

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. ESMINIA PUDOL AND ALBERTO REYES, DEFENDANTS.***G.R. No. 45618. October 18, 1938*

Ponente: CONCEPCION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-45618/>**CONCEPCION, J.:**

An information had been filed in the Court of First Instance of Ilocos Sur charging Esminia Pudol and Alberto Reyes with having committed the crime of perjury, the former by subscribing a false affidavit by induction and with the further cooperation of the latter.

When the case was called for trial, the provincial fiscal filed a motion asking for the discharge of Esminia Pudol in order to be utilized as a witness for the prosecution against her coaccused. Lipon arraignment, Alberto Reyes pleaded not guilty, although his plea was withdrawn shortly thereafter. The court, acting on the fiscal's motion, dismissed the case as to Esminia Pudol for the purpose intended by said fiscal. The accused Alberto Reyes, in turn, asked for the dismissal of the case as to him, alleging: (1) That once the case is dismissed as to Pudol, the alleged principal by direct participation, there is no longer any ground for prosecuting the case against the suborner Reyes, and (2) that the Revised Penal Code does not penalize subornation of perjury, as it was formerly penalized by section 4 of Act No. 1697, which has expressly been repealed by article 367 of said Revised Penal Code. The court, favorably sustaining the first ground of the motion and deeming it unnecessary to pass upon the second ground, also dismissed the case as to the accused Alberto Reyes, in an order of December 16, 1936, from which the fiscal appealed.

The first question to be decided in this appeal is that raised indirectly by the accused in his memorandum citing authorities, to the effect that the order appealed from is an order of dismissal of the case upon its merits, from which the fiscal cannot appeal. Such contention is untenable: (1) Because as the accused withdrew his plea of not guilty, he has not yet pleaded to the information, and in such condition of the case it is legally impossible to decide it upon its merits, and (2) because the order of dismissal of the court is not an acquittal of the accused. Therefore, it is appealable (sec. 44, General Orders, No. 58; *U. S. vs. Ballentine*, 4 Phil., 672).

The second question is that discussed by the Solicitor-General in the two errors attributed to the court. The order of dismissal is based on the following considerations:

"In the above-quoted motion of the fiscal, it is stated 'that there is absolute necessity of the testimony of said accused' Esminia Pudol, because 'there is no other direct evidence to support the information.' This allegation assumes that it cannot be proven and there is no means of showing that Esminia Pudol has committed perjury or has given false testimony. If the principal act, which must be the result of the subornation, cannot be proven, it seems clear that even if it should be shown that there has been subornation, after all the latter does not constitute a crime."

In the first place, it cannot be inferred from the motion of the fiscal that "there is no means of showing that Esminia Pudol has committed perjury or has given false testimony." The only thing stated in the motion is "that

there is no other direct evidence to support the information except the testimony of said accused." And continuing, it adds: "that the testimony of said accused can be substantially corroborated in its material points." Consequently, there is no basis for the conclusion laid down by the court that: "If the principal act, which must be the result of the subornation, cannot be proven, it deems clear—according to it—that even if it should be shown that there has been subornation, after all the latter does not constitute a crime."

The court further states: "if the guilt of the latter (Pudol) cannot be proven and the dismissal of this case, as to her, restores and places her under the protection of a strong presumption of innocence, it would seem soundly logical that her said innocence cannot be made the basis of a judgment of guilt for Reyes."

The court was not right in affirming that the order of dismissal restores to the accused (Pudol) the presumption of innocence. The fiscal did not ask for the dismissal of the case on the ground of Pudol's innocence, but because she did not appear to be the most guilty. The fiscal has asked for her discharge in order to be utilized as a witness for the prosecution against the accused. If she really testifies in support of the allegations of the information, Act No. 2709 affords her certain immunity, but this is not tantamount to restoring the presumption of her innocence, and her discharge does not affect the status of the accused Reyes (*U. S. vs. Abanzado*, 37 Phil., 658).

As to the second point of the motion of the accused, that is, that the Revised Penal Code does not penalize subornation of perjury, as it was formerly penalized by section 4 of Act No. 1697, which has expressly been repealed by article 367 of the Revised Penal Code, suffice it to state that, according to article 17 of said Code, the following are considered principals:

"1. \* \* \* \* \*

"2. Those who directly force or induce others to commit it. (Underscoring ours.)

"3. Those who cooperate in the commission of the offense by another act without which it would not have been accomplished."

The information charges Alberto Reyes not only with having directly induced Esminia Pudol to testify falsely under oath and to subscribe the affidavit before a person authorized by law to administer oath, but also with having cooperated and taken a direct part in the execution of said false affidavit, without which induction, cooperation and participation the false affidavit in question would not have been accomplished.

Therefore, the fact that subornation of perjury is not expressly penalized in the Revised Penal Code does not mean that the direct induction of a person by another to commit perjury has ceased to be a crime, because said crime is fully within the scope of that defined in article 17, subsection 2, of the Revised Penal Code. Furthermore, Alberto Reyes, as already stated, is charged in the present case not only as suborner of the perjury committed by his coaccused but also as principal by cooperation and participation in the preparation of the false affidavit subscribed by Esminia Pudol.

The order appealed from is reversed and this case is ordered remanded to the Court of First Instance of Ilocos Sur, so that it may proceed with the hearing thereof and decide the same in accordance with law, with the costs to the appellee. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Imperial, Diaz, and Laurel, 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.