

ELIAS ESGUERRA, PETITIONER, VS. SIXTO DE LA COSTA, JUDGE OF FIRST INSTANCE OF RIZAL, RESPONDENT*G.R. No. 46039. August 30, 1938*

Ponente: IMPERIAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-46039/>**IMPERIAL, J.:**

This petition for mandamus was filed by the petitioner to compel the respondent judge to dismiss finally the information filed in criminal case No. 10546 of the Court of First Instance of Rizal and to cancel the bond put up for his temporary release, with the costs de oficio.

On August 29, 1936, the chief of police of the municipality of Cainta, Province of Rizal, filed a complaint against the petitioner charging him with having committed the crime of abuse of chastity. The case was docketed as criminal case No. 588 of the said justice of the peace court. The complaint alleged that on or about August 29, 1936, in the said municipality, the petitioner willfully and unlawfully committed lascivious acts upon the person of Luzonica Zapanta, against her will, by forcibly embracing her, kissing her and touching her breast and private parts. The petitioner was arrested and thereafter temporarily released upon filing a bond for P1,000. Having waived the preliminary investigation, the case was elevated to the Court of First Instance of Rizal where it was docketed as criminal case No. 10140. On September 10, 1936, the provincial fiscal put in a motion to dismiss the case on the ground that the complaint was not signed by the offended party or by her parents, and on the 29th of the same month the Court of First Instance dismissed the case. On October 8, 1936, Raymundo Zapanta, father of the alleged offended party Luzonica Zapanta, filed another complaint in the justice of the peace court of Cainta against the same petitioner charging him with the same offense. The complaint alleged the same facts, namely, that on or about August 29, 1936, in the said municipality, the petitioner willfully, unlawfully and forcibly embraced and kissed Luzonica Zapanta, touching her private parts for the purpose of satisfying his lascivious desires. The case was docketed as No. 594 of the said justice of the peace court. The petitioner was again arrested and thereafter temporarily released upon filing a bond for P1,000. Having waived the preliminary investigation, the case was remanded to the Court of First Instance where it was docketed as criminal case No. 10198. The provincial fiscal thereupon filed an information against the petitioner charging him with the same facts constituting the crime of abuse of chastity under article 336 of the Revised Penal Code. On March 23, 1937 the petitioner was arraigned in the Court of First Instance of Rizal and he pleaded "not guilty". On June 22d of the same year the case was heard and the witnesses for both parties were called. The judge presiding over the Court of First Instance directed preliminary questions to the offended party Luzonica Zapanta and the latter stated that she was more than seventeen years but less than eighteen. In view thereof, the judge dismissed the case and cancelled the bond posted by the petitioner, with the costs de oficio. According to the order, the dismissal by the judge was based upon the doctrine laid down by the Court of Appeals in *People vs. Cosme Mapotol* published in the Official Gazette of May 20, 1937. On the same date, June 22, 1937, the offended party again lodged a complaint in the justice of peace court of Cainta charging the petitioner with the commission of the same offense of abuse of chastity. The complaint alleged the same facts set out in the two complaints previously filed. The case was docketed as criminal case No. 600 of the justice of the peace court of Cainta. The petitioner was arrested and

thereafter temporarily released upon a bond of P1,000 filed by him. He waived the preliminary investigation and the case was elevated to the Court of First Instance and there docketed with No. 10546. The provincial fiscal filed in this last case a new information alleging the same facts and charging the petitioner with the same offense of abuse of chastity defined and punished by article 336 of the Revised Penal Code. It was in this last case where counsel for the petitioner answered in writing that the latter is in double jeopardy and asked for the dismissal of the case because the petitioner had been deprived of his right to a speedy trial and was the victim of malicious and arbitrary persecution. By order of November 15, 1937 the respondent judge denied the motion to dismiss and this denial brought about the present petition.

The petitioner contends that he is in double jeopardy, that he has been deprived of his right to a speedy trial, and that he is being unjustifiably persecuted by the alleged offended party.

- Under the facts, the second complaint filed by the father of the offended party in criminal case No. 10198 of the Court of First Instance of Rizal was sufficient and valid because the alleged offended party was a minor, wherefore, her father could sign the complaint in case she could not do so personally as was apparently the case (article 344, paragraph 3, Revised Penal Code; *U. S. vs. Bautista*, 40 Phil., 735). The information being valid, it conferred jurisdiction on the Court of First Instance of Rizal to take cognizance of the case and to render final decision therein. Section 28 of General Orders, No. 58 provides that the termination or dismissal upon any ground, without the consent of the accused, of a case brought before a competent court upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction, after the accused has pleaded to the charge and before judgment is rendered, constitutes jeopardy which bars the prosecution of the accused anew for the same offense, whether consummated, frustrated or attempted. The petitioner had already made his plea of "not guilty" to that complaint as well as to the information filed by the fiscal in the Court of First Instance based upon said complaint, wherefore, upon the dismissal of criminal case No. 10198 by the Court of First Instance, upon the ground that the complaint was defective because signed by the father of the offended party and not by the latter, the petitioner was placed in jeopardy and he can not again be prosecuted for the same facts constituting the same offense. The Solicitor-General alleges that the order of dismissal is null and void because it was entered by the court *motu proprio* without any motion from any of the parties. We do not believe that this circumstance alters the legal effects of the order of dismissal. The fact is that the case was dismissed without the petitioner's consent, after a valid and sufficient complaint was filed which conferred jurisdiction upon the court and before final judgment was entered therein (*Kepner vs. U. S.*, 155 U. S., 100; 11 Phil., 669; *Julia vs. Sotto*, 2 Phil., 247; *U. S. vs. Padilla*, 4 Phil., 511; *U. S. vs. Parcon*, 6 Phil., 632; *Grafton vs. U. S.*, 206 U. S., 333; 11 Phil., 776; *U. S. vs. Rubin*, 23 Phil., 631; *U. S. vs. Macalingag*, 31 Phil., 316; *Mendoza vs. Almeda-Lopez*, 38 Off. Gaz., 485).

- It appears that in less than one year the petitioner was criminally prosecuted for the alleged offense of abuse of chastity in the justice of the peace court of the municipality of Cainta, Rizal. As a result of the complaints filed against him he was arrested three times, and to enjoy temporary liberty while awaiting trial, he had to put up three bonds for the sum of P1,000 each. If the last attempt to prosecute the petitioner is not stopped, uncertainty and the consequent inconveniences and worries would continue to assail him. Article III, section 1, No. 17, of the Constitution provides that in all criminal prosecutions the accused is entitled to have a speedy and public trial. Section 15, No. 7, of General Orders, No. 58 also provides that in all criminal prosecutions the defendant shall be entitled to have a speedy and public trial. If the petitioner was indeed guilty of the offense imputed to him, he was at any rate entitled to a prompt and public trial free from arbitrary and vexatious delays. We have repeatedly held that there is a positive remedy for cases of violation of the constitutional right of the accused to a speedy trial. An accused who is deprived of his fundamental right to be tried promptly is entitled to ask that he be released, if detained, or that the case against him be finally dismissed (*Conde vs. Rivera and Unson*, 45 Phil., 650; In the

matter of Ford [1911], 160 Cal., 334; U. S. vs. Fox [1880], 3 Mont., 512; Kalaw vs. Apostol and Alcazar, 38 Off. Gaz., 464; People vs. Castañeda and Fernandez, 35 Off. Gaz., 1269).

- The Solicitor-General argues that mandamus does not lie in this case because the favorable resolution of double jeopardy and of the dismissal of the case sought by the petitioner was not a ministerial duty as the law confers discretion upon the respondent judge to decide both questions one way or the other, and it is further contended that the motion for dismissal having been denied, there is now nothing for the respondent judge to execute. We are of the opinion that upon this phase of the case there has been a misinterpretation of the provisions of section 222 of the Code of Civil Procedure under which mandamus also lies in cases where a court deprives a person of the use and enjoyment of a right. The speedy trial which was denied to the petitioner and the liberty of which he would have been deprived had there been a judgment of conviction, are fundamental rights not less important than things or objects to which a person is entitled.

For the foregoing reasons, we hold that the petitioner was placed in double jeopardy in connection with the complaint and information filed in criminal case No. 10546 of the Court of First Instance of Rizal, which precludes his prosecution anew for the crime of abuse of chastity allegedly committed on August 29, 1936, in the municipality of Cainta, upon the person of the alleged offended party Luzonica Zapanta, and that petitioner is entitled to have the said criminal case brought to a close, wherefore, we order the respondent judge, or any judge who may preside over the Court of First Instance of Rizal, to dismiss definitively the aforesaid criminal case No. 10546, with the costs de oficio and upon cancellation of the bond filed by the petitioner; without special pronouncement as to the costs of this suit. So ordered.

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