

ROBERTO BRILLANTE, PETITIONER, VS. COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. 118757 & 121571. October 19, 2004

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TINGA, J.:

Good name in man and woman, dear my Lord,
Is the immediate jewel of their souls:
Who steals my purse steals trash; 'tis
Something, nothing;...
But he that filches from me my good name
Robs me of that which not enriches him,
And makes me poor indeed.

- Shakespeare: Othello, III, iii, 155.

Every man has a right to build, keep and be favored with a good name. This right is protected by law with the recognition of slander and libel as actionable wrongs, whether as criminal offenses or tortious conduct.

In these consolidated petitions for review on certiorari,[1] petitioner Roberto Brillante (Brillante), also known as Bobby Brillante, questions his convictions for libel for writing and causing to be published in 1988 an open letter addressed to then President of the Republic of the Philippines Corazon C. Aquino discussing the alleged participation of Atty. Jejomar Binay (Binay), then the “OIC Mayor”[2] and a candidate for the position of Mayor in the Municipality (now City) of Makati, and Dr. Nemesio Prudente (Prudente), then President of the Polytechnic University of the Philippines, in an assassination plot against Augusto Syjuco (Syjuco), another candidate for Mayor of Makati at that time.

On January 7, 1988, Brillante, then a candidate for the position of Councilor in Makati, held a press conference at the Makati Sports Club which was attended by some 50 journalists. In the course of the press conference, Brillante accused Binay of plotting the assassination of Syjuco. He further accused Binay of terrorism, intimidation and harassment of the Makati electorate. Brillante also circulated among the journalists copies of an open letter to President Aquino which discussed in detail his charges against Binay.[3]

Several journalists who attended the press conference wrote news articles about the same. Angel Gonong, a writer for the People’s Journal, wrote a news article entitled “Binay Accused of Plotting Slays of Rivals.” It was cleared for publication by Max Buan, Jr. (Buan), and Luis Camino (Camino), Editor-in-Chief and News Editor, respectively, of the People’s Journal. Gloria Hernandez (Hernandez) wrote a similar article entitled “Binay Slay Plan on Syjuco” which was cleared for publication by Augusto Villanueva (Villanueva) and Virgilio Manuel (Manuel), Editor-in-Chief and News Editor, respectively, of the News Today.[4]

The open letter was subsequently published under the title “Plea to Cory--Save Makati” in newspapers such as the People’s Journal, Balita, Malaya and Philippine Daily Inquirer.[5] The pertinent portions of the open letter read:

- We have received reports that Atty. Binay and his group are plotting the assassination of Mr. Augusto “Bobby” Syjuco, now frontrunner in the Makati mayoralty race.

These reports are:

- On December 14, 1987, Atty. Binay and Dr. Nemesio Prudente, president of the Polytechnic University of the Philippines (PUP), met at Puerto Azul in Cavite with, among others, a Commander Luming, a Major Rafael Nieva, and a commander Francis Baloloy. Subject of the meeting was “Winning the Election at all Costs.”

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- On December 17, 1987, Dr. Prudente, Atty. Binay and others including some unidentified government officials discussed operation “Dirty Fingers” after the ASEAN Summit Meeting. The operation involves terrorism, the use of public school teachers, the threat to kill or hurt political ward and precinct leaders not supporting or opposed to Atty. Binay, and to use these as samples to show rivals that his group is capable of doing so, the planting of his squads in places close to potential targets, the mobilization of “marshals” who will bring firearms and to ferry hitmen to target points. The “marshals” will also be used as “pointers” and to shelter the hitmen after accomplishing or performing their missions.

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- On December 8, 1987, a certain Emilio Anecito, tagged as a hitman in the group of Dr. Prudente, has been specifically assigned to assassinate Mr. Syjuco, Aniceto has been described as Iranian mestizo looking, about five (5) feet in height, fair complexioned curly haired, sporting a mustache, and fairly built bodily. He is said to be a silent person and supposedly has a perfect score in hit missions assigned to him.

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- On December 10, 1987, it was reported that Major Rafael Nieva had been assigned to work with Mr. Aniceto, Nieva’s background report is that he:

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c. Was hired by Dr. Prudente as security officer and personal bodyguard.

d. Is a notorious killer used by the PUP forces and only his employer can control or stop him.[6]

As a result of the publication of the open letter, Binay filed with the Makati fiscal’s office four complaints for libel against Brillante, as the author of the letter; Gonong, Buan and Camino for writing and publishing the news article on Brillante’s accusations against him in the People’s Journal;[7] Hernandez, Villanueva and Manuel for writing and publishing a similar news article in the News Today;[8] and for publishing the open letter, Buan and Camino of the People’s Journal;[9] and Arcadio A. Sison (Sison) as President of A. Sison and Associates, an advertising agency.[10]

Francisco Baloloy (Baloloy), who was identified in the open letter as among the persons who attended the meeting organized by Binay and Prudente to plan the assassination of Syjuco, likewise filed a criminal complaint for libel against Brillante, Domingo Quimlat (Quimlat), Publisher and Editor-in-Chief of Balita, and Sison as President of A. Sison and Associates.[11]

Subsequently, five Informations for libel against Brillante were filed with the Regional Trial Court (RTC) of Makati.

Similarly, on January 15, 1988, Prudente filed four complaints for libel against Brillante and the editors and publishers of the newspapers where the open letter was published. On January 16, 1989, four Informations for

libel were filed against Brillante and several co-accused with the RTC of Manila. Brillante's co-accused in these cases were: (i) Buan, Editor-in-Chief of the People's Journal;[12] (ii) Amado P. Macasaet (Macasaet), Publisher, and Noel Albano (Albano), Editor, of the Malaya;[13] (iii) Sison, Public Relations Officer and Federico D. Pascual (Pascual), Publisher and Executive Editor of the Philippine Daily Inquirer;[14] and (iv) Sison, Public Relations Officer and Quimlat, Publisher and Editor-in-Chief of Balita.[15]

Buan was not included in the trial of the cases in the RTC-Manila because he eluded arrest and was not arraigned. The charges against Pascual and Quimlat were dropped upon motion of the Assistant Prosecutor. The charges against Macasaet and Albano were also eventually dismissed upon motion of the prosecution. Only Brillante and Sison remained as accused.[16] Both pleaded not guilty to the charges against them.

On January 25, 1993, the RTC-Manila acquitted Sison but found Brillante guilty of libel on four counts. The dispositive portion of the trial court's Decision in the consolidated cases reads:

WHEREFORE, judgment is rendered pronouncing accused Bobby Brillante, also known as Roberto Brillante, guilty beyond reasonable doubt on four (4) counts, as author or writer, of LIBEL defined under Article 353 of the Revised Penal Code and penalized under Article 355 of the same code, and sentencing him in each count to the indeterminate penalty of FOUR (4) MONTHS of arresto mayor, as minimum, to TWO (2) YEARS of prision mayor, as maximum, and to pay a fine of P2,000.00 with subsidiary imprisonment in case of insolvency at the rate of ONE (1) DAY for every P8.00 that he is unable to pay, but which subsidiary imprisonment shall not exceed EIGHT (8) months.

Accused Bobby Brillante is ordered to pay the private offended party, Dr. Nemesio Prudente, the total sum of P1,000,000.00 in these four (4) cases for moral damages which the latter suffered.

Accused Arcadio Sison is acquitted in the two cases against him, his guilt of the charges against him not having been established beyond reasonable [doubt].

Two-third (2/3) of the costs is assessed against accused Bobby Brillante while the remaining one-third (1/3) is charged de oficio.[17]

Subsequently, Brillante appealed the Decision of the RTC-Manila to the Court of Appeals.[18] Brillante contended that when the Informations in Criminal Cases No. 89-69614 to 17 were filed by the prosecutor on January 16, 1989, the offense had already prescribed because more than one year had elapsed since the publication of the open letter on January 10, 11 and 12, 1988. He also averred that the open letter which he wrote and caused to be published was not defamatory and was without malice. Brillante also claimed that the publication is considered privileged communication. Finally, he argued that he is entitled to equal protection of the laws and should be acquitted of the offenses charged like his co-accused.[19]

On September 27, 1994, the Court of Appeals promulgated its Decision in CA-G.R. No. 14475 affirming the decision of the RTC-Manila. The appellate court held that the offense of libel had not yet prescribed because the one-year prescription period should be reckoned from the time that the private complainant Prudente filed his complaint with the fiscal's office on January 15, 1988 and not when the Informations were filed by the prosecutor on January 16, 1989. The Court of Appeals added that under Section 1, Rule 110, which took effect during the pendency of the cases against Brillante, the institution of the complaint before the fiscal's office or the courts for preliminary investigation interrupts the prescriptive period of the offense charged. It held that being a procedural rule, Section 1, Rule 110, applies to the cases against Brillante.[20]

The Court of Appeals further held that the RTC-Manila did not err in finding that Brillante had committed libel against Prudente. It explained that the open letter, when read in its entirety, gives the impression that Prudente is part of a purported criminal conspiracy to kill Syjuco. According to the appellate court, the open letter is a

malicious defamation which produced in the minds of the readers Brillante's intent and purpose to injure the reputation of Prudente, thereby exposing him to public hatred, contempt and ridicule.[21] The Court of Appeals rejected Brillante's argument that the open letter may be considered privileged communication because the evidence does not show that Brillante wrote and published it out of a legal, moral or social duty.[22]

The appellate court also debunked Brillante's allegation that he was denied the equal protection of the laws because while the charges against his co-accused were dropped, those against him were not. According to the appellate court, he and his co-accused are not similarly situated because he was convicted of libel upon a finding that there existed evidence beyond reasonable doubt to sustain his conviction. In contrast, the charges against his co-accused were dismissed and their guilt was not proven beyond reasonable doubt.[23]

Brillante's contention that his conviction for libel on four counts gave rise to double jeopardy because under our jurisdiction protection against double jeopardy may be invoked only for the same offense or identical offenses was also overruled by the appellate court. It held that each and every publication of the same libel constitutes a separate distinct offense and the charge for one instance of publication shall not bar a charge for subsequent and separate publications.[24]

Brillante filed a Motion for Reconsideration of the decision of the Court of Appeals, but the motion was denied in a Resolution dated January 19, 1995.[25]

In the meantime, Brillante was likewise convicted for libel on five counts by the RTC-Makati in Criminal Cases Nos. 88-1410, 88-1411, 88-1412, 88-3060 and 89-721. The dispositive portion of the Decision dated March 22, 1993 of the RTC-Makati reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

- In Criminal Cases Nos. 88-1410, 88-1411, 88-1412, 88-3060 and 89-721, finding accused Bobby Brillante, also known as Roberto Brillante, GUILTY beyond reasonable doubt of the offense of libel charged in each of these five (5) cases, and sentencing him in each of the cases to suffer imprisonment of FOUR (4) MONTHS of arresto mayor, as minimum, to TWO (2) YEARS prision correccional, as maximum, and to pay fine, likewise in each of these (5) cases, of Four Thousand (P4,000.00) Pesos, Philippine Currency, with subsidiary imprisonment in case of insolvency pursuant to Article 39, paragraph 1, of the Revised Penal Code.
- As to moral damages, said accused is also ordered to pay complainant, Jejomar C. Binay, the sum of One Million Pesos (P1,000,000.00), Philippine Currency, in all the four (4) charges (Crim. Cases Nos. 88-410, 88-1411, 88-1412 and 89-721), considering the latter's professional and political standing in society, he being a lawyer and former Governor of the Metro Manila Commission as well as director of various government agencies.
- As to moral damages, said accused is also ordered to pay complainant, Francisco Baloloy, the sum of Fifty Thousand Pesos (P50,000.00), Philippine Currency, in Criminal Case No. 88-3060.
- In Criminal Cases Nos. 88-1410 and 88-1412, ACQUITTING accused Max Buan, Jr., Angel Gonong and Louie Camino, of the two charges against them on the ground that their guilt has not been proven beyond reasonable doubt.
- In Criminal Case No. 88-1411 (except for accused Brillante) ordering the same ARCHIVED on the ground that the other accused herein, Gloria Hernandez, Augusto Villanueva and Virgilio Manuel, have not been brought to the jurisdiction of this Court; let alias warrant issue for their arrest.
- In Criminal Cases Nos. 88-3060 and 89-721, likewise ordering the same ARCHIVED ONLY WITH RESPECT TO accused Arcadio Sison, who has not been brought to the jurisdiction of this Court; let alias warrant issue for his arrest.

- In all these cases, ordering accused Bobby Brillante, also known as Roberto Brillante, to pay the proportionate costs.

SO ORDERED.[26]

Brillante appealed the Decision of the RTC-Makati to the Court of Appeals,[27] raising essentially the same arguments in his appeal in CA-G.R. CR No. 14475.

On February 28, 1995, the Court of Appeals rendered its Decision in CA-G.R. CR No. 15174 affirming the decision of the RTC-Makati. It held that the filing of the complaint before the fiscal's office interrupts the period of prescription because Article 91 of the Revised Penal Code did not make any distinction whether the complaint is filed in court for preliminary investigation or for trial on the merits, because the filing of the complaint for preliminary investigation is the initial step of criminal proceedings. It added that it would be unfair to deprive the injured party of the right to obtain vindication on account of delays which are not within his control.[28]

The appellate court also ruled that the open letter cannot be considered privileged communication because it contains libelous matter and was circulated to the public. Citing *U.S. v. Galeza*,[29] it held that while it is the right and duty of a citizen to file a complaint regarding a misconduct on the part of a public official, such complaint must be addressed solely to the officials having jurisdiction to inquire into the charges.[30]

Lastly, the Court of Appeals sustained the trial court's observation that unlike Brillante, his co-accused editors and publishers could not be held liable for libel because the news reports regarding the January 7, 1988 press conference which were published in their respective newspapers sufficiently informed the readers that the reference to Binay's involvement in the assassination plot were allegations made by Brillante during the press conference and that said allegations were reported for the sole purpose of informing the public of the news regarding the candidates adverted to in the report.[31]

Brillante filed a Motion for Reconsideration of the appellate court's decision, but the motion was denied in a Resolution dated August 17, 1995.[32]

Thereafter, Brillante filed the present Petitions for Review on March 13, 1995 in G.R. No. 118757 and on October 10, 1995 in G.R. No. 121571. In G.R. No. 118757, he raises the following arguments:

I

THE OFFENSE OF LIBEL CHARGED IN THE INFORMATION (sic) HAD ALREADY PRESCRIBED WHEN THE SAID INFORMATION (sic) WAS FILED.

II

HE IS NOT GUILTY OF LIBEL HE IS CHARGED WITH, BECAUSE THE LETTER HE CAUSED TO BE PUBLISHED WAS WRITTEN AND PUBLISHED WITHOUT ANY MALICE [N]OR MALICIOUS INTENT TO MALIGN THE PERSON, HONOR AND REPUTATION OF THE COMPLAINANT [PRUDENTE/BINAY] BUT SOLELY FOR THE JUSTIFIED AND HONEST PURPOSE OF BRINGING TO THE ATTENTION OF ALL AUTHORITIES CONCERNED THE REPORTS THEREIN MENTIONED FOR APPROPRIATE ACTION. WHERE THERE IS NO MALICE, THERE IS NO LIBEL.

III

IN TRUTH, PUBLICLY KNOWN PARAMILITARY ACTIVITIES OF COMPLAINANT, DR. NEMESIO PRUDENTE, ALREADY IN OPERATION LONG BEFORE JANUARY 12, 1988, INDICATE THAT HE WAS NOT INCAPABLE OF NOURISHING VIOLENT INTENTIONS AGAINST THE POLITICAL OPPONENTS OF MAYOR BINAY.

IV

MOREOVER, CONSIDERING THAT THE MATTER REFERRED TO IN THE LETTER INDUBITABLY RELATES TO THE ELECTION CAMPAIGN THEN GOING ON AS WELL AS THE PARTICIPATION OF PETITIONER AND COMPLAINANT THEREIN, WHATEVER IS CONTAINED IN SAID LETTER CAN AT MOST BE NO MORE THAN A POLITICAL LIBEL, WHICH IS NOT PUNISHABLE.

WE EARNESTLY URGE THAT THIS PROPOSITION BE ENUNCIATED AS A FUNDAMENTAL PRINCIPLE IN THE LAW ON LIBEL.

V

IN THE REMOTE POSSIBILITY THAT THIS HONORABLE COURT MAY PERCEIVE ANY CRIMINAL LIBEL IN THIS CASE, THE PENALTY IMPOSED UPON PETITIONER IS CRUEL AND EXCESSIVE, PARTICULARLY, AS TO THE AMOUNT OF DAMAGES AWARDED TO COMPLAINANT.[33]

In G.R. No. 121571, he makes the following assignments of error:

I

THE OFFENSE HAD PRESCRIBED

II

THE PUBLICATION WAS A PRIVILEGED COMMUNICATION

III

THE PUBLICATION WAS MADE WITHOUT MALICE

IV

IT MAY, AT MOST, ALSO BE CONSIDERED A POLITICAL LIBEL WHICH IS NOT PUNISHABLE

V

THE DECISION VIOLATES PETITIONER'S RIGHT TO EQUAL PROTECTION OF THE LAWS

VI

THE PENALTY IS CRUEL AND EXCESSIVE[34]

With respect to the issue of prescription, Brillante anchors his claim on the Court's ruling in *People v. Tayco*[35] that the prescriptive period of a crime is interrupted only upon the filing of the complaint in court and not the filing thereof with the fiscal's office. According to Brillante, the ruling in *People v. Olarte*[36] did not modify the doctrine in *Tayco* because in *Olarte*, the Court referred to a complaint filed "in court," not in the "fiscal's office." The ruling in *Francisco v. Court of Appeals*[37] that a complaint filed with the fiscal's office also interrupts the prescriptive period of a criminal offense allegedly cannot overturn the ruling in *Olarte* because the latter was decided by the Court En Banc while *Francisco* was decided by a mere division of the Court.[38]

It is further asserted by Brillante that the rule in the 1985 Rules on Criminal Procedure that the filing of the criminal complaint with the fiscal's office interrupts the prescriptive period, cannot be applied retroactively to the cases against him because it impairs his vested right to have the cases against him dismissed on the ground of prescription.[39] In addition, he claims that Section 6(b), Rule 3 of the 1985 Rules on Criminal Procedure which states that "[t]he pendency of a petition for suspension of the criminal action still undergoing preliminary investigation in the fiscal's office shall interrupt the prescriptive period for filing the corresponding complaint of

information” supports his position that prior to the amendment of the Rules on Criminal Procedure in 1985, the prevailing rule was that only the filing of the complaint or information in court tolls the prescriptive period for a criminal offense.[40]

Brillante denies that he is liable for libel for causing to be published his open letter implicating Binay, Prudente and their associates in a planned assassination of Syjuco as well as election-related terrorism, and in uttering remarks against Binay and his associates during the January 7, 1988 press conference. According to Brillante, his statements and utterances were privileged communication because he made them public out of a legal, moral and social duty to safeguard the sanctity of the elections to be held on January 18, 1988, and to avoid the unnecessary loss of life.[41] Since his statements were privileged communication, malice cannot be presumed from them.[42] Brillante adds that at the time he made the statements, he honestly believed that they were true. Citing an American case, *Bays v. Hunt*,[43] he contends that where there is an honest belief in the truth of the charges made, and the publication is in good faith, one is not responsible even for publishing an untruth.[44]

It is further asserted by Brillante that since Binay, the subject of the allegedly defamatory statements is a public figure, his (Brillante’s) comments affecting Binay’s reputation is constitutionally protected speech.[45]

Brillante also urges the Court to reverse his convictions, reasoning that at most, what he may have committed is “political libel” which should exempt him from criminal liability, considering that election campaigns can become very heated and candidates from rival camps often make charges and countercharges which are offensive to the name, honor and prestige of their opponents. He contends that statements made by a candidate against his rivals, although derogatory, are for the purpose of convincing the electorate to prevent suspicious characters from holding public office. In essence, he posits the view that “political libel” should be deemed constitutionally protected speech.[46]

Brillante likewise argues that the multiple publication rule, i.e., that each publication constitutes one offense of libel, should not have been applied to him, considering the factual background of the open letter and the statements uttered by him during the press conference.[47]

Anent the issue of equal protection, Brillante contends that he should have been acquitted like his co-accused Angel Gonong who wrote the news article in the *People’s Journal* regarding the January 7, 1988 press conference and Buan and Camino who were the editors of that publication.[48]

The Solicitor General filed a Comment on each of the petitions.

The Solicitor General insists that the one-year prescriptive period for libel should be reckoned from the date of filing of the complaints with the office of the prosecutor as clarified by the Court in *Olarte and Francisco* and as stated in the 1985 Rules on Criminal Procedure, as amended in 1988, which applies to the complaints filed against Brillante as of October 1988.[49]

On the issue of libel, the Solicitor General insists that Brillante’s statements in the open letter clearly impute upon Prudente and Binay a criminal conspiracy to assassinate Syjuco.[50] The Solicitor General also maintains that contrary to Brillante’s claims, the open letter cannot be considered privileged communication because it was published without justifiable motives and it was circulated for the information of the general public instead of addressing the letter solely to the authorities who had the power to curb the dangers alleged by Brillante in the letter.[51]

The Solicitor General disagrees with Brillante’s contention that his statements are constitutionally protected because they are criticisms of official conduct and deal with public figures. According to the Solicitor General, the record shows that Brillante did not have enough basis to pass off his accusations as true considering that he

admitted to relying on unnamed “intelligence sources.”[52]

It is also argued by the Solicitor General that Brillante’s statements cannot be exempt from criminal liability on the ground that such statements were “political libel.” Brillante’s claim, the Solicitor General asserts, has no basis in law or jurisprudence.[53]

With respect to the issue of equal protection, the Solicitor General avers that Brillante cannot be acquitted like his co-accused publishers, editors and writers because their alleged participation in the commission of the libel are different from Brillante who is the author of the libelous statements. The writers of the news reports were only narrating what took place during the January 7, 1988 press conference, and wrote the news articles to inform the public of Brillante’s statements. In the case of the editors and publishers who published the open letter, they indicated in their respective publications that the open letter was a paid advertisement. The publication of the news reports in the newspapers was also done to inform the public of what transpired during the January 7, 1988 press conference.[54]

The Solicitor General further argues that the penalty imposed upon Brillante is not excessive but is in accordance with law, which considers one publication of a libelous statement as a distinct offense from another publication of the same statement.[55]

Thus, the Solicitor General prays that Brillante’s petitions be denied.[56]

Brillante thereafter filed a Reply to each of the Solicitor General’s Comments. The replies reiterate Brillante’s arguments in his petitions.[57]

The Court is tasked to resolve the following issues: (1) whether the offense of libel had already prescribed when the Informations were filed with the RTC-Manila and RTC-Makati; (2) whether Brillante is guilty beyond reasonable doubt of libel; (3) whether Brillante was denied the equal protection of the laws; and (4) whether the penalty imposed upon him is excessive.

Save for the issue on the amount of moral damages, there is no merit in the petitions.

With respect to the issue of prescription, the fourth paragraph of Article 90 of the Revised Penal Code provides that the “crime of libel or other similar offenses shall prescribe in one year.” In determining when the one-year prescriptive period should be reckoned, reference must be made to Article 91 of the same code which sets forth the rule on the computation of prescriptive periods of offenses:

Computation of prescription of offenses.—The period of prescription shall commence to run from the day on which the crime is discovered by the offended party, the authorities, or their agents, and shall be interrupted by the filing of the complaint or information, and shall commence to run again when such proceedings terminate without the accused being convicted or acquitted, or are unjustifiably stopped for any reason not imputable to him.

The aforequoted provision expressly states that prescriptive period shall be interrupted by the filing of the complaint or information. The meaning of the phrase “shall be interrupted by the filing of the complaint or information” in Article 91 has been settled in the landmark case of *People v. Olarte*,[58] where the Court settled divergent views as to the effect of filing a complaint with the Municipal Trial Court for purposes of preliminary investigation on the prescriptive period of the offense. The Court therein held that the filing of the complaint for purposes of preliminary investigation interrupts the period of prescription of criminal responsibility. It explained thus:

...the filing of the complaint with the Municipal Court, even if it be merely for purposes of preliminary examination or investigation, should, and does, interrupt the period of prescription of the criminal

responsibility, even if the court where the complaint or information is filed can not try the case on its merits. Several reasons buttress this conclusion: first, the text of Article 91 of the Revised Penal Code, in declaring that the period of prescription “shall be interrupted by the filing of the complaint or information” without distinguishing whether the complaint is filed in the court for preliminary examination or investigation merely, or for action on the merits. Second, even if the court where the complaint or information is filed may only proceed to investigate the case, its actuations already represent the initial step of the proceedings against the offender. Third, it is unjust to deprive the injured party the right to obtain vindication on account of delays that are not under his control. All that the victim of the offense may do on his part to initiate the prosecution is to file the requisite complaint.

And it is no argument that Article 91 also expresses that the interrupted prescription “shall commence to run again when such proceedings terminate without the accused being convicted or acquitted,” thereby indicating that the court in which the complaint or information is filed must have the power to convict or acquit the accused. Precisely, the trial on the merits usually terminates in conviction or acquittal, not otherwise. But it is in the court conducting a preliminary investigation where the proceedings may terminate without conviction or acquittal, if the court should discharge the accused because no prima facie case had been shown.[59]

Thereafter, the Court in *Francisco v. Court of Appeals*[60] clarified that the filing of the complaint with the fiscal’s office also suspends the running of the prescriptive period of a crime:

As is a well-known fact, like the proceedings in the court conducting a preliminary investigation, a proceeding in the Fiscal’s Office may terminate without conviction or acquittal.

As Justice Claudio Teehankee has observed:

To the writer’s mind, these reasons logically call with equal force, for the express overruling also of the doctrine in *People vs. Tayco*, 73 Phil. 509, (1941) that the filing of a complaint or denuncia by the offended party with the City Fiscal’s Office which is required by law to conduct the preliminary investigation does not interrupt the period of prescription. In chartered cities, criminal prosecution is generally initiated by the filing of the complaint or denuncia with the city fiscal for preliminary investigation. In the case of provincial fiscals, besides being empowered like municipal judges to conduct preliminary investigations, they may even reverse actions of municipal judges with respect to charges triable by Courts of First instance . . .[61]

There is no conflict in the pronouncements of the Court in *Olarte* and *Francisco* as *Brillante* erroneously suggests. *Olarte* laid down the doctrine that a complaint filed for purposes of preliminary investigation tolls the running of the prescriptive period of a criminal offense. The criminal complaint for libel in that case was filed, for the purpose of preliminary investigation, with the Justice of the Peace Court in Pozorrubio, Pangasinan. Hence, in setting the doctrine, the Court referred to the “filing of the complaint in the Municipal Court.”[62] The question of whether the doctrine laid down in *Olarte* also applies to criminal complaints filed with the prosecutor’s office was settled in *Francisco*. Specifically, the Court in *Francisco* amplified the *Olarte* doctrine when it categorically ruled that the filing of a complaint with the fiscal’s office suspends the running of the prescriptive period of a criminal offense.

Thus, the Court of Appeals committed no reversible error in ruling that the offense of libel had not yet prescribed when the informations against *Brillante* and his co-accused were filed in the RTC-Manila and RTC-Makati.

Neither did the appellate court err in sustaining *Brillante*’s conviction for libel.

Libel is defined under Article 353 of the Revised Penal Code 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 cause the dishonor, discredit or contempt of a natural or juridical person, or to blacken the memory of one who is dead.”

To be liable for libel, the following elements must be shown to exist: (a) the allegation of a discreditable act or

condition concerning another; (b) publication of the charge; (c) identity of the person defamed; and (d) existence of malice.[63]

There could be no dispute as to the existence of the first three elements of libel in the cases at bar.

An allegation made by a person against another is considered defamatory if it ascribes to the latter the commission of a crime; the possession of a vice or defect, whether real or imaginary; or any act, omission, condition, status or circumstance which tends to dishonor or discredit or put him in contempt, or which tends to blacken the memory of one who is dead.[64] Brillante's statements during the January 7, 1988 press conference and in the open letter explicitly referred to reprehensible acts allegedly committed by Binay, Prudente and their associates, such as the use of goons to threaten Binay's opponents in the election and the plotting of Syjuco's assassination.

The element of publication was likewise established. There is publication if the defamatory material is communicated to a third person, i.e., a person other than the person to whom the defamatory statement refers.[65] In the cases at bar, it was proven that Brillante uttered defamatory statements during the press conference attended by some fifty journalists and caused the open letter to be published in several newspapers, namely, News Today, People's Journal, Balita, Malaya and Philippine Daily Inquirer.

Further, Brillante himself admitted that he named Binay, Prudente and their associates as the persons who participated in the planning of the election-related terrorism and the assassination of Syjuco not only in his open letter but also during the press conference.

Thus, the determination of Brillante's culpability for libel hinges on the question of whether his statements were made with malice.

Malice is a term used to indicate the fact that the offender is prompted by personal ill-will or spite and speaks not in response to duty, but merely to injure the reputation of the person defamed; it implies an intention to do ulterior and unjustifiable harm.[66] It 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.[67]

Article 354 of the Revised Penal Code states, as a general rule, that every defamatory imputation is presumed to be malicious, even if true, if no good intention and justifiable motive is shown.[68]

As an exception to the rule, the presumption of malice is done away with when the defamatory imputation qualifies as privileged communication.[69]

Privileged communication may either be absolutely privileged or conditionally privileged. The Court in *Orfanel v. People of the Philippines*[70] differentiated absolutely privileged communication from conditionally privileged communication in this manner:

...A communication is said to be absolutely privileged when it is not actionable, even if its author acted in bad faith. This class includes statements made by members of Congress in the discharge of their functions as such, official communications made by public officers in the performance of their duties, and allegations or statements made by the parties or their counsel in their pleadings or motions or during the hearing of judicial proceedings, as well as the answers given by witnesses in reply to questions propounded to them, in the course of said proceedings, provided that said allegations or statements are relevant to the issues, and the answers are responsive or pertinent to the questions propounded to said witnesses. Upon the other hand, conditionally or qualifiedly privileged communications are those which, although containing defamatory imputations, would not be actionable unless made with malice or bad faith.[71] (Emphasis supplied.)

Conditionally or qualifiedly privileged communications are those mentioned in, Article 354 of the Revised Penal Code, to wit:

- A private communication made by a person to another in the performance of any legal, moral, or social duty; and
- A fair and true report, made in good faith, without any comments or remarks, of any judicial, legislative, or other official proceedings which are not of confidential nature, or of any statement, report, or speech delivered in said proceedings, or of any act performed by public officers in the exercise of their functions.[72]

Brillante claims that he wrote the open letter and uttered the statement complained of during the January 7, 1988 press conference out of a social duty to disclose to all concerned the dangers to which he and his fellow candidate Syjuco were exposed in view of the concerted actions of Binay and Prudente.[73] In effect, he argues that his defamatory statements and utterances fall under Article 354, No. 1 and are in the nature of privileged communication; hence, malice cannot be presumed but must be established beyond reasonable doubt.

The Court is not convinced.

In order to prove that a statement falls within the purview of a qualifiedly privileged communication under Article 354, No. 1, the following requisites must concur: (1) the person who made the communication had a legal, moral, or social duty to make the communication, or at least, had an interest to protect, which interest may either be his own or of the one to whom it is made; (2) the communication is addressed to an officer or a board, or superior, having some interest or duty in the matter, and who has the power to furnish the protection sought; and (3) the statements in the communication are made in good faith and without malice.[74]

With respect to the first requisite, the Court in *U.S. v. Cañete*[75] clarified that the interest sought to be protected by the person making the communication need not be his own, but may refer to an interest shared by the other members of society.

It may therefore be argued that Brillante's statements, which according to him were made in order to protect himself and Syjuco as Binay's rivals in the 1988 elections, as well as to protect the electorate from possible acts of terrorism by Binay, Prudente and their associates and from casting their votes for undeserving candidates, satisfy the first requisite.

However, as the Solicitor General noted, Brillante's statements were based merely on unconfirmed intelligence reports. His belief in such intelligence reports hardly justifies the publication of such serious imputations against his political rivals. As a journalist and as a candidate for public office, Brillante should have known that it is necessary to further verify the truth or at least the reliability of the intelligence reports before making them public. His hasty publication thereof negates the existence of good faith and justifiable motives.

The pronouncement of the Court in *U.S. v. Galeza*[76] is enlightening:

...Every communication is privileged which is made in good faith with a view to obtain redress for some injury received or to prevent or punish some public abuse. The privilege should not be abused. If such communication be made maliciously and without probable cause, the pretense under which it is made, instead of furnishing a defense, will aggravate the case of the defendant. And a party will be taken to have acted maliciously if he eagerly seizes on some slight and frivolous matter, and without any inquiry into the merits, without even satisfying himself that the account of the matter that has reached him is correct, hastily concludes that a great public scandal has been brought to light which calls for the immediate intervention of the people.... (Citations omitted.)[77]

It is, however, the absence of the second element of a privileged communication that unequivocally negates the characterization of Brillante's statements as privileged communication. The law requires that for a defamatory imputation made out of a legal, moral or social duty to be privileged, such statement must be communicated only

to the person or persons who have some interest or duty in the matter alleged, and who have the power to furnish the protection sought by the author of the statement.

In the cases at bar, although the open letter was primarily addressed to then President Aquino, the communication thereof was not limited to her alone. It was also published in several newspapers of general circulation and was thus made known to the general public. Even if the interest sought to be protected belongs not just to Brillante but to the public in general, certainly, the general public does not have the power to remedy the alleged dangers sought to be prevented by Brillante in publishing the open letter or in uttering similar statements during the January 7, 1988 press conference. Brillante employed the shotgun approach to disseminate the information which essentially destroyed the reputations of the complainants. His lack of selectivity is indicative of malice and is anathema to his claim of privileged communication.

In *Daez v. Court of Appeals*,^[78] Daez was charged with libel for publishing a letter which accused the Mayor of Meycauayan, Bulacan of corruption. The letter addressed to the Mayor was sent not only to him but also to the Municipal Court, Municipal Council and Chief of Police of Meycauayan, Bulacan. Daez contended therein that he was not guilty of libel because he was not motivated by malice or ill-will in publishing the letter, but rather, he did it out of good intentions and a social duty to bring about reforms in the administration of the municipal government of Meycauayan, Bulacan. The Court affirmed his conviction for libel and held:

...The goodness of the intention is not always sufficient by itself to justify the publication of an injurious fact; thus the goodness of the end is not a sufficient motive to warrant the employment of illicit means to obtain it. The existence of justifiable motives is a question which has to be decided by taking into consideration not only the intention of the author of the publication but all the other circumstances of each particular case.... A communication made bona fide upon any subject matter in which the party communicating has an interest, or in reference to which he has a duty, is privileged, if made to a person having a corresponding interest or duty, although it contained criminary matter which without this privilege would be slanderous and actionable. However, a written letter containing libelous matter cannot be classified as privileged when it is published and circulated among the public....As a rule, it is the right and duty of a citizen to make a complaint of any misconduct on the part of public officials, which comes to his notice, to those charged with supervision over them. Such a communication is qualifiedly privileged and the author is not guilty of libel. The rule on privilege, however, imposes an additional requirement. Such complaints should be addressed solely to some official having jurisdiction to inquire into the charges, or power to redress the grievance or has some duty to perform or interest in connection therewith. In the instant case, none of the persons to whom the letter was sent, was vested with the power of supervision over the mayor or the authority to investigate the charges made against the latter. (Citations omitted.)^[79]

Thus, the Court agrees with the finding of the Court of Appeals that the statements made by Brillante during the press conference and in the open letter do not qualify as privileged communication.

Indeed, the purpose of affording protection to privileged communication is to permit all interested persons or citizens with grievances to freely communicate, with immunity, to the persons who could furnish the protection asked for. However, to shield such privilege from abuse, the law itself requires at all times that such petitions or communications shall be made in good faith or with justifiable motives. If it is established that the communication was made maliciously or to persons who could not furnish the protection sought, then the author thereof cannot seek protection under the law.^[80] As was explained by the Court in *Cañete*:

The plainest principles of natural right and sound public policy require that the utmost possible freedom should be accorded every citizen to complain to the supervising, removing and appointing authorities of the misconduct of the public officials with whom he comes into contact, and like considerations make it equally proper that members of a religious organization should enjoy equal freedom in bringing to the attention of the

church authorities the misbehavior of their spiritual leaders or of fellow-members. Manifestly, the right must be exercised in good faith, and may not with impunity be made the occasion for the venting of private spite. It is subject to the limitation and restriction that such complaints must be made to a functionary having authority to redress the evils complained of; that they must be made in good faith and that they must not be actuated by malice.[81]

The Court in *Lu Chu Sing v. Lu Tiong Gui*[82] clarified that the fact that a communication is privileged does not mean that it is not actionable; the privileged character of the communication simply does away with the presumption of malice, and the plaintiff has to prove the fact of malice in such case.

However, since the open letter and the statements uttered by Brillante during the January 7, 1988 press conference are defamatory and do not qualify as conditionally privileged communication, malice is presumed and need not be proven separately from the existence of the defamatory statement.[83]

Considering that all the elements of libel are present in the cases against Brillante, the Court finds that no reversible error was committed by the Court of Appeals in affirming his convictions by the RTC-Manila and RTC-Makati.

Neither does the Court find any basis in law to uphold Brillante's proposition that his statements made during the January 7, 1988 press conference and those in his open letter constitute "political libel" and should thus be exempt from liability. Unfounded and malicious statements made by one against another in the course of an election campaign, or by reason of differences in political views are not per se constitutionally protected speech. Our laws on defamation[84] provide for sanctions against unjustified and malicious injury to a person's reputation and honor. Although wider latitude is given to defamatory utterances against public officials in connection with or relevant to their performance of official duties,[85] or against public figures in relation to matters of public interest involving them,[86] such defamatory utterances do not automatically fall within the ambit of constitutionally protected speech. If the utterances are false, malicious or unrelated to a public officer's performance of his duties, the same may give rise to criminal and civil liability.

With respect to the third issue, the Court agrees with the appellate court that Brillante's right to equal protection of the laws was not violated when he was convicted of libel while his co-accused were acquitted.

The equal protection clause is not absolute; rather, it permits of reasonable classification. If the classification is characterized by real and substantial differences, one class may be treated differently from another.[87] It is sufficient that the law operates equally and uniformly on all persons under similar circumstances or that all persons are treated in the same manner, the conditions not being different, both in the privileges conferred and the liabilities imposed.[88]

As mentioned earlier, the cases against some of some of Brillante's co-accused were dismissed during the pendency of the cases before the trial courts.[89] Still, some of his co-accused remained at large,[90] leaving the trial courts with no option but to archive the case as against them. Brillante's other co-accused were acquitted since, unlike Brillante, their guilt was not proven beyond reasonable doubt.[91]

The foregoing clearly shows that Brillante was in a situation different from his co-accused. The prosecution was able to prove beyond reasonable doubt his liability for libel, as the author of the open letter and the source of the defamatory statements uttered against Binay, et al. during the January 7, 1988 press conference.

As such, his conviction for libel was not violative of the equal protection clause.

The Court likewise finds no error on the part of the Court of Appeals in affirming the penalties imposed upon him by the trial courts of Manila and Makati.

The penalty for libel by means of writing or similar means is prision correccional in its minimum and medium periods, or a fine ranging from 200 to 6,000 pesos, or both, in addition to the civil action which may be brought by the offended party.[92] It is likewise settled that a single defamatory statement, if published several times, gives rise to as many offenses as there are publications. This is the "multiple publication rule" which is followed in our jurisdiction, as explained in *Soriano v. Intermediate Appellate Court*: [93]

We follow the "multiple publication" rule in the Philippines. Thus, in the cases of *Montinola D. Montalvo* (34 Phil. 662, [1916]) and *United States v. Sotto* (36 Phil. 389 [1917]), this Court ruled that each and every publication of the same libel constitutes a distinct offense. Stated more succinctly for purposes of ascertaining jurisdiction under Art. 360 of the Revised Penal Code, as amended, every time the same written matter is communicated such communication is considered a distinct and separate publication of the libel.

We explained this as follows:

"The common law as to causes of action for tort arising out of a single publication was to the effect that each communication of a written or printed matter was a distinct and separate publication of a libel contained therein, giving rise to a separate cause of action. This rule ('multiple publication' rule) is still followed in several American jurisdictions, and seems to be favored by the American Law Institute. Other jurisdictions have adopted the 'single publication' rule which originated in New York, under which any single integrated publication, such as one edition of a newspaper, book, or magazine, or one broadcast, is treated as a unit, giving rise to only one cause of action, regardless of the number of times it is exposed to different people. . . (50 Am. Jur. 2d 659 cited in *Time, Inc. v. Reyes*)" (39 SCRA 301, 313 [1971]). [94]

There is therefore no legal basis for Brillante's claim that the penalties imposed upon him are excessive.

The Court however agrees with Brillante that the awards of moral damages in the two cases to private complainants Binay, Prudente and Baloloy are excessive considering the circumstances surrounding the making and the publication of the defamatory statements. Accordingly, the award of moral damages in favor of private complainant Prudente is reduced to a total of Five Hundred Thousand Pesos (P500,000.00) in Criminal Cases No. 89-69614, 89-69615, 89-69616 and 89-69617; and the award of moral damages to private complainant Binay is reduced to Five Hundred Thousand Pesos (P500,000.00) in Criminal Cases No. 88-1410, 88-1411, 88-1412 and 89-721. The award of moral damages to private complainant Baloloy in Criminal Case No. 88-3060 is likewise reduced to Twenty Five Thousand Pesos (P25,000.00).

WHEREFORE, in view of the foregoing, the petitions are GRANTED in part.

The Decision of the Court of Appeals in CA-G.R. CR No. 14475 is AFFIRMED with the MODIFICATION that the award of moral damages to private complainant Dr. Nemesio Prudente in Criminal Cases No. 89-69614, 89-69615, 89-69616 is reduced to Five Hundred Thousand Pesos (P500,000.00). The Decision of the Court of Appeals in CA G.R. CR No. 15174 is likewise AFFIRMED with the MODIFICATION that the award of moral damages to private complainants Atty. Jejomar Binay and Francisco Baloloy is reduced to Five Hundred Thousand Pesos (P500,000.00) in Criminal Cases No. 88-1410, 88-1411, 88-1412 and 89-721, and Twenty Five Thousand Pesos (P25,000.00) in Criminal Case No. 88-3060, respectively.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, and Callejo, Sr., JJ., concur. Chico-Nazario, J., on leave.

[1] In G.R. No. 118757, petitioner Roberto Brillante assails the Decision ([penned by Associate Justice (now Associate Justice of the Supreme Court) Consuelo Ynares-Santiago and concurred in by Associate Justices Emeterio C. Cui and Conchita Carpio Morales (now Associate Justice of the Supreme Court)] dated September

27, 1994 of the Court of Appeals in CA-G.R. CR No. 14475 which affirmed his conviction for libel on three counts by the Regional Trial Court of Manila, Branch 35, as well as the Resolution dated January 19, 1995 which dismissed his motion for reconsideration.

In G.R. No. 121571, petitioner Roberto Brillante challenges the Decision ([pen]ned by Associate Justice Jaimal D. Rasul and concurred in by Associate Justices Fidel P. Purisima (who later became an Associate Justice of the Supreme Court) and B.A. Adefuin-De la Cruz]) dated February 28, 1995 of the Court of Appeals in CA G.R. CR No. 15174 which affirmed his conviction for libel on five counts by the Regional Trial Court of Makati, Metro Manila, Branch 145, as well as the Resolution dated August 17, 1995 which denied his motion for reconsideration.

[2] Officer-in-Charge, Office of the Mayor.

[3] CA Decision, G.R. No. 121571, Rollo, pp. 9-10.

[4] Decision of the Regional Trial Court (RTC) of Manila in Criminal Cases Nos. 88-1410-12, 88-3060 and 89-721, CA-G.R. CR No. 15174, Rollo, p. 37.

[5] G.R. No. 118757, Rollo, pp. 6-7; G.R. No. 121571, Rollo, pp. 9-10.

[6] See CA Decision, G.R. No. 118757, Rollo, pp. 6-9.

[7] These were Brillante's co-accused in Criminal Case No. 88-1410, RTC-Makati.

[8] These were Brillante's co-accused in Criminal Case No. 88-1411, RTC-Makati.

[9] These were Brillante's co-accused in Criminal Case No. 88-1412, RTC-Makati.

[10] Sison was Brillante's co-accused in Criminal Case No. 89-721, RTC-Makati.

[11] The case was docketed as Criminal Case No. 88-3060 by the RTC-Makati.

[12] Criminal Case No. 89-69614, RTC-Manila.

[13] Criminal Case No. 89-69615, RTC-Manila.

[14] Criminal Case No. 89-69616, RTC-Manila.

[15] Criminal Case No. 89-69617, RTC-Manila.

[16] CA Decision, G.R. No. 118757, Rollo, p. 9.

[17] Id. at 9-10.

[18] The case was docketed as CA-G.R. CR No. 14475 entitled *People of the Philippines, Plaintiff-Appellee v. Bobby Brillante @ Roberto Brillante, Accused-Appellant*.

[19] G.R. No. 118757, Rollo, pp. 11, 14, 16-17 and 19.

[20] Id. at 13-14.

[21] Id. at 16.

[22] Id. at 18-19.

[23] Id. at 19-20.

[24] Id. at 20-21.

- [25] Id. at 22.
- [26] CA Decision, G.R. No. 121571, Rollo, pp. 8-9.
- [27] The case was docketed as CA-G.R. CR No. 15174 entitled People of the Philippines, Plaintiff-Appellee v. Bobby Brillante @ Roberto Brillante, Accused-Appellant.
- [28] G.R. No. 121571, Rollo, pp. 11-12.
- [29] 31 Phil. 365 (1915).
- [30] CA Decision, G.R. No. 121571, Rollo, p. 12.
- [31] Id. at 12-13.
- [32] Id. at 16.
- [33] G.R. No. 118757, Rollo, pp. 35-36.
- [34] G.R. No. 121571, Rollo, p. 27.
- [35] 79 Phil. 509 (1947).
- [36] 125 Phil. 895 (1967).
- [37] 207 Phil. 471 (1983).
- [38] G.R. No. 118757, Rollo, pp. 36-41; G.R. No. 121571, Rollo, pp. 27-32.
- [39] Id. at 12-13; Id. at 35-37.
- [40] Id. at 13-14; Id. at 31-32.
- [41] Id. at 46 and 51; Id. at 62.
- [42] G.R. No. 121571, Rollo, p. 56.
- [43] 14 NW 785, cited in Bouvier's Law Dictionary, G.R. No. 121571, Rollo, p. 63.
- [44] G.R. No. 121571, Rollo, p. 63.
- [45] Id. at 38.
- [46] G.R. No. 118757, Rollo, pp. 52-53; G.R. No. 121571, Rollo, pp. 74-75.
- [47] Id. at 53-54; Id. at 78.
- [48] G.R. No. 121571, Rollo, pp. 76-77.
- [49] G.R. No. 118757, Rollo, pp. 122-127; G.R. No. 121571, Rollo, pp. 219-223.
- [50] G.R. No. 118757, Rollo, pp. 129-130.
- [51] G.R. No. 118757, Rollo, pp. 130-132; G.R. No. 121571, Rollo, pp. 224-225.
- [52] G.R. No. 118757, Rollo, p. 133.
- [53] Id. at 135; G.R. No. 121571, Rollo, p. 226.
- [54] G.R. No. 121571, Rollo, pp. 227-231.

[55] G.R. No. 118757, Rollo, pp. 136-137; G.R. No. 121571, Rollo, pp. 231-232.

[56] Id. at 138; Id. at 232.

[57] Id. at 154-170; Id. at 244-259.

[58] Supra, note 36. Also cited in *Arambulo v. Laqui, et al.*, G.R. No. 138596, October 12, 2000, 342 SCRA 740.

[59] Id. at 902.

[60] Supra, note 37.

[61] Id. at 480.

[62] *People v. Olarte*, supra, note 36 at 902.

[63] *Vasquez v. Court of Appeals*, 373 Phil. 238 (1999); *Vicario v. Court of Appeals*, 367 Phil. 292 (1999).

[64] Article 353, Revised Penal Code; *Vasquez v. Court of Appeals*, supra, note 63.

[65] *Vasquez v. Court of Appeals*, supra, note 63.

[66] *U.S. v. Cañete*, 38 Phil. 253 (1918).

[67] *New York Times v. Sullivan* 376 US. 254 (1964), cited in *Vasquez v. Court of Appeals*, supra, note 63.

[68] Art. 354, par. 1.

[69] Art. 354, par. 2.

[70] 141 Phil. 519 (1969).

[71] Id. at 523-524.

[72] See also *Borjal v. Court of Appeals*, 361 Phil. 1 (1999).

[73] Petition, G.R. No. 118757, Rollo, p. 46.

[74] See *U.S. v. Bustos*, 13 Phil 690, 701 (1909); *U.S. v. Cañete*, supra, note 66 at 259-260.

[75] Supra, note 66.

[76] Supra, note 29.

[77] Id. at 370-371.

[78] G.R. No. 47971, October 31, 1990, 191 SCRA 61.

[79] Id. at 68-69.

[80] *U.S. v. Bustos*, supra, note 74.

[81] Id. at 266.

[82] 76 Phil 669 (1946).

[83] See Article 354, Revised Penal Code.

[84] Articles 353 to 362, Revised Penal Code; Articles 19-21, 33, Civil Code.

[85] See *Orfanel v. People*, supra, note 70; *U.S. v. Bustos*, supra, note 74.

[86] See *Ayer Productions v. Capulong*, G.R. Nos. L-82830, L-82398, April 29, 1988, 160 SCRA 861; *U.S. v. Cañete*, *supra*, note 66.

[87] *Tiu, et al. v. Court of Appeals, et al.*, 361 Phil. 229 (1999).

[88] *Núñez v. Sandiganbayan*, 197 Phil. 407 (1982); *Tiu, et al. v. Court of Appeals, et al.*, 361 Phil. 229 (1999), citing *Ichong v. Hernandez*, 105 Phil 1155 (1957).

[89] In the cases before the RTC-Manila, the charges against Pascual, Quimlat, Macasaet and Albano were dismissed upon motion of the prosecution.

[90] Criminal Case No. 89-69614 filed with the RTC-Manila was archived as to Buan who eluded arrest and was not arraigned. Criminal Case No. 88-1411 filed with the RTC-Makati was archived with respect to Hernandez, Villanueva and Manuel who had not been brought to the jurisdiction of the trial court. Similarly, Criminal Cases No. 88-3060 and 89-721 were archived with respect to Sison who also had not been brought to the jurisdiction of the RTC-Makati.

[91] Sison was acquitted by the RTC-Manila in the two cases against him. Buan, Gonong and Camino were also acquitted by the RTC-Makati.

[92] Article 355, Revised Penal Code.

[93] G.R. No. 72383, November 9, 1988, 167 SCRA 222.

[94] *Id.* at 228.

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