superior to the right of anyone." The right or freedom of the

people is supreme. And anchored on this belief, the trial judge concluded that the publication of the news story in question in effect tended, directly or indirectly, to impede, obstruct, degrade, or embarrass the administration of justice because its ultimate purpose is to secure immorally and illegally the acquittal of Oscar Castelo in the Monroy murder case at a time when the same was still pending decision.

Before we proceed to discuss the merits of this case, it is necessary that an objective analysis be made of the published news story to determine its true perspective or the situation under which it was published. This objective analysis is imperative to determine whether it comes within the limitations of the freedom of the press or constitutes a fair and true account of a matter that may come within the scope of a privileged communication. In short, the analysis is necessary to show if appellant has transgressed the bounds of his constitutional freedom as a news editor.

The story as published may be briefly summed up as follows: Philippine constabulary agents investigated two society matrons in their attempt to extort P100,000.00 from Oscar Castelo allegedly to secure his acquittal. The investigators questioned the matrons and took tape recordings and pictures while they were negotiating the money. Castelo confirmed the extortion attempt. The plan was broached to Miss Adelaida Reyes, a friend of Castelo, who upon being informed thereof reported the matter to the military intelligence service of the constabulary (G-2). The negotiations took place in San Juan de Dios coffee shop on Dewey boulevard. There Miss Reyes was told by one of the matrons that she saw the decision sentencing Castelo but that they could secure its change to acquittal if Miss Reyes could raise P100,000.00. The negotiations did not go through because Miss Reyes could not raise the amount. When Miss Reyes informed Castelo of the plan he reportedly got mad.

According to appellant, what he published in his story was a fair and true account of a matter that was then under investigation by constabulary agents without making any comment or criticism. In fact, as a result of said investigation, the two matrons were charged with attempted estafa before the Court of First Instance of Rizal which was then pending trial when this contempt incident came up before this Court.

It thus appears that the narration of the extortion try made in the news story is but an account of the facts then being gathered by the agents of the constabulary who were then investigating the two society matrons involved therein. During the investigation tape recordings and pictures of the negotiations were even taken. The investigation was not carried out confidentially or at closed doors for apparently the reporters or outsiders were not excluded. In fact, similar stories appeared in other newspapers which gave rise to similar contempt proceedings against their news editors as a result of this publication. It is likewise noteworthy that throughout the narration no criticism or comment was ever made casting reflection against the trial judge or tending to influence one way or the other his decision on the pending Castelo case. It was a mere factual appraisal of the investigation.

The question that now arises is: Can the act of appellant in publishing the news story he considered indirect contempt as found by the trial judge?

The trial judge has so found because in his opinion such act constitutes an "improper conduct tending directly or indirectly to impede, obstruct, or degrade the administration of justice", in violation of Section 3 (d), Rule 64, of our Rules of Court. In this connection, the trial judge made the following comment: "It does not require great stretch of the imagination to perceive that the publication or news story in question, in effect, tended, directly or indirectly, to impede, obstruct, or degrade or embarrass the administration of justice, because the obvious ultimate purpose and objective of the alleged P100,000.00 'extortion try' referred to in the said news report or story—whether the plan or scheme is true or concocted or fabricated—was to immorally and illegally secure the acquittal of the accused Oscar Castelo in the said Monroy murder case at a time when the same case was still pending decision."

It should however be noted that there is nothing in the story which may even in a slight degree indicate that the ultimate purpose of appellant in publishing it was to impede, obstruct or degrade the administration of justice in connection with the Castelo case. The publication can be searched in vain for any word that would in any way degrade it. The alleged extortion try merely concerns a news story which is entirely different, distinct and separate from the Monroy murder case. Though mention was made indirectly of the decision then pending in that case, the same was made in connection with the extortion try as a mere attempt to secure the acquittal of Castelo. But the narration was merely a factual appraisal of the negotiation and no comment whatsoever was made thereon one way or the other coming from the appellant. Indeed, according to the trial judge himself, as he repeatedly announced openly, said publication did not in any way impede or obstruct his decision promulgated on March 31, 1955. As this Court has aptly said, for a publication to be considered as contempt of court there must be a showing not only that the article was written while a case is pending but that it must really appear that such publication does impede, interfere with and embarrass the administration of justice (*People vs. Alarcon*, 69 Phil., 265). Here, there is no such clear showing. The very decision of the court shows the contrary.

But, even if it may have that effect, we however believe that the publication in question comes well within the framework of the constitutional guaranty of the freedom of the press. At least it may be said that it is a fair and true report of an official investigation that comes well within the principle of a privileged communication, so that even if the same is defamatory or contemptuous, the publisher need not be prosecuted upon the theory that he has done it to serve public interest or promote public good. Thus, under our law, it is postulated that "a fair and true report, made in good faith, without any comments or remarks, of any judicial, legislative, or other official proceedings which are not of confidential nature, or of any statement, report, or speech delivered in such proceedings, or of any other act performed by public officers in the exercise of their functions", is deemed privileged and not punishable (Article 354, paragraph 2, Revised Penal Code).

The reason behind this privilege is obvious. As it was aptly said, "Public policy, the welfare of society, and the orderly administration of government have demanded protection for public opinion. The inevitable and incontestible result has been the development and adoption of the doctrine of privilege" (*U. S. vs. Bustos*, 37 Phil., 731, 742). On another occasion it was emphasized that "The doctrine of privilege communications rests upon public policy, 'which looks to the free unfettered administration of justice, though, as an incidental result, it may in some instances afford an immunity to the evil-disposed and malignant slanderer' " (*Abbott vs. National Bank of Commerce, Tacoma*, 175 U.S. 409, 411; *Italics supplied*).

While the present case involves an incident of contempt the same is akin to a case of libel for both constitute limitations upon freedom of the press or freedom of expression guaranteed by our Constitution. So what is considered a privilege in one may likewise be considered in the other. The same safeguard should be extended to one whether anchored in freedom of the press or freedom of expression. Therefore, this principle regarding privileged communications can also be invoked in favor of appellant.

A circumstance that mitigates the behavior of appellant is his compelling duty as he sees it to serve public opinion by reporting matters of public concern. He acted imbued with this spirit and compelled by this duty. His main function is to gather news of public interest for his newspaper from sources available to him which at times come under adverse circumstances and this he has a perfect right to do provided that his source comes within the realm of law. In legal parlance, we may say that this source should be one not of confidential nature or not banned for publication. Otherwise, its privileged nature is destroyed. He then becomes amenable to prosecution or disciplinary action. This situation does not here obtain. The source wherefrom appellant obtained the facts of his story was not confidential. Apparently, the investigation was not held behind closed doors, because it was an investigation where the public was not prohibited. For this laxity he should not be blamed. It is the fault of the

agents of the law.

We wish to make one observation on this point. We have of late observed that the agents of the law called upon to investigate a case which involves a violation of the law or a commission of a crime are prone to conduct their investigations openly and publicly even if their purpose is merely to find if there is probable cause that may warrant formal prosecution. This happened not only in this particular case but in others that have come to the official knowledge of the court. This practice should be stopped not only because of the preliminary character of the inquiry but especially to save consequent annoyance or embarrassment, if not a loss of reputation, on the part of those subject of investigation who may later turn out to be innocent. There is even a case where the fiscal has conducted a preliminary inquiry in the presence of newspapermen who were even allowed to ask questions to witnesses. It is high time that their attention be called to the impropriety of such a practice which is not conducive to the proper administration of justice, for its pernicious effects are not only to reveal the evidence of the prosecution prematurely but to annoy and embarrass those who may otherwise be found innocent of the charge. Our duty is to save such embarrassment and to insure an effective prosecution. This admonition goes not only to public prosecutors but to administrative investigation agents of our government as well.

The foregoing considerations lead us to no other conclusion than that appellant is not guilty of the contempt charge and hence he should be acquitted.

WHEREFORE, the decision appealed from is reversed. No costs.

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

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.