

TIMOTEO V. CRUZ, PETITIONER, VS. FRANCISCO G. H. SALVA, RESPONDENT.*G.R. No. 12871. July 25, 1959*

Ponente: MONTEMAYOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-12871/>**MONTEMAYOR, J.:**

This is a petition for certiorari and prohibition with preliminary injunction filed by Timoteo V. Cruz against Francisco G. H. Salva, in his capacity as City Fiscal of Pasay City, to restrain him from continuing with the preliminary investigation he was conducting in September, 1957 in connection with the killing of Manuel Monroy which took place on June 15, 1953 in Pasay City. To better understand the present case and its implications, the following facts gathered from the pleadings and the memoranda filed by the parties, may be stated.

Following the killing of Manuel Monroy in 1953 a number of persons were accused as involved and implicated in said crime. After a long trial, the Court of First Instance of Pasay City found Oscar Castelo, Jose de Jesus, Hipolito Bonifacio, Bienvenido Mendoza, Francis Berdugo and others guilty of the crime of murder and sentenced them to death. They all appealed the sentence although without said appeal, in view of the imposition of the extreme penalty, the case would have to be reviewed automatically by this Court. Oscar Castelo sought a new trial which was granted and upon retrial, he was again found guilty and his former conviction of sentence was affirmed and reiterated by the same trial court.

It seems that pending appeal, the late President Magsaysay ordered a reinvestigation of the case. The purpose of said reinvestigation does not appear in the record. Anyway, intelligence agents of the Philippine Constabulary and investigators of Malacañang conducted the investigation for the Chief Executive, questioned a number of people and obtained what would appear to be confession, pointing to persons, other than those convicted and sentenced by the trial court, as the real killers of Manuel Monroy.

Counsel for Oscar Castelo and his co-defendants wrote to respondent Fiscal Salva to conduct a reinvestigation of the case presumably on the basis of the affidavits and confessions obtained by those who had investigated the case at the instance of Malacañang. Fiscal Salva conferred with the Solicitor General as to what steps he should take. A conference was held with the Secretary of Justice who decided to have the results of the investigation by the Philippine Constabulary and Malacanang investigators made available to counsel for the appellants.

Taking advantage of this opportunity, counsel for the appellants filed a motion for new trial with this Tribunal supporting the same with the so-called affidavits and confessions of some of those persons investigated, such as the confessions of Sergio Eduardo y de Guzman, Oscar Caymo, Pablo Canlas, and written statements of several others. By resolution of this Tribunal, action on said motion for new trial was deferred until the case was studied and determined on the merits. In the meantime, the Chief, Philippine Constabulary, had sent to the Office of Fiscal Salva copies of the same affidavits and confessions and written statements, of which the motion for new trial was based, and respondent Salva proceeded to conduct a reinvestigation designating for said purpose a committee of three composed of himself as chairman and Assistant City Attorneys Herminio A. Avendanio and

Ernesto A. Bernabe.

In connection with said preliminary investigation being conducted by the committee, petitioner Timoteo Cruz was subpoenaed by respondent to appear at his office on September 21, 1957, to testify: "upon oath before me in a certain criminal investigation to be conducted at that time and place by this office against you and Sergio Eduardo, et al., for murder." On September 19, 1957, petitioner Timoteo Cruz wrote to respondent Salva asking for the transfer of the preliminary investigation from September 21, due to the fact that his counsel, Atty. Crispin Baizas, would attend a hearing on that same day in Naga City. Acting upon said request for postponement, Fiscal Salva set the preliminary investigation on September 24. On that day, Atty. Baizas appeared for petitioner Cruz, questioned the jurisdiction of the committee, particularly respondent Salva, to conduct the preliminary investigation in view of the fact that the same case involving the killing of Manuel Monroy was pending appeal in this Court, and on the same day filed the present petition for certiorari and prohibition. This Tribunal gave due course to the petition for certiorari and prohibition and upon the filing of a cash bond of P200.00 issued a writ of preliminary injunction thereby stopping the preliminary investigation being conducted by respondent Salva.

The connection, if any, that petitioner Cruz had with the preliminary investigation being conducted by respondent Salva and his committee was that the affidavits and confessions sent to Salva by the Chief, Philippine Constabulary, and which were being investigated, implicated petitioner Cruz, even picturing him as the instigator and mastermind in the killing of Manuel Monroy.

The position taken by petitioner Cruz in this case is that inasmuch as the principal case of *People vs. Oscar Castelo, et al.*, G. R. No. L-10794, is pending appeal and consideration before us, no court, much less a prosecuting attorney like respondent Salva, had any right or authority to conduct a preliminary investigation or reinvestigation of the case for that would be obstructing the administration of justice and interfering with the consideration on appeal of the main case wherein appellants had been found guilty and convicted and sentenced; neither had respondent authority to cite him to appear and testify at said investigation.

Respondent Salva, however, contends that if he subpoenaed petitioner Cruz at all, it was because of the latter's oral and personal request to allow him to appear at the investigation with his witnesses for his own protection, possibly, to controvert and rebut any evidence therein presented against him. Salva claims that were it not for this request and if, on the contrary, Timoteo Cruz had expressed any objection to being cited to appear in the investigation) he (Salva) would never have subpoenaed him.

Although petitioner Cruz now stoutly denies having made such request that he be allowed to appear at the investigation, we are inclined to agree with Fiscal Salva that such a request had been made. Inasmuch as he, Timoteo Cruz, was deeply implicated in the killing of Manuel Monroy by the affidavits and confessions of several persons who were being investigated by Salva and his committee, it was but natural that petitioner should have been interested, even desirous of being present at that investigation so that he could face and cross examine said witnesses and affiants when they testified in connection with their affidavits or confessions, either repudiating, modifying or ratifying the same. Moreover, in the communication, addressed to respondent Salva asking that the investigation, scheduled for September 21, 1957, be postponed because his attorney would be unable to attend, Timoteo Cruz expressed no opposition to the subpoena, not even a hint that he was objecting to his being cited to appear at the investigation.

As to the right of respondent Salva to conduct the preliminary investigation which he and his committee began, ordinarily, when a criminal case in which a fiscal intervened though nominally, for according to respondent, two government attorneys had been designed by the Secretary of Justice to handle the prosecution in the trial of the case in the court below, is tried and decided and it is appealed to a higher court such as this Tribunal, the functions

and actuations of said fiscal have terminated; usually, the appeal is handled for the government by the Office of the Solicitor General. Consequently, there would be no reason or occasion for said fiscal to conduct a reinvestigation to determine criminal responsibility for the crime involved in the appeal.

However, in the present case, respondent has, in our opinion, established a justification for his reinvestigation because according to him, in the original criminal case against Castelo, et al., one of the defendants named Salvador Realista y de Guzman was not included in the trial much less in the judgment for the reason that he was arrested and was placed within the jurisdiction of the trial court only after the trial against the other accused had commenced, even after the prosecution had rested its case and the defense had begun to present its evidence. Naturally, Realista remained to stand trial. The trial court, according to respondent, at the instance of Realista, had scheduled the hearing at an early date, that is in August, 1957. Respondent claims that before he would go to trial in the prosecution of Realista he had to chart his course and plan of action, whether to present the same evidence, oral and documentary, presented in the original case and trial, or, in view of the new evidence consisting of the affidavits and confessions sent to him by the Philippine Constabulary, he should first assess and determine the value of said evidence by conducting an investigation and that should he be convinced that the persons criminally responsible for the killing of Manuel Monroy were other than those already tried and convicted, like Oscar Castelo and his co-accused and co-appellants, including Salvador Realista, then he might act accordingly and even recommend the dismissal of the case against Realista.

In this, we are inclined to agree with respondent Salva. For, as contended by him and as suggested by authorities, the duty and role of a prosecuting attorney is not only to prosecute and secure the conviction of the guilty but also to protect the innocent.

"We cannot overemphasize the necessity of close scrutiny and investigation of prosecuting officers of all cases handled by them, averse to any form of vacillation by such officers in the prosecution of public offenses, it is unquestionable that they may, in appropriate cases, in order to do justice and avoid in justice, reinvestigate cases in which they have already filed the corresponding informations. In the language of Justice Sutherland of the Supreme Court of the United States, the prosecuting officer "is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape nor innocent suffer. He may prosecute with earnestness and vigor — indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones.; It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one." (69 United States Law Review, June, 1935, No. 6, p. 309, cited in the case of Suarez vs. Platon, 69 Phil., 556).

With respect to the right of respondent Salva to cite petitioner to appear and testify before him at the scheduled preliminary investigation, under the law, petitioner had a right to be present at that investigation since as was already stated, he was more or less deeply involved and implicated in the killing of Monroy according to the affiants whose confessions, affidavits and testimonies respondent Salva was considering or was to consider at said preliminary investigation. But he need not be present at said investigation because his presence there implies, and was more of a right rather than a duty or legal obligation. Consequently, even if, as claimed by respondent Salva, petitioner expressed the desire to be given an opportunity to be present at the said investigation, if he later changed his mind and renounced his right, and even strenuously objected to being made to appear at said investigation, he could not be compelled to do so.

Now we come to the manner in which said investigation was conducted by the respondent. If, as contended by him, the purpose of said investigation was only to acquaint himself with and evaluate the evidence involved in the

affidavits and confessions of Sergio Eduardo, Cosme Camo and others by questioning them, then he, respondent, could well have conducted the investigation in his office, quietly, unobtrusively and without much fanfare, much less publicity.

However, according to the petitioner and not denied by the respondent, the investigation was conducted not in respondent's office but in the session hall of the Municipal Court of Pasay City evidently, to accommodate the big crowd that wanted to witness the proceeding, including members of the press. A number of microphones were installed. Reporters were everywhere and photographers were busy taking pictures. In other words, apparently with the permission of, if not the encouragement by the respondent, news photographers and newsmen had a field day. Not only this, but in the course of the investigation, as shown by the transcript of the stenographic notes taken during said investigation, on two occasions, the first, after Oscar Caymo had concluded his testimony, respondent Salva, addressing the newspapermen said, "Gentlemen of the press, if you want to ask questions I am willing to let you do so and the questions asked will be reproduced as my own"; and the second, after Jose Maratella y de Guzman had finished testifying and respondent Salva, addressing the newsmen, again said, "Gentlemen of the press is free to ask question to the witness if you want to. We are willing to adopt the questions as ours." Why respondent was willing to abdicate and renounce his right and prerogative to make and address the questions to the witnesses under investigation, in favor of the members of the press, is difficult for us to understand, unless he, respondent, wanted to curry favor with the press and publicize his investigation as much as possible. Fortunately, the gentlemen of the press to whom he accorded such unusual privilege and favor appeared to have wisely and prudently declined the offer and did not ask questions, this according to the transcript now before us.

But, the newspapers certainly played up and gave wide publicity to what took place during the investigation, and this involved headlines and extensive recitals, narrations of and comments on the testimonies given by the witnesses as well as vivid descriptions of the incidents that took place during the investigation. It seemed as though the criminal responsibility for the killing of Manuel Monroy which had already been tried and finally determined by the lower court and which was under appeal and advisement by this Tribunal, was being retried and redetermined in the press, and all with the apparent placet and complaisance of respondent.

Frankly, the members of this Court were greatly disturbed and annoyed by such publicity and sensationalism, all of which may properly be laid at the door of respondent Salva. In this, he committed what we regard a grievous error and poor judgment for which we fail to find any excuse or satisfactory explanation. His actuations in this regard went well beyond the bounds of prudence, discretion and good taste. It is bad enough to have such undue publicity when a criminal case is being investigated by the authorities, even when it is being tried in court; but when said publicity and sensationalism is allowed, even encouraged, when the case is on appeal and is pending consideration by this Tribunal, the whole thing becomes inexcusable, even abhorrent, and this Court, in the interest of justice, is constrained and called upon to put an end to it and a deterrent against its repetition by meting an appropriate disciplinary measure, even a penalty to the one liable.

Some of the members of the Court who appeared to feel more strongly than the others favored the imposition of a more or less severe penal sanction. After mature deliberation, we have finally agreed that a public censure would, for the present, be sufficient.

In conclusion, we find and hold that respondent Salva was warranted in holding the preliminary investigation involved in this case, insofar as Salvador Realista is concerned, for which reason the writ of preliminary injunction issued stopping said preliminary investigation, is dissolved; that in view of petitioner's objection to appear and testify at the said investigation, respondent may not compel him to attend said investigation, for which reason, the subpoena issued by respondent against petitioner is hereby set aside.

In view of the foregoing, the petition for certiorari and prohibition is granted in part and denied in part. Considering the conclusion arrived at by us, respondent Francisco G. H. Salva is hereby publicly reprehended and censured for the uncalled for and wide publicity and sensationalism that he had given to and allowed in connection with his investigation, which we consider and find to be contempt of court; and, furthermore, he is warned that a repetition of the same would meet with a more severe disciplinary action and penalty. No costs.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Endencia, and Barrera, 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.