

ISAGANI M. YAMBOT, LETTY JIMENEZ-MAGSANOC, JOSE MA. D. NOLASCO, ARTEMIO T. ENGRACIA, JR. AND VOLT CONTRERAS, PETITIONERS, VS. HON. ARTEMIO TUQUERO IN HIS CAPACITY AS SECRETARY O...

G.R. No. 169895. March 23, 2011

Ponente: LEONARDO-DE CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-169895/>

LEONARDO-DE CASTRO, J.:

This is a Petition for Review on Certiorari (under Rule 45 of the Rules of Court), assailing the Decision[1] of the Court of Appeals in CA-G.R. SP No. 62479 dated July 8, 2005 and its Resolution[2] dated September 29, 2005 in the same case.

The antecedents of this case are as follows:

On May 26, 1996, the Philippine Daily Inquirer (PDI) printed an article[3] headlined Judge mauled me, says court employee, carrying the byline of petitioner Volt Contreras (Contreras). The article reported an alleged mauling incident that took place between respondent Makati Regional Trial Court (RTC) Judge Escolastico U. Cruz, Jr. (Judge Cruz) and Robert Mendoza (Mendoza), an administrative officer assigned at the Office of the Clerk of Court of the Makati RTC.

Reckoning the article to be false and malicious, Judge Cruz initiated a Complaint[4] for libel with the City Prosecutor of Makati. In particular, Judge Cruz protested the following sentence in said article:

According to Mendoza, Cruz still has a pending case of sexual harassment filed with the Supreme Court by Fiscal Maria Lourdes Garcia, also of the Makati RFC.[5]

Rebutting the statement, Judge Cruz alleged that there was no suit for sexual harassment pending against him before this Court, and attached a certification dated July 16, 1996[6] of the Deputy Court Administrator attesting to the pendency of only two administrative cases against him, namely RTJ-96-1352 (Re: Mauling incident) and OCA IPI No. 96-185-RTJ (For gross ignorance of the law, Partiality and Rendering an unjust judgment).

For his part, Contreras filed a counter-affidavit[7] with the JVIakati City Prosecutor's Office, explaining the supposed factual basis for his article. It appeared that Atty. Maria Lourdes Paredes-Garcia (Paredes-Garcia) had filed with this Court a Petition for Review to question a contempt order issued against her by Judge Cruz. In connection with said Petition for Review, which was docketed as G.R. No. 120654, Paredes-Garcia filed a Reply dated February 5, 1996 asking this Court to look deeply into allegations of one Enrina Talag-Pascual (Talag-Pascual) that Judge Cruz made sexual advances to her while she was a member of his staff at the Metropolitan Trial Court (MeTC) of Manila. Paredes-Garcia claimed that she suffered similar indignities from Judge Cruz, and prayed that her Petition be treated as an administrative case against said judge. Paredes-Garcia appended a January 29, 1996 affidavit executed by Talag-Pascual to purportedly show the proclivity of Judge Cruz for seducing women who became objects of his fancy. Contreras claimed that the statement in his news

article constituted a fair and true report of a matter of grave public interest as it involved the conduct of a regional trial court judge.

In the meantime, on September 11, 1996, this Court rendered its Decision[8] on the Petition of Paredes-Garcia, granting her prayer to set aside Judge Cruz's contempt order. The prayer in Paredes-Garcia's Reply that the Petition be treated as an administrative case against Judge Cruz was not passed upon by the Court.

Subsequently, the City Prosecutor of Makati approved a Resolution[9] finding probable cause against Mendoza and six PDI officers and employees, namely: Contreras, Isagani Yambot, Letty Jimenez-Magsanoc, Jose Ma. Nolasco, Artemio Engracia, Jr. and Carlos Hidalgo (the PDI Staff). On February 21, 1997, the City Prosecutor filed an Information¹⁰ for libel against Mendoza and the PDI Staff. Thereafter, the PDI Staff filed a Motion with the trial court for the deferment of the arraignment to allow them to appeal to the Secretary of the Department of Justice.

On March 3, 2000, then Secretary of Justice Artemio Tuquero (Secretary Tuquero) dismissed the PDI Staffs Petition for Review of the Resolution of the City Prosecutor.[11] Secretary Tuquero rejected the argument of therein petitioners that the complaint should be dismissed on the ground of lack of supporting affidavits from third persons. According to Secretary Tuquero, affidavits of third persons are not essential for a libel complaint to prosper, as it is enough that the person defamed can be identified.[12] As regards the factual basis presented by Contreras, Secretary Tuquero noted it cannot be said that Judge Cruz was indeed facing a sexual harassment suit in this Court.[13] The Motion for Reconsideration[14] was denied in a Resolution[15] dated October 12, 2000.

The PDI Staff with the exception of Hidalgo (herein petitioners) filed a Petition for Certiorari with the Court of Appeals to challenge the aforementioned Resolutions of Secretary Tuquero. The Petition was docketed as CA-G.R. SP No. 62479.

On July 8, 2005, the Court of Appeals rendered the assailed Decision dismissing the Petition for Certiorari. Applying our ruling in *Advincula v. Court of Appeals*,^[16] the appellate court held that since the Information had already been filed with the trial court, the primary determination of probable cause is now with the latter.^[17] The Court of Appeals denied the ensuing Motion for Reconsideration in the assailed Resolution dated September 29, 2005.

Hence, petitioners filed this Petition for Review with this Court, raising the following issues:

(A)

WHETHER OR NOT A CRIMINAL COMPLAINT FOR LIBEL IS FATALLY DEFECTIVE OR DEFICIENT IF IT IS NOT SUPPORTED BY AFFIDAVITS OF THIRD PERSONS.

(B)

WHETHER OR NOT A NEWS REPORT ON THE ACTUATIONS OF A PUBLIC OFFICIAL IS PRIVILEGED IN NATURE AND HENCE, THE PRESUMPTION OF MALICE IS DESTROYED.

(C)

WHETHER OR NOT THE PRIVILEGED NATURE OF A PUBLICATION IS A GROUND FOR DISMISSAL AND THAT THE RESPONDENT NEED NOT WAIT UNTIL TRIAL TO RAISE THE ISSUE OF PRIVILEGE.

(D)

WHETHER OR NOT THE PUBLISHER AND EDITORS ARE JOINTLY LIABLE WITH THE AUTHOR

OF THE ALLEGEDLY OFFENDING NEWS REPORT EVEN IF THEY DID NOT PARTICIPATE IN THE WRITING AND EDITING OF SAID NEWS REPORT.[18]

In raising the above issues, petitioners essentially questioned the Makati City Prosecutors Office's finding of probable cause to charge them with libel, as affirmed by the Secretary of Justice. As stated above, the Court of Appeals dismissed the Petition for Certiorari by applying the procedural doctrine laid down in *Advincula*.

Similar to the present case, in *Advincula*, respondents Amando and Isagani Ocampo filed a Petition for Certiorari and Prohibition with the Court of Appeals questioning the Resolution of the Secretary of Justice which had earlier led to the filing of Informations against them in court. The Court of Appeals granted the Petition and set aside the Resolution of the Secretary of Justice. In reversing the Decision of the Court of Appeals, we applied the rule that certiorari, being an extraordinary writ, cannot be resorted to when other remedies are available. The Court observed that respondents had other remedies available to them, such as the filing of a Motion to Quash the Information under Rule 117 of the Rules of Court, or allowing the trial to proceed where they could either file a demurrer to evidence or present their evidence to disprove the charges against them.[19]

At the outset, it should be made clear that the Court is not abandoning the foregoing ruling in *Advincula*. However, *Advincula* cannot be read to completely disallow the institution of certiorari proceedings against the Secretary of Justice's determination of probable cause when the criminal information has already been filed in court. Under exceptional circumstances, a petition for certiorari assailing the resolution of the Secretary of Justice (involving an appeal of the prosecutor's ruling on probable cause) may be allowed, notwithstanding the filing of an information with the trial court.

In *Ching v. Secretary of Justice*,[20] petitioner filed a Petition for Certiorari with the Court of Appeals assailing the Resolution of the Secretary of Justice finding probable cause for violation of Presidential Decree No. 115, otherwise known as the Trust Receipts Law. Conformably with said Resolution, the City Prosecutor filed 13 Informations against petitioner. Upon denial of the Motion for Reconsideration, petitioner filed a petition for certiorari, prohibition and mandamus with the Court of Appeals assailing the Resolution of the Secretary of Justice. While this Court ultimately affirmed the Court of Appeals' ruling denying the Petition for Certiorari, the discussion affirming the resort to said extraordinary writ is enlightening:

In *Mendoza-Arce v. Office of the Ombudsman (Visayas)*, this Court held that the acts of a quasi-judicial officer may be assailed by the aggrieved party via a petition for certiorari and enjoined (a) when necessary to afford adequate protection to the constitutional rights of the accused; (b) when necessary for the orderly administration of justice; (c) when the acts of the officer are without or in excess of authority; (d) where the charges are manifestly false and motivated by the lust for vengeance; and (e) when there is clearly no *prima facie* case against the accused. The Court also declared that, if the officer conducting a preliminary investigation (in that case, the Office of the Ombudsman) acts without or in excess of his authority and resolves to file an Information despite the absence of probable cause, such act may be nullified by a writ of certiorari.

Indeed, under Section 4, Rule 112 of the 2000 Rules of Criminal Procedure, the Information shall be prepared by the Investigating Prosecutor against the respondent only if he or she finds probable cause to hold such respondent for trial. The Investigating Prosecutor acts without or in excess of his authority under the Rule if the Information is filed against the respondent despite absence of evidence showing probable cause therefor. If the Secretary of Justice reverses the Resolution of the Investigating Prosecutor who found no probable cause to hold the respondent for trial, and orders such prosecutor to file the Information despite the absence of probable cause, the Secretary of Justice acts contrary to law, without authority and/or in excess of authority. Such resolution may likewise be nullified in a petition for certiorari under Rule 65 of the Revised Rules of Civil Procedure.[21]

In light of the particular factual context of the present controversy, we find that the need to uphold the constitutionally guaranteed freedom of the press and crystal clear absence of a prima facie case against the PDI staff justify the resort to the extraordinary writ of certiorari.

Libel is defined as a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status or circumstance tending to discredit or cause the dishonor or contempt of a natural or juridical person, or to blacken the memory of one who is dead.[22] Consequently, the following elements constitute libel: (a) imputation of a discreditable act or condition to another; (b) publication of the imputation; (c) identity of the person defamed; and, (d) existence of malice.[23] The glaring absence of maliciousness in the assailed portion of the news article subject of this case negates the existence of probable cause that libel has been committed by the PDI staff.

As previously stated, Judge Cruz initiated the complaint for libel, asserting the falsity and maliciousness of the statement in a news report that "(a)ccording to Mendoza, Cruz still has a pending case of sexual harassment filed with the Supreme Court by Fiscal Maria Lourdes Garcia, also of the Makati RTC." [24] It can be easily discerned that the article merely reported the statement of Mendoza that there was allegedly a pending case of sexual harassment against Judge Cruz and that said article did not report the existence of the alleged sexual harassment suit as a confirmed fact. Judge Cruz never alleged, much less proved, that Mendoza did not utter such statement. Nevertheless, Judge Cruz concludes that there was malice on the part of the PDI Staff by asserting that they did not check the facts. He claimed that the report got its facts wrong, pointing to a certification from the Deputy Court Administrator attesting to the pendency of only two administrative cases against him, both of which bear captions not mentioning sexual harassment.

A newspaper should not be held to account to a point of suppression for honest mistakes, or imperfection in the choice of words.[25] While, indeed, the allegation of inappropriate sexual advances in an appeal of a contempt ruling does not turn such case into one for sexual harassment, we agree with petitioners' proposition that the subject news article's author, not having any legal training, cannot be expected to make the fine distinction between a sexual harassment suit and a suit where there was an allegation of sexual harassment. In fact, three other newspapers reporting the same incident committed the same mistake: the Manila Times article was headlined "Judge in sex case now in physical injury rap";[26] the Philippine Star article described Judge Cruz as "(a) Makati judge who was previously charged with sexual harassment by a lady prosecutor";[27] and the Manila Standard Article referred to him as "(a) Makati judge who was reportedly charged with sexual harassment by a lady fiscal." [28]

The questioned portion of the news article, while unfortunately not quite accurate, on its own, is insufficient to establish the element of malice in libel cases. We have held that malice connotes ill will or spite and speaks not in response to duty but merely to injure the reputation of the person defamed, and implies an intention to do ulterior and unjustifiable harm.[29] Malice is present when it is shown that the author of the libelous remarks made such remarks with knowledge that it was false or with reckless disregard as to the truth or falsity thereof.[30]

The lack of malice on the part of the PDI Staff in the quoting of Mendoza's allegation of a sexual harassment suit is furthermore patent in the tenor of the article: it was a straightforward narration, without any comment from the reporter, of the alleged mauling incident involving Judge Cruz. The subject article was, in fact, replete with other allegations by Mendoza of purported misconduct on the part of Judge Cruz. Except for the above-quoted statement, Judge Cruz did not find the other assertions by Mendoza as reported by the PDI article to be libelous:

At around 2 p.m., Mendoza said, an employee at Cruz's court fetched him to the judge's chamber.

He was walking along the corridor when Cruz looked out. saw him, and yelled, "Mendoza, halika nga rito

(come here)."

"He dragged me to his chamber and locked the door. Tatlo kami doom, kasama ang sheriff niya na si Nory Santos" Mendoza said.

Inside, Mendoza said Cruz began taunting him, asking him, "Matigas ba ang dibdib mo, ha? (Do you have a strong chest?)" Mendoza said, (h)e was made to sit in a guest's chair in front of Cruz's desk. He recalled seeing placed on top of a side table a ,99mm and a .45 caliber pistol which he presumed to belong to the judge.

While standing, Mendoza said the judge began punching him, at the same time subjecting him to verbal abuse. The first punch was at the left side of his chest, the second at the right. The third was at his left knee, then last was at the right knee, Mendoza said.

His right knee was still swollen as of yesterday.

"Hinamon pa niya ako, square daw kami," he said. "At hindi daw niya ako titigilan at ipapatanggal pa daw niya ako (He even dared me to a fight. He threatened me that he would not stop until 1 am fired from my job)," Mendoza said.

"Kung anak pa daw niya ang nakalaban ko, babarilin na lang daw niya ako sa sentido at babayaran na long ako (He said if it was his son with whom 1 quarreled, he would have simply put a bullet to my head and paid for my life)."[31]

In *Borjal v. Court of Appeals*[32] we held that "[a] newspaper especially one national in reach and coverage, should be free to report on events and

developments in which the public has a legitimate interest with minimum fear of being hauled to court by one group or another on criminal or civil charges for libel, so long as the newspaper respects and keeps within the standards of morality and civility prevailing within the general community." [33] Like fair commentaries on matters of public interest,[34] fair reports on the same should thus be included under the protective mantle of privileged communications, and should not be subjected to microscopic examination to discover grounds of malice or falsity.[35] The concept of privileged communication is implicit in the constitutionally protected freedom of the press,[36] which would be threatened when criminal suits are unscrupulously leveled by persons wishing to silence the media on account of unfounded claims of inaccuracies in news reports.

WHEREFORE, the instant Petition for Review on Certiorari is GRANTED. The Decision of the Court of Appeals in CA-G.R. SP No. 62479 dated July 8, 2005 and its Resolution dated September 29, 2005 are hereby REVERSED and SET ASIDE.

No pronouncement as to costs.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Del Castillo, and Perez, JJ., concur.

[1] Rollo, pp. 51-60; penned by Associate Justice Mario L. Guariña III with Associate Justices Marina L. Buzon and Santiago Javier Ranada, concurring.

[2] Id. at 62.

[3] Id. at 67.

[4] Id. at 64-66.

- [5] Id. at 67.
- [6] Id. at 68.
- [7] Id. at 69-76; this was adopted by Contreras' co-petitioners as their own counter-affidavit.
- [8] Paredes-Garcia v. Court of Appeals, 330 Phil. 420 (1996).
- [9] Rollo, pp. 108-116.
- [10] Id. at 117-118.
- [11] Id. at 185-186.
- [12] Id. at 185.
- [13] Id.
- [14] Id. at 187-207.
- [15] Id. at 226-227.
- [16] 397 Phil. 641 (2000).
- [17] Rollo, pp. 58-59.
- [18] Id. at 31.
- [19] Advincula v. Court of Appeals, supra note 16 at 651-653.
- [20] G.R.No. 164317, February 6, 2006, 481 SCRA 609.
- [21] Id. at 628-629.
- [22] Revised Penal Code, Article 353.
- [23] Daez v. Court of Appeals, G.R. No. 47971, October 31, 1990, 191 SCRA 61, 67.
- [24] Rollo. p. 65.
- [25] Lopez v. Court of Appeals, 145 Phil. 219,233 (1970).
- [26] Rollo, p. 98.
- [27] Id. at 99.
- [28] Id. at 100.
- [29] United States v. Cañete, 38 Phil. 253, 264 (1918).
- [30] Vasquez v. Court of Appeals, 373 Phil. 238, 254 (1999).
- [31] Rollo,p.67.
- [32] 361 Phil. 1 (1999).
- [33] Id. at 27.
- [34] Id.
- [35] Villanueva v, Philippine Daily Inquirer, G.R. No. (64437, May 15, 2009, 588 SCRA 1, 15.

[36] Borjal v. Court of Appeals, supra note 32.

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.