

AMANCIO BALITE, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.*G.R. No. 21475. September 30, 1966*

Ponente: SANCHEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-21475/>**SANCHEZ, J.:**

Called to trial for grave oral defamation by the Municipal Court [now City Court] [1] of Cebu City, petitioner was found guilty thereof and sentenced to 4 months and 1 day of *arresto mayor*, to indemnify Delfin Mercader in the sum of P5,000.00, with the corresponding subsidiary imprisonment, and to pay the costs. On appeal, the Court of Appeals [2] voted to modify the judgment by elevating the corporal penalty to one ranging from 4 months and 1 day of *arresto mayor*, as minimum, to 1 year and 8 months of *prisión correccional*, as maximum, also with costs.

The case is now before us on review by *certiorari*.

The facts are not disputed. They are:

In December, 1958, the Democratic Labor Association declared a strike against the Cebu Stevedoring Company. Delfin Mercader, union president, was offered by Richard Corominas & Co., a copra exporter affected by the strike, P10,000.00 as aid to the union and presumably to pave the way for the amicable settlement of the labor dispute. Petitioner was with Mercader when that offer was made. The disposition of this sum and the pleasure of the union in the premises were referred to the union officers and members, including the strikers. At a meeting called for the purpose, it was decided that the amount be accepted and spread amongst all the members. However, at a subsequent meeting attended by Mercader and petitioner, the latter proposed that the amount thus offered be given solely to the officers of the union, leaving out the members thereof. Petitioner's proposal met with vigorous opposition. Passions seemed to have run so high that petitioner walked out of the meeting, threatened to destroy the union and to expose president Mercader. Petitioner then pursued a smear campaign against Mercader. Petitioner's activities caught the attention of the union board of directors. A general meeting was called also in December, 1958. It was then that a resolution was unanimously adopted expelling petitioner from the union.

Came May 21, 1959. Petitioner met at the Cebu City waterfront members of the Marine Officers Guild, namely, Marine Officer Quintin Canlas, Captain Ramirez, First Mates Filemon Go and Alipio Paderanga, Nahum Rada, a certain Banaag, Second Mate Pablito Dael, Fourth Engineer Vivencio Casal, Carlos Cantanas, and Third Mate Divino de la Cruz. The group was on its way to the guild's office. Petitioner then engaged Canlas in conversation whilst the latter's companions gathered around and within hearing distance of the two. Petitioner then uttered the following words in the Cebu Visayan dialect, which, translated into English, means: "Mr. Mercader sold the Union ... the money of the Union was swindled in the strike staged by the Democratic Labor Association against the Cebu Stevedoring Company. Atty. Mercader received bribe money in the sum of P10,000.00 from the copra exporter Richard Corominas & Co. and another P6,000.00 from the Cebu Stevedoring Company ... Atty. Mercader is engaged in racketeering and that he is enriching himself with the capitalists. The money of the Union was spent by him to his own personal benefit".

At the time of the incident just related, Delfin Mercader was legal counsel of the Marine Officers Guild. The quoted imputation apparently affected the guild's feeling and attitude towards Atty. Mercader. For, subsequently, he was eased out as the guild's legal counsel.

Offshoot is the criminal complaint for grave oral defamation lodged by Mercader with the City Fiscal's Office. In pursuance thereof, the City Fiscal's Office filed in the City Court a formal criminal complaint. This complaint - the recital of the factual averments omitted - winds up with the following:

"IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of August, 1959, in the City of Cebu, Philippines.

(Sgd.) DELFIN MERCADER
Complainant

SUBSCRIBED AND SWORN to before me this 28th day of August, 1959, in the City of Cebu, Philippines.

(Sgd.) JOAQUIN T. MAAMBONG
Municipal Judge

x x x x

BAIL RECOMMENDED: P500.00

ATTESTED BY:

(Sgd.) CIPRIANO VILLORDON
Asst. Fiscal, Cebu City

CERTIFICATION

THIS IS TO CERTIFY that I have conducted a preliminary investigation of the above-entitled case, [and there,] having taken the testimonies of the witnesses under oath, and there is ground to believe that the crime of grave oral defamation has been committed and that the herein accused is probably guilty thereof.

City of Cebu, Philippines, August 28, 1959.

(Sgd.) CIPRIANO VILLORDON
Asst. Fiscal, Cebu City"

1. Petitioner challenges the Cebu City court's jurisdiction to hear the case. His reasoning runs thus: The defamation imputes upon Mercader the crime of estafa; estafa can only be prosecuted de oficio; therefore, the criminal prosecution may only be started upon an information lodged in court by the fiscal.

Now, to the law. Criminal actions, the general rule states, must be commenced either by complaint or information. [3] But petitioner thrusts upon us the view that his case is to be taken out of the operation of this precept. He props up his argument with a citation of the last paragraph of Article 360, Revised Penal Code, viz: "No criminal action for defamation which consists in the imputation of a crime which cannot be prosecuted de oficio shall be brought except at the instance of and upon complaint expressly filed by the offended party." [4]

Read as it should be, the plain import of the statute just reproduced is that where defamation imputes a crime which cannot be prosecuted de oficio, [5] the general rule must give way; the criminal action must have to be brought solely "at the instance of and upon complaint expressly filed by the offended party". The converse proposition, however, cannot be true. Reasonable construction will not permit a deduction which would constrict criminal prosecution - of defamation which can be prosecuted de oficio -by means of information. We do not

propose to undertake the impermissible task of writing into the statute an alien concept: that which would exclude criminal action started by complaint. Nor should we attribute to the law an occult content.

As unavailing to petitioner is his reliance on the Cebu City Charter which provides that the city prosecuting attorney "shall also have charge of the prosecution of all crimes, misdemeanors, and violations of city ordinances, in the Court of First Instance of Cebu and the Municipal Court of the city, and shall discharge all the duties in respect to criminal prosecutions enjoined by law upon provincial fiscals." [6] Because, this citation is incomplete. Petitioner only quotes the second part of the first paragraph of Section 37 of the Cebu City Charter. He omits the first part of the second paragraph thereof which reads: "The fiscal of the city shall cause to be investigated all charges of crimes, misdemeanors and violations of ordinances, and have the necessary informations or complaints prepared or made against the person accused."

Taken in context, an unembroidered version of the Cebu City Charter on this point simply is this: A criminal charge is first to be lodged with the fiscal who shall investigate the same; if warranted, he shall have the necessary information or complaint prepared or made against the accused; thereafter, he shall have charge of the prosecution of the crime in court.

Here, the complaint was first lodged with the fiscal. He conducted a preliminary investigation. He found probable cause. He attested to the complaint verified by the complainant. He recommended bail. He caused the complaint to be filed in the city court. In short, he adopted the complaint as his own. These actuations of the fiscal in the case under review pass the statutory requirement. And, in a literal sense. Because, with the verified complaint, he instituted the criminal proceeding.[7]

Persuasive is the pronouncement of this Court in a 1918 case. [8] There, the complaint for libel was signed by the offended party but was presented in court by the prosecuting attorney. This court was called upon to construe Section 14 of Act 277 (the Libel Law) which contains the mandate that all criminal actions for the crime of libel "shall be begun and prosecuted under the sole direction and control of the ordinary prosecuting officers, anything in the existing laws to the contrary notwithstanding." The language we there employed is: The prosecuting officers "may begin such action by the presentation of either a complaint or information"; and, "if the complaint or information is presented by the ordinary prosecuting officers, even though the complaint is signed by a private person, we are of the opinion that the 'criminal action for libel' is 'begun' in conformity with the requirements of section 14 (Act No. 277)". The evident purpose of the law, this Court there said, "is that no person shall be annoyed with a prosecution for libel without the consent and intervention of the ordinary prosecuting officers". We do not intend to retreat from this wise pronouncement. For, it should be as valid in oral defamation as it is in libel.

The criminal proceeding herein was properly commenced. The trial court acquired jurisdiction.

2. Petitioner's next line of defense is that the city court of Cebu has no jurisdiction over the crime of serious oral defamation. Again, he falls back on the Cebu City Charter. Section 40 thereof gives the city court authority to try criminal cases where the maximum punishment is by imprisonment for not more than 6 months or a fine of not more than P200.00 or both. Grave oral defamation is penalized with *arresto mayor* in its maximum period to *prisión correccional* in its minimum period. [9] Converted into time, this means a prison term from 4 months and 1 day to 2 years and 4 months. Of course, if gauged merely by the charter limitation, the city court would not have jurisdiction.

But the city charter is not controlling. The criminal complaint here was not registered until August 29, 1959. On August 1, 1959, Congress expanded the jurisdictional boundaries of city courts, [10] this time in concurrence with the courts of first instance. By the applicable statute on August 29, 1959, city courts were already empowered to

hear and determine criminal offenses where the penalty involved did not exceed six years imprisonment or three thousand pesos fine or both such imprisonment and fine.

The jurisdictional question is therefore resolved in the affirmative.

3. Petitioner pleads prescription. The complaint, he insists, is merely one for slight oral defamation punishable by *arresto menor* or a fine not exceeding P200.00. This offense lapses in two months. [11] The incident took place on May 21, 1959; the complaint was filed on August 29, 1959. Three months and eight days having elapsed, petitioner submits that the crime is time-barred.

But is there substance to the pose that the oral defamation here is slight? Article 358, Revised Penal Code, spells out the demarcation line between serious and slight oral defamations in this wise: "Oral defamation shall be punished by *arresto mayor* in its maximum period to *prision correccional* in its minimum period if it is of a serious and insulting nature; otherwise the penalty shall be *arresto menor* or a fine not exceeding 200 pesos".

A rule which has long since ripened into dogma is that the averments in the complaint or information characterize the crime to be prosecuted and the court before which it must be tried. [12]

To differentiate between grave and light slander, we are to be guided by a doctrine of ancient respectability that defamatory words will fall under one or the other, depending upon, as Viada puts it, "x x no solo al sentido o significacion gramatical de las palabras pronunciadas, juzgándolas aisladamente, sino a las circunstancias especiales del caso, antecedentes y relación que medie entre las personas del injuriante e injuriado, particulares todos que contribuyen eficazmente a demostrar la intención del culpable en el momento de delinquir: x x x" [13]

With these lampposts to guide us, we proceed to analyze the factual recitals in the complaint. The scurrilous words impute to the offended party the crime of estafa. The language of the indictment strikes deep into the character of the victim: He "has sold the union"; he "has swindled the money of the members"; he "received bribe-money in the amount of P10,000.00 x x x and another P6,000.00"; he "is engaged in racketeering and enriching himself with the capitalists"; he "has spent the funds of the union for his own personal use".

No amount of sophistry will take these statements out of the compass of grave oral defamation. They are serious and insulting. No circumstances need be shown to upgrade the slander. And, no circumstances were alleged in the complaint. Of course, petitioner's disclaimer is that his words were intended "to correct a procedure which was degrading to the affairs of the union". [14] Both of the lower courts rejected his explanation. And, appreciation of testimony is beyond our zone of action.

If more were needed, let us dig deep into the backdrop. Petitioner wanted the union officers to pocket the sum of P10,000.00 offered to them by Richard Corominas & Co. He eschewed the idea of spreading the benefits to all the union members. He was frustrated in his wish. Then he conducted a smear campaign against the union president. For these, he was expelled from the union. Long after, came the meeting with the officers of the Marine Officers Guild. There, in cool and forceful deliberation, he let go the slanderous statements here charged - in the absence of Mercader. This time, he had his way, Mercader was eased out as legal counsel of the Marine Officers Guild. The People has thus clinched a case for grave oral defamation.

4. On March 24, 1966, after the briefs have been filed and this case submitted for decision, the offended party, Delfin Mercader, submitted to this Court an affidavit dated March 22, 1966. He there stated that the prosecution of petitioner, his former classmate and former co-worker in the Cebu labor movement, "was brought about by a misunderstanding in good faith among friends;" that petitioner's remarks "were provoked" by Quintin Canlas and were uttered "out of heat and passion engendered by a heated interchange" between the two; that he and petitioner had "made up and reconciled". He swore therein to the following: "That in conscience I hereby withdraw,

condone, dismiss and waive any and all claims, civil, criminal or administrative, that I may have against Amancio Balite due to or by reason of the misunderstanding which brought about the filing of the said criminal case,"

At this stage of the action, this change of heart erects no shield against punishment; it will not insulate petitioner from the effects of his criminal act. And this, notwithstanding the stultified apostasy of the victim.

Temporizing with crime, courts of justice are not to countenance. Because, pardon by the offended party - except as provided in Article 344 of the Revised Penal Code - does not extinguish the criminal act. [15] And even in the excepted cases, pardon must come before the institution of the criminal proceedings. [16]

However, express condonation by the offended party has the effect of waiving civil liability with regard to the interest of the injured party. [17] For, civil liability arising from an offense is extinguished in the same manner as other obligations, in accordance with the provisions of the civil law. [18] Mercader's affidavit necessarily wipes out the civil indemnity of P5,000.00 granted by the lower courts.

5. For a slight correction of the penalty imposed by the Court of Appeals. The sentence there is for an indeterminate period ranging from 4 months and 1 day of *arresto mayor*, as minimum, to 1 year and 8 months of *prisión correccional*, as maximum. The penalty for grave oral defamation is *arresto mayor*, maximum, to *prisión correccional*, minimum. [19] No modifying circumstance is attendant. The minimum of the penalty under the indeterminate sentence law must be within the range next lower in degree, that is, *arresto mayor* in its minimum and medium periods. [20]

Conformably to the foregoing, the judgment under review is hereby modified. Petitioner, guilty beyond reasonable doubt of the crime of grave oral defamation, is hereby sentenced to serve a prison term ranging from 4 months of *arresto mayor*, as minimum, to 1 year and 8 months of *prisión correccional*, as maximum. The civil indemnity of P5,000.00 is deleted from the judgment under review. Costs against petitioner.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Zaldivar, and Ruiz Castro, JJ., concur.
Barrera, and Bengzon, J.P., JJ., no part.

[1] Municipal Court renamed City Court. Sec. 2, R.A. 3820.

[2] C.A.-G.R. No. 02263-Cr, "People of the Philippines, plaintiff-appellee vs. Amancio Balite, defendant-appellant."

Section 1,

[3] Rule 110 of the 1964 Rules of Court, formerly Section 1, Rule 106, 1940 Rules of Court. In modified form, this was taken from Section 3 of General Orders No. 58.

[4] See also Section 4 (last par.), Rule 110, 1964 Rules of Court, where the same provision is embodied.

[5] The crimes which cannot be prosecuted *de oficio* are adultery, concubinage, seduction, abduction, rape and acts of lasciviousness. Art. 344, Revised Penal Code, subsequently reproduced in paragraphs 2, 3 and 4, Rule 110, 1964 Rules of Court.

[6] Section 37 (first par.), Cebu City Charter, Commonwealth Act 58.

[7] *Montelibano, et al., vs. Ferrer, etc., et al.*, 97 Phil. 228, 233.

[8] Garcia Valdez vs. Director of Prisons, 38 Phil. 596, 600.

[9] Article 358, Revised Penal Code.

[10] Section 10, Republic Act 2613 (amending, inter alia, Section 87 of Republic Act 296) in part reads: "Justices of the peace in the capitals of provinces and Judges of Municipal Courts shall have like jurisdiction as the Court of First Instance to try parties charged with an offense committed within the province in which the penalty provided by law does not exceed prisión correccional or imprisonment for not more than six years or fine not exceeding three thousand pesos or both, x x x"

By Republic Act 3828, effective June 22, 1964, the jurisdiction was further amended to show that the maximum of the fine imposible was raised from three thousand pesos to six thousand pesos.

[11] Art. 90, Revised Penal Code.

[12] U.S. vs. Lim San, 17 Phil. 273, 278; U.S. vs. Mallari, et al., 24 Phil. 366, 368; U.S. vs. Pompeya, 31 Phil. 245, 256-257; People vs. Co Hiok, 62 Phil. 501, 503.

[13] 5 Viada, Código Penal, Quinta edición, Pág. 494, citing the decision of the Supreme Court of Spain of December 3, 1894.

[14] See Decision of the Court of Appeals, Petitioner's brief, p. XI.

[15] Article 23, Revised Penal Code. Art. 344 refers to the crimes of adultery, concubinage, seduction, abduction, rape and acts of lasciviousness.

[16] People vs. Infante, et al., 57 Phil. 138, 139-140.

[17] Article 23, Revised Penal Code, supra.

[18] Article 112, Revised Penal Code, See also Article 2034, Civil Code, which reads: "There may be a compromise upon the civil liability arising from an offense; but such compromise shall not extinguish the public action for the imposition of the legal penalty."

[19] Article 358, Revised Penal Code.

[20] Under Article 76, Revised Penal Code, in its table of divisible penalties, arresto mayor in its medium period is 2 months and 1 day to 4 months.

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.