Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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GINA VILLA GOMEZ,
Petitioner,

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

G.R. No. 216824

Present:

PERALTA, *C.J.*,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
GESMUNDO,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,*
INTING,**
ZALAMEDA,*
LOPEZ,***
DELOS SANTOS,
GAERLAN, and
ROSARIO, *JJ.*

Promulgated:
November 10, 2020

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DECISION

GESMUNDO, *J.*:

The crux of the entire controversy is whether, in a criminal case, a trial court is divested of its jurisdiction over the person of the accused and over the offense charged if the Information filed by the investigating prosecutor does not bear the *imprimatur* because of the absence on its face of both the word "approved" and the signature of the authorized officer such as the provincial, city or chief state prosecutor.

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* On official leave.
** Inhibit, his sister, Associate Justice Socorro B. Inting penned the CA Decision.
*** No part. Took part in the CA Decision.

Overview

Before this Court is a Petition for Review on *Certiorari*[1] filed by accused Gina A. Villa Gomez through the Public Attorney's Office seeking to set aside the October 9, 2014 Decision[2] in CA-G.R. SP No. 130290 rendered by the Court of Appeals *(CA)* which issued a *writ* of *certiorari* (1) annulling the February 13, 2013[3] and April 29, 2013[4] Orders issued by the Regional Trial Court of Makati City, Branch 57 *(RTC)*; and (2) reinstating the criminal case against the petitioner. The CA held that the RTC committed grave abuse of discretion in *motu proprio* dismissing the charge of corruption of public officials, even after the case had already been submitted for decision, on the ground that the Information filed was without signature and authority of the City Prosecutor.

Antecedents

On September 17, 2010, police operatives from the Anti-Illegal Drugs Special Operations Task Group of Makati City arrested the petitioner.[5]

On September 19, 2010, a Complaint was filed against the petitioner for corruption of public officials under Article 212 of the Revised Penal Code *(RPC)*.[6] The same Complaint was received for inquest by the Office of the City Prosecutor *(OCP)* of Makati City.[7]

On September 21, 2010, a Resolution[8] was issued by the OCP of Makati City finding probable cause that the petitioner may have offered ₱10,000.00 to both PO2 Ronnie E. Aseboque and PO2 Renie E. Aseboque in exchange for the release of her companion Reynaldo Morales *y* Cabillo @ "Anoy."[9] The relevant portions[10] of the said Resolution read:

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[1] *Rollo*, pp. 13-30.
[2] Id. at 35-45; penned by Associate Justice Socorro B. Inting (now an incumbent Commissioner of the Commission on Elections) with Associate Justices Jose C. Reyes, Jr. (now a retired Member of this Court) and Mario V. Lopez (now an incumbent Member of this Court), concurring.
[3] Id. at 66-67.
[4] Id. at 68-69.
[5] Id. at 35.
[6] Id. at 36.
[7] Id.
[8] Id. at 70-71.
[9] Supra note 6.
[10] *Rollo*, p. 71, underscoring supplied.

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WHEREFORE, premises considered, Gina Villa Gomez y Andayan @ Gina is recommended to be prosecuted for violation of THE REVISED PENAL CODE art. 212 in rel. to art. 211-A. The attached Information is recommended to be approved for filing in court. No bail.

RAINALD C. PAGGAO
Assistant City Prosecutor

Recommending Approval:

IMELDA L. PORTES-SAULOG
Senior Assistant City Prosecutor

Approved:

FELICIANO A&PI
City Prosecutor

On September 22, 2010, an Information[11] for corruption of public officials was filed with the RTC against the petitioner and docketed as Criminal Case No. 10-1829, the delictual allegations of which read:

> On September 17, 2010, in the [C]ity of Makati, Philippines, accused did then and there willfully, unlawfully and feloniously offer and tender Php10,000[.00] to PO2 Ronnie E. Aseboque, PO2 Renie E. Aseboque and PO2 Glen S. Gonzalvo for and in consideration of the release and non-prosecution of Reynaldo Morales *y* Cabillo @ Anoy, who was arrested for violation of THE REPUBLIC ACT 9165 [S]ec. 5, a non-bailable offense punishable by life imprisonment.
>
> CONTRARY TO LAW.
>
> (Sgd.)
> **RAINALD C. PAGGAO**
> Assistant City Prosecutor

[11] Id. at 72.

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> **I HEREBY CERTIFY** that the foregoing Information is filed pursuant to the REVISED RULES ON CRIMINAL PROCEDURE [R]ule 112 [S]ec. 6, accused not having opted to avail of her right to a preliminary investigation and not having executed a waiver pursuant to THE REVISED PENAL CODE [A]rt. 125. I further certify that the Information is being ***filed with the prior authority*** of the City Prosecutor.
>
> (Sgd.)
> **RAINALD C. PAGGAO**
> Assistant City Prosecutor
> (emphasis supplied)

Thereafter, trial on the merits ensued and the case was eventually declared by the RTC as submitted for decision after both parties had finished presenting their respective evidence-in-chief.[12]

The RTC Ruling

On February 13, 2013, the RTC issued an Order,[13] without any motion from either the petitioner or the Prosecution, perfunctorily dismissing Criminal Case No. 10-1829 because (1) Assistant City Prosecutor Rainald C. Paggao *(ACP Paggao)* had no authority to prosecute the case as the Information he filed does not contain the signature or any indication of approval from City Prosecutor Feliciano Aspi *(City Prosecutor Aspi)* himself; and (2) ACP Paggao's lack of authority to file the Information is "a jurisdictional defect that cannot be cured." The dispositive portion of the said Order reads:

> WHEREFORE, premises considered and for lack of jurisdiction, this case is hereby dismissed and the Jail Warden of BJMP Makati City is hereby ordered to release the accused immediately upon receipt hereof unless there is a valid cause for her continued detention.
>
> **SO ORDERED.**[14]

Aggrieved, the Prosecution filed a Motion for Reconsideration[15] stating that: (1) it was caught by surprise when, after more than two (2) years of trial and of the petitioner's detention, the case was suddenly and summarily dismissed by the RTC without any motion filed by either party;[16]

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[12] Id. at 36.
[13] Supra note 3.
[14] *Rollo*, p. 67.
[15] Id. at 79, 83.
[16] Id. at 79.

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(2) the RTC "obviously misappreciated the record and misinterpreted the law" as the OCP's September 21, 2010 Resolution was not only signed by City Prosecutor Aspi himself but also contained his approval for the filing of the attached Information;[17] (3) there is nothing in Section 4, Rule 112 of the Rules of Court which states that the authorization or approval of the city or provincial prosecutor should appear on the face or be incorporated in the Information;[18] and (4) the case laws cited by the petitioner, pertaining to the handling prosecutor's lack of authority which invalidates an Information, do not apply in the instant case because these rulings involve the delegation of authority to file, not the validity of, an Information.[19]

On April 29, 2013, the RTC issued an Order[20] denying the Prosecution's motion for reconsideration ratiocinating that the OCP's September 21, 2010 Resolution **merely authorized the handling prosecutor,** ACP Paggao, **to file** the subject Information.[21] It explained that **there is nothing** in the September 21, 2010 Resolution **which authorized** ACP Paggao **to sign** the subject Information.[22] Thus, the RTC concluded that: (1) ACP Paggao was **never authorized to file and sign** the subject Information; and (2) courts are not precluded from ruling on jurisdictional issues even if not raised by the parties.[23] The dispositive portion of said Order reads:

> **WHEREFORE**, for utter lack of merit, the Motion for Reconsideration is hereby **DENIED**.
>
> **SO ORDERED.**[24]

Unsated, the Prosecution, through the Office of the Solicitor General *(OSG),* filed a Petition for *Certiorari*[25] under Rule 65 with the CA seeking *inter alia* to annul the RTC's April 29, 2013 and February 13, 2013 Orders. There, the OSG argued that: (1) there is only one instance when a city prosecutor (including provincial and chief state prosecutors) or the Ombudsman (or his or her deputy) may directly file and sign the Information — if the investigating prosecutor's recommendation for dismissal of the Complaint is disapproved as contemplated in Sec. 4, Rule 112 of the Rules

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[17] Id. at 80-81.
[18] Id. at 80.
[19] Id.
[20] Supra note 4.
[21] *Rollo*, p. 68.
[22] Id.
[23] Id. at 69.
[24] Id.
[25] Id. at 49-64.

of Court;[26] (2) there is no provision in the Rules of Court which restricts the signing of the Information only to the city or provincial prosecutor to the exclusion of their assistants;[27] (3) the case laws cited by the RTC do not apply in the petitioner's case because, in those cases, those who filed their respective Informations had absolutely no authority to do so because: (i) in the first case, the special counsel appointed by the Secretary of Justice to perform prosecutorial functions was not even an employee of the Department of Justice; and (ii) in the second case, the approving officer was a regional prosecutor whose duties then were limited only to exercising administrative supervision over city and provincial prosecutors of the region;[28] (4) quashing of the Information can no longer be resorted to "since the case had already gone to trial and the parties had in fact completed the presentation of their evidence;"[29] and (5) quashing of the Information can only be done by the trial court upon motion of the accused signed personally or through counsel under Sec. 2, Rule 117 of the Rules of Court.[30]

The CA Ruling

On October 9, 2014, the CA rendered a Decision[31] which: (1) granted the Petition for *Certiorari*; (2) set aside both the February 13, 2013 and April 29, 2013 RTC Orders; and (3) reinstated Criminal Case No. 10-1829. In that Decision, it was pointed out that: (1) the records show that the OCP's September 21, 2010 Resolution was indeed **signed** by City Prosecutor Aspi himself;[32] and (2) the RTC cannot quash an Information and dismiss the case on its own without a corresponding motion filed by the accused, especially if the latter had already entered a plea during a previously conducted arraignment.[33] The dispositive portion of the same Decision reads:

> **WHEREFORE**, the premises considered, the Petition is hereby **GRANTED**. The challenged [O]rders dated 13 February 2013 and 29 April 2013 of the Regional Trial Court (RTC), Branch 57, Makati City are **REVERSED and SET ASIDE**. The Information against Gina Villa Gomez for Corruption of Public Officials and the Criminal Case No. 10-1829 against her is **REINSTATED AND** a **WARRANT** for her **ARREST** be issued anew.
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> **SO ORDERED.**[34]

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[26] Id. at 57-58.
[27] Id. at 58.
[28] Id. at 58-59.
[29] Id. at 59.
[30] Id. at 59-62.
[31] Supra note 2.
[32] *Rollo*, pp. 39-42.
[33] Id. at 42-44, citing *People v. Hon. Nitafan*, *infra* note 180.
[34] Id. at 45.

On November 13, 2014, the petitioner filed a Motion for Reconsideration[35] essentially arguing that courts may *motu proprio* dismiss a case when it finds jurisdictional infirmities (such as lack of authority from the city or provincial prosecutor on the part of the handling prosecutor in filing a criminal Information) at any stage of the proceedings.

On February 4, 2015, the CA issued a Resolution[36] finding that the petitioner's "reasons and arguments in support of the motion [for reconsideration] have been amply treated, discussed and passed upon in the subject decision" and that "the additional arguments proffered therein constitute no cogent or compelling reason to modify, much less reverse" its judgment.[37] The dispositive portion of the same Resolution reads:

> **WHEREFORE**, the Motion for Reconsideration is hereby **DENIED**.
>
> **SO ORDERED.**[38]

Dissatisfied, the petitioner, by way of a Petition for Review on *Certiorari,* now assails before this Court the propriety of the CA's October 9, 2014 Decision and February 4, 2015 Resolution.[39]

Parties' Arguments

The petitioner, in challenging the CA's Decision, insists that: (1) the RTC was correct in ordering the dismissal of the criminal case due to the absence of authority on the part of the handling prosecutor (ACP Paggao) who signed the Information;[40] (2) the ground of want of jurisdiction may be assailed at any stage of the proceedings, even if the accused had already entered a plea during the arraignment or the case had already been submitted for decision;[41] and (3) a criminal Information which is void for lack of authority cannot be cured by an amendment for such authority is a mandatory jurisdictional requirement.[42]

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[35] Id. at 73-78.
[36] Id. at 47-48.
[37] Id. at 47.
[38] Id. at 48.
[39] Id. at 13-28.
[40] Id. at 19.
[41] Id. at 20-21.
[42] Id. at 21-26.

On the other hand, the Prosecution, through the OSG,[43] points out that: (1) the RTC acted with grave abuse of discretion in dismissing Criminal Case No. 10-1829 due to lack of authority on the part of the handling prosecutor *(ACP Paggao)* because the OCP's September 21, 2010 Resolution recommending for the attached Information "to be approved for filing" bore the signature of City Prosecutor Aspi;[44] (2) the jurisprudence cited by the petitioner do not apply in this case because they pertain to instances where an Information was filed without the approval or prior written authority of the city or provincial prosecutor;[45] (3) an Information cannot be quashed by the court or judge *motu proprio*, especially if the case had already gone to trial and the parties had already completed the presentation of their evidence;[46] and (4) lack of jurisdiction over the offense charge should still be invoked by the accused in seeking for the dismissal of the case or quashal of the Information.[47]

Issues

I

WHETHER THE CA CORRECTLY FOUND GRAVE ABUSE OF DISCRETION ON THE RTC'S PART FOR QUASHING THE INFORMATION AND DISMISSING THE CRIMINAL CASE ON THE GROUND OF ABSENCE OF JURISDICTION RELATIVE TO ACP PAGGAO'S FAILURE TO SECURE A PRIOR WRITTEN AUTHORITY OR STAMPED APPROVAL FROM CITY PROSECUTOR ASPI TO FILE THE SAME PLEADING AND CONDUCT THE PROSECUTION AGAINST THE ACCUSED;

II

WHETHER THE CA CORRECTLY FOUND GRAVE ABUSE OF DISCRETION ON THE RTC'S PART FOR: (1) *MOTU PROPRIO* QUASHING THE INFORMATION; AND (2) DISMISSING THE CRIMINAL CASE DESPITE HAVING ALREADY BEEN SUBMITTED FOR DECISION AND WITHOUT GIVING THE PROSECUTION AN OPPORTUNITY TO BE HEARD.

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[43] Id. at 117; Comment signed by: Solicitor General Florin T. Hilbay, Assistant Solicitor General Marissa Macaraig-Guillen and Senior State Solicitor Jayrous L. Villanueva.
[44] Id. at 111-113.
[45] Id. at 113-114.
[46] Id. at 114-116.
[47] Id. at 116.

The Court's Ruling

I. *Procedural Considerations*

Decisions, final orders or resolutions of the CA in any case (regardless of the nature of the action or proceedings involved) may be appealed to this Court by filing a petition for review on *certiorari* under Rule 45 of the Rules of Court which, in essence, is a continuation of the appellate process over the original case.[48] Being an appellate process, such remedy is confined to a review of any error in judgment.[49] However, unlike other modes of appeal, the scope of review is narrower because this Court only entertains pure questions of law,[50] and generally does not re-evaluate the evidence presented by the parties during the trial stage of the whole proceedings.[51] Furthermore, the scope of review under Rule 45 for CA decisions, resolutions or final orders in granting or denying petitions for *certiorari* under Rule 65 **is even narrower**. Just like in labor cases, this Court will examine the CA's decision, resolution or final order from the prism of whether it correctly determined the presence or absence of grave abuse of discretion on the lower tribunal's part and not whether the same tribunal decided correctly on the merits.[52]

In this case, the CA nullified the RTC's February 13, 2013 Order dismissing the case against the petitioner on the ground of grave abuse of discretion and reinstated Criminal Case No. 10-1829. As a consequence of such reinstatement, this Court is now confronted with the issue on whether the petitioner's constitutional right against double jeopardy was violated by the CA.

To resolve such issue, this Court reiterates the general rule that the Prosecution cannot appeal or bring error proceedings from a judgment rendered in favor of the defendant in a criminal case because an acquittal is immediately final and executory and the Prosecution is barred from appealing lest the constitutional prohibition against double jeopardy be violated.[53] However, there are instances where an acquittal may still be challenged without resulting to double jeopardy, such as:

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[48] *Albor v. Court of Appeals,* G.R. No. 196598, January 17, 2018, 823 SCRA 901, 909, citation omitted.
[49] See *Villareal v. Aliga*, 724 Phil. 47, 64 (2014).
[50] *Century Iron Works, Inc. v. Bañas*, 711 Phil. 576, 585 (2013), citation omitted.
[51] See *Carbonell v. Carbonell-Mendes*, 762 Phil. 529, 536 (2015), citation omitted.
[52] See *Philippine National Bank v. Gregorio*, 818 Phil. 321, 336 (2017).
[53] *People v. Court of Appeals,* 755 Phil. 80, 97 (2015), citation omitted.

(1) When the trial court acted with grave abuse of discretion amounting to lack or excess of jurisdiction due to a **violation of due process**;[54] or

(2) When the **trial** was a **sham**.[55]

In these instances, the dismissal or judgment of acquittal is considered void and assailing the same does not result in jeopardy.[56]

As to the proper procedure, a judgment of acquittal (or order of dismissal amounting to acquittal) may **only** be assailed in a petition for *certiorari* under Rule 65 of the Rules of Court.[57] The reasons being are that: (1) the Prosecution is barred from appealing a judgment of acquittal lest the constitutional prohibition against double jeopardy be violated;[58] (2) double jeopardy does not attach when the judgment or order of acquittal is tainted with grave abuse of discretion;[59] and (3) that *certiorari* is a supervisory *writ* whose function is to keep inferior courts and quasi-judicial bodies within the bounds of their jurisdiction.[60] Verily, *certiorari* is a comprehensive[61] and extraordinary *writ* wielded by superior courts in criminal cases to **prevent** inferior courts from committing grave abuse of discretion.[62]

More importantly, grave abuse of discretion should be alleged and proved to exist in order for such petition to prosper.[63] The petitioner should establish that the respondent court or tribunal acted in a capricious, whimsical, arbitrary or despotic manner in the exercise of its jurisdiction as to be equivalent to lack of jurisdiction whenever grave abuse of discretion is alleged in the petition for *certiorari*.[64] Such manner of exercising jurisdiction must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[65] In other words, mere abuse of discretion is not

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[54] *People v. Sandiganbayan,* 426 Phil. 453, 458 (2002).
[55] *Galman v. Sandiganbayan,* 228 Phil. 42 (1986).
[56] *People v. Judge Laguio, Jr.,* 547 Phil. 296, 316 (2007).
[57] *People v. Alejandro*, 823 Phil. 684, 692 (2018).
[58] *People v. Court of Appeals,* supra note 53.
[59] See *Chiok v. People,* 774 Phil. 230, 249-250 (2015), citations omitted.
[60] *Association of Medical Clinics for Oversees Workers, Inc. v. GCC Approved Medical Centers Association, Inc.,* 802 Phil. 116, 136-137 (2016).
[61] See *Bordomeo v. Court of Appeals,* 704 Phil. 278 (2013), citations omitted.
[62] See *Heirs of Eliza Q. Zoleta v. Land Bank of the Philippines,* 816 Phil. 389, 419 (2017); *Cruz v. People,* 812 Phil. 166, 172 (2017); *Toyota Motors Phils. Corporation Workers' Association v. Court of Appeals,* 458 Phil. 661, 680-681 (2003), citations omitted.
[63] *Novateknika Land Corporation v. Philippine National Bank,* 706 Phil. 414, 423 (2013).
[64] *Chua v. People,* 821 Phil. 271, 279 (2017), citations omitted.
[65] *G.V. Florida Transport, Inc. v. Tiara Commercial Corporation,* 820 Phil. 235, 247 (2017), citation omitted.

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enough – it must be grave.[66] Thus, as applied in this case, while *certiorari* may be used to nullify a judgment of acquittal or order of dismissal amounting to an acquittal, the petitioner seeking for the issuance of such an extraordinary *writ* must demonstrate clearly that the lower court blatantly abused its authority to a point that such act is so grave as to deprive it of its very power to dispense justice.[67]

At this point, it now becomes imperative for this Court to re-assess whether the CA: (1) correctly found grave abuse of discretion on the RTC's part; and (2) properly reinstated Criminal Case No. 10-1829 without violating the constitutional prohibition on placing an accused twice in jeopardy.

II. *Effect of Filing an Information Not Signed by the City Prosecutor or a Duly-Delegated Deputy*

A. Grounds for Quashing an Information and Prevailing Jurisprudence

Secs. 3 and 9, Rule 117 of the Rules of Court read:

> **Section 3.** *Grounds.* — The accused may move to quash the complaint or information on any of the following grounds:
>
> (a) That the facts charged do not constitute an offense;
>
> (b) That the court trying the case has no jurisdiction over the offense charged;
>
> (c) That the court trying the case has no jurisdiction over the person of the accused;
>
> (d) That **the officer who filed the information had no authority to do so**;
>
> (e) That it does not conform substantially to the prescribed form;
>
> (f) That more than one offense is charged except when a single punishment for various offenses is prescribed by law;

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[66] *Intec Cebu, Inc. v. Court of Appeals*, 788 Phil. 31, 42 (2016).
[67] *People v. Court of Appeals*, 368 Phil. 169, 185 (1999).

(g) That the criminal action or liability has been extinguished;

(h) That it contains averments which, if true, would constitute a legal excuse or justification; and

(i) That the accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent.

x x x x

Section 9. *Failure to move to quash or to allege any ground therefor.* — The **failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information**, either because he did not file a motion to quash or failed to allege the same in said motion, **shall be deemed a waiver of any objections except** those based on the grounds provided for **in paragraphs (a), (b), (g), and (i) of section 3** of this Rule. (emphases supplied)

Here, Sec. 9 is clear that **an accused must move for the quashal of the Information before entering his or her plea during the arraignment. Failure to file a motion to quash** the Information before pleading in an arraignment shall be **deemed a waiver** on the part of the accused to raise the grounds in Sec. 3. Nevertheless, **failure** to **move for a quashal** of the Information before entering his or her plea on the **grounds** based on paragraphs **(a)**, **(b)**, **(g)** and **(i)** of Sec. 3; *i.e.,* (1) that the facts charged do not constitute an offense; (2) that the court trying the case has no jurisdiction over the offense charged; (3) that the criminal action or liability has been extinguished; and (4) that the accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent, will **not be considered** as a **waiver** for the accused and the latter may still file such motion based on these grounds **even after** arraignment.

Correlatively, the prevailing jurisprudence is of the view that paragraph **(d)** of Sec. 3, that the **officer** who **filed** the Information had **no authority** to do so, **also cannot be waived** by the accused like those in paragraphs (a), (b), (g) and (i). Even if such ground is not listed in Sec. 9 as among those which cannot be waived, it may still be asserted or raised by the accused even after arraignment for purposes of quashing an Information and, consequently, having the criminal case dismissed.

It was first held in *Villa v. Ibañez*[68] *(Villa)* that:

> x x x It is a **valid information signed by a competent officer which**, among other requisites, **confers jurisdiction on the court over the person of the accused *and* the subject matter of the accusation.** In consonance with this view, an infirmity of the nature noted in the information [cannot] be cured by silence, acquiescence, or even by express consent.[69] (emphasis supplied)

To date, *Villa* had never been thoroughly expounded, modified or abandoned during the effectivity of the 1935 and 1973 Constitutions as it relates to the reason **why** a valid Information signed by a competent officer confers jurisdiction on the trial court over the person of the accused and over the subject matter of the accusation. It was merely accepted by the Bench and the Bar that a handling prosecutor's lack of authority to file an Information adversely affects the personal and subject matter jurisdiction of the trial court in criminal cases.

More so, under the 1987 Constitution, the same ruling was reinforced in *People v. Garfin*[70] *(Garfin)* where the Court enunciated that "lack of authority on the part of the filing officer prevents the court from acquiring jurisdiction over the case."[71]

Likewise, *Garfin* was further supplemented by the rulings in *Turingan v. Garfin*[72] *(Turingan)* and *Tolentino v. Paqueo, Jr.*[73] *(Tolentino)* where this Court declared that an Information filed by an investigating prosecutor without prior written authority or approval of the provincial, city or chief state prosecutor (or the Ombudsman or his deputy) **constitutes a jurisdictional defect** which cannot be cured and waived by the accused.[74]

Furthermore, this Court in *Quisay v. People*[75] *(Quisay)* also reinforced the doctrines established in *Villa*, *Garfin*, *Turingan* and *Tolentino* by unequivocally maintaining that "the filing of an Information by an officer **without the requisite authority to file** the same **constitutes a jurisdictional infirmity which cannot be cured by silence, waiver, acquiescence, or even by express consent**;" and "such ground may be

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[68] 88 Phil. 402 (1951).
[69] Id. at 405.
[70] 470 Phil. 211 (2004); see also *Cudia v. Court of Appeals*, 348 Phil. 190 (1998), citations omitted.
[71] Id. at 230.
[72] 549 Phil. 903 (2007).
[73] 551 Phil. 355 (2007).
[74] Id. at 364.
[75] 778 Phil. 481 (2016).

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raised at any stage of the proceedings."[76] It also added that resolutions issued by an investigating prosecutor finding probable cause to indict an accused of some crime charged **cannot be considered** as "**prior written authority or approval** of the provincial or city prosecutor."

Finally, this Court in *Maximo v. Villapando, Jr.*[77] *(Maximo)* finally institutionalized *Villa* when it categorically declared that: (1) "[a]n Information, when required by law to be filed by a public prosecuting officer, cannot be filed by another;" (2) "[t]he court does not acquire jurisdiction over the case because there is a defect in the Information;" and (3) "[t]here is no point in proceeding under a defective Information that could never be the basis of a valid conviction."[78]

As deduced from the aforementioned rulings, it now becomes sensible to conclude that the following reasons first laid down in *Villa* have been the Court's *raison d'être* of **why an officer's lack of authority in filing an Information is considered a jurisdictional infirmity**, to wit:

1) Lack of jurisdiction over the **person** of the accused; and

2) Lack of jurisdiction over the **subject matter** or **nature of the offense**.

In view of the aforementioned observation, the Court deems it inevitably necessary to revisit the aforementioned doctrines laid down in *Villa*, *Garfin*, *Turingan*, *Tolentino*, *Quisay*, *Maximo* and other rulings of similar import on account of this glaring realization:

> Lack of **prior** written **authority** or **approval** on the face of the Information by the prosecuting officers authorized to approve and sign the same **has nothing to do** with a trial court's **acquisition of jurisdiction** in a criminal case.

To start with, the prevailing adjective law at that time of *Villa*'s promulgation was the 1940 Rules of Court[79] with the following relevant

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[76] Id. at 487, citation omitted, emphasis supplied.
[77] 809 Phil. 843 (2017), citations omitted; see also *Ongkingco v. Sugiyama*, G.R. No. 217787, September 18, 2019.
[78] Id. at 869.
[79] July 1, 1940.

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provisions (which were essentially carried over to the 1964 Rules of Court[80] with minor modifications) that read:

RULE 108
Preliminary Investigation

x x x x

SECTION 6. *Duty of Judge or Corresponding Officer in Preliminary Investigation.* — The justice of the peace or the officer who is to conduct the preliminary investigation must take under oath, either in the presence or absence of the defendant, the testimony of the complainant and the witnesses to be presented by him or by the fiscal, but only the testimony of the complainant shall be reduced to writing. He shall, however, make an abstract or brief statement of the substance of the testimony of the other witnesses.

x x x x

RULE 113
Motion to Quash

x x x x

SECTION 2. *Motion to Quash — Grounds.* — The defendant may move to quash the complaint or information on any of the following grounds:

(a) That the facts charged do not constitute an offense;

(b) That **the court trying the cause has no jurisdiction of the offense charged or of the person of the defendant**;

(c) That **the fiscal has no authority to file the information**;

(d) That it does not conform substantially to the prescribed form;

(e) That more than one offense is charged except in those cases in which existing laws prescribe a single punishment for various offenses;

(f) That the criminal action or liability has been extinguished;

(g) That it contains averments which, if true, would constitute a legal excuse or justification;

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[80] January 1, 1964.

> (h) That the defendant has been previously convicted or in jeopardy of being convicted, or acquitted of the offense charged;
>
> (i) That the defendant is insane.
>
> If the motion to quash is based on an alleged defect in the complaint or information which can be cured by amendment the court shall order the amendment to be made and shall overrule the motion.
>
> x x x x
>
> SECTION 10. *Failure to Move to Quash — Effect of — Exception.* — If the defendant does not move to quash the complaint or information before he pleads thereto he **shall be taken to have waived all objections** which are grounds for a motion to quash **except** when the complaint or information does not charge an offense, or the court is **without jurisdiction** of the same. If, however, the defendant learns after he has pleaded or has moved to quash on some other ground that the offense with which he is now charged is an offense for which he has been pardoned, or of which he has been convicted or acquitted or been in jeopardy, the court *may* in its discretion entertain at any time before judgment a motion to quash on the ground of such pardon, conviction, acquittal or jeopardy. (emphases supplied)

There is nothing in Sec. 6, Rule 108 of the 1940 Rules of Court which requires the handling prosecutor to first secure either a prior written authority or approval or a signature from the provincial, city or chief state prosecutor before an Information may be filed with the trial court. Admittedly, Sec. 2(c) of Rule 113 states that a handling prosecutor's lack of authority to file is a ground for the quashal of an Information. However, in the context of *Villa*, the Court merely clarified that, "to be eligible as special counsel to aid a fiscal[,] the appointee must be either an employee or officer in the Department of Justice." It also did not explain why a handling prosecutor's lack of authority is also intertwined with Sec. 2(b) of Rule 113 so as to deprive the trial court of its jurisdiction over the offense charged or the person of the accused. The only apparent reason why the subject Information in *Villa* was rendered invalid by this Court was primarily because the handling prosecutor who signed and filed the same initiatory pleading was not even an officer of the Department of Justice qualified "to assist a fiscal or prosecuting attorney in the discharge of his [or her] duties" under Sec. 1686[81] of Act No. 2711[82] amending Sec. 1305 of Act No. 2657[83] – the governing Administrative Code at that time.

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[81] Erroneously referred to as Section "189" of Act No. 2711 in *Villa v. Ibañez*, supra note 68.

[82] An Act Amending the Administrative Code (March 10, 1917), as further amended by Commonwealth Act No. 144 (November 7, 1936).

[83] An Act Consisting an Administrative Code (December 31, 1916).

For a clearer understanding, the Court now finds it necessary to dissect the relationship between the concepts relative to jurisdiction and the handling prosecutor's authority to file an Information.

B. Jurisdiction in General

Semantically, "jurisdiction" is derived from the Latin words "*juris*" and "*dico*" which means "I speak by the law."[84] In a broad and loose sense, it is "[t]he authority of law to act officially in a particular matter in hand."[85] In a refined sense, it is "the power and authority of a court [or quasi-judicial tribunal] to hear, try, and decide a case."[86] Indeed, a judgment rendered without such power and authority is void thereby creating no rights and imposing no duties on the parties.[87] As a consequence, a void judgment may be attacked anytime.[88]

Relatedly, the concept of jurisdiction has several **aspects**, namely: (1) jurisdiction over the **subject matter**; (2) jurisdiction over the **parties**; (3) jurisdiction over the **issues** of the case; and (4) in cases involving property, jurisdiction over the ***res*** or the **thing** which is the subject of the litigation.[89] Additionally, a court must also acquire jurisdiction over the **remedy** in order for it to exercise its powers validly and with binding effect.[90] As to the acquisition of jurisdiction in criminal cases, there are three (3) important requisites which should be satisfied, to wit: (1) the court must have jurisdiction over the **subject matter**; (2) the court must have jurisdiction over the **territory** where the offense was committed; and, (3) the court must have jurisdiction over the **person** of the accused.[91]

In the case at hand, the relevant aspects of jurisdiction being disputed are: (1) over the subject matter or, in criminal cases, over the nature of the offense charged; and (2) over the parties, or in criminal cases, over the person of the accused. At this juncture, the Court will now proceed to determine how these aspects of jurisdiction are supposedly affected by the handling prosecutor's authority to sign and file an Information.

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[84] *People v. Mariano,* 163 Phil. 625, 629 (1976).
[85] *Frazier v. Moffatt*, 108 Cal.App.2d 379 (1951), citing Cooley on Torts, p. 417.
[86] *Foronda-Crystal v. Son*, 821 Phil. 1033, 1042 (2017), citation omitted.
[87] See *Imperial v. Judge Armes*, 804 Phil. 439 (2017).
[88] *Bilag v. Ay-ay*, 809 Phil. 236, 243 (2017).
[89] *Boston Equity Resources, Inc. v. Court of Appeals,* 711 Phil. 451, 464 (2013), citation omitted.
[90] *De Pedro v. Romasan Development Corporation*, 748 Phil. 706, 723 (2014).
[91] *People v. Spouses Valenzuela*, 581 Phil. 211, 219 (2008), citation omitted.

C. Jurisdiction Over the Subject Matter or Nature of the Offense

Jurisdiction over the **subject matter** or **offense** in a judicial proceeding is conferred by the sovereign authority which organizes the court – it is **given only by law** and in the **manner prescribed by law**.[92] It is the power to hear and determine the **general class** to which the proceedings in question belong.[93]

As applied to criminal cases, jurisdiction over a given crime is vested by law upon a particular court and may not be conferred thereto by the parties involved in the offense.[94] More importantly, jurisdiction over an offense cannot be conferred to a court by the accused through an express waiver or otherwise.[95] Here, a trial court's jurisdiction is determined by the allegations in the Complaint or Information and not by the result of proof.[96] These allegations pertain to ultimate facts constituting elements of the crime charged.[97] Such recital of ultimate facts apprises the accused of the nature and cause of the accusation against him or her.[98]

Clearly, the **authority** of the **officer** in filing an Information **has nothing to do with the ultimate facts** which **describe the charges** against the accused. The issue on whether or not the handling prosecutor secured the necessary authority from his or her superior before filing the Information **does not affect or change the cause of the accusation or nature of the crime** being attributed to the accused. **The nature and cause of the accusation remains the same with or without such required authority.**

In fact, existing jurisprudence even allows the Prosecution to amend an Information alleging facts which do not constitute an offense just to make it line up with the nature of the accusation.[99] In other words, existing rules grant the Prosecution a chance to amend a fatally and substantially defective Information affecting the cause of the accusation or the nature of the crime being imputed against the accused. As such, it is with more reason that the handling prosecutor shall also be afforded with the chance to first secure the necessary authority from the provincial, city or chief state prosecutor. Viewed from a different angle, **the law conferring a court with**

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[92] *Cunanan v. Arceo*, 312 Phil. 106, 116 (1995), citation omitted; *United States v. Jayme*, 24 Phil. 90, 92 (1913).
[93] *Foronda-Crystal v. Son*, supra note 86.
[94] See *Valdepeñas v. People*, 123 Phil. 734 (1966), citations omitted.
[95] *United States v. Jimenez*, 41 Phil. 1, 3 (1920), citation omitted.
[96] *Navaja v. De Castro*, 761 Phil. 142, 153 (2015), citation omitted.
[97] *People v. Sandiganbayan,* 769 Phil. 378, 382 (2015).
[98] See *Quimvel v. People*, 808 Phil. 889, 911 (2017), citation omitted.
[99] See *Go v. Bangko Sentral ng Pilipinas*, 619 Phil. 306, 316 (2009).

jurisdiction over a specific offense does not cease to operate in cases where there is lack of authority on the part of the officer or handling prosecutor filing an Information. As such, the authority of an officer filing the Information is **irrelevant** in relation to a trial court's power or authority to take cognizance of a criminal case according to its nature as it is determined by law. Therefore, absence of authority or prior approval of the handling prosecutor from the city or provincial prosecutor cannot be considered as among the grounds for the quashal of an Information which is non-waivable.

D. Jurisdiction Over the Person of the Accused

Jurisdiction **over the person** of the accused is acquired upon his or her: (1) **arrest or apprehension**, with or without a warrant; or (2) **voluntary appearance or submission** to the jurisdiction of the court.[100] It allows the court to render a decision that is binding on the accused.[101] However, unlike jurisdiction over the subject matter, the right to challenge or object to a trial court's **jurisdiction over the person** of the accused **may be waived by silence or inaction** before the entering of a plea during arraignment.[102] Moreover, such right may also be waived by the accused when he or she files any pleading seeking an affirmative relief, except in cases when he or she invokes the special jurisdiction of the court by impugning such jurisdiction over his person.[103]

Akin to the foregoing discussions on the trial court's acquisition of jurisdiction over the subject matter, the authority of an officer or handling prosecutor in the filing of an Information also has nothing to do with the voluntary appearance or validity of the arrest of the accused. **Voluntary appearance entirely depends on the volition of the accused, while the validity of an arrest strictly depends on the apprehending officers' compliance with constitutional and statutory safeguards in its execution.** Here, the trial court's power to make binding pronouncements concerning and affecting the person of the accused is merely passive and is solely hinged on the conduct of either the accused or the arresting officers – not on the authority of the handling prosecutor filing the criminal Information. Moreover, if a serious ground such as jurisdiction over the person of the accused may be waived, so can the authority of the handling prosecutor which does not have any constitutional underpinning. Therefore, a handling prosecutor's lack of prior authority or approval from the provincial, city or

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[100] *Inocentes v. People,* 789 Phil. 318, 332 (2016), emphases supplied.
[101] *Cf. People's General Insurance Corporation v. Guansing*, G.R. No. 204759, November 14, 2018.
[102] *People v. Badilla*, 794 Phil. 263, 272 (2016), citation omitted, emphasis supplied.
[103] *Miranda v. Tuliao*, 520 Phil. 907, 921 (2006).

chief state prosecutor in the filing of an Information **may be waived** by the accused if not raised as a ground in a motion to quash before entering a plea.

E. A Handling Prosecutor's Legal Standing and Authority to Appear

The 1987 Constitution gave this Court the exclusive power to promulgate rules concerning pleading, **practice** and **procedure** in all courts as well as the power to disapprove procedural rules in special courts and quasi-judicial bodies.[104] Covered by this constitutional power to promulgate rules of procedure is the prerogative to define and prescribe guidelines on who are qualified to appear before the courts and conduct litigation on behalf of oneself or another. In other words, legal representation in the form of a court appearance is a component of law practice under this Court's constitutional power to regulate the legal profession. As such, the conditions or requirements for such representation, being matters of procedure, are governed by the Rules of Court.

To begin with, the relevant portion of Sec. 23, Rule 138 of the Rules of Court succinctly states that "[a]ttorneys have authority to bind their clients in any case by any agreement in relation thereto made in writing, and in taking appeals, and in all matters of ordinary judicial procedure;" save for compromises or partial receipt of anything which discharges the whole claim. This is the reason why Sec. 21 of the same Rule presumes that an attorney is "presumed to be properly authorized to represent any cause in which he [or she] appears, and no written power of attorney is required to authorize him to appear in court for his client" unless the presiding judge may, on motion of any party and on reasonable grounds therefor being shown, "require any attorney who assumes the right to appear in a case to produce or prove the authority under which he appears, and to disclose, whenever pertinent to any issue, the name of the person who employed him, and may thereupon make such order as justice requires." Hence, in the context of law practice, to "represent" is standing in place, supplying the place, or performing the duties or exercising the rights, of the party represented; to speak or act with authority on behalf of another; to conduct and control proceedings in court on behalf of another.[105]

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[104] See *Baguio Market Vendors Multi-Purpose Cooperative (BAMARVEMPCO) v. Hon. Cabato-Cortes*, 627 Phil. 543, 550 (2010); *see also* 1987 CONSTITUTION, Art. VIII, Sec. 5(5).
[105] *Gonzales v. Chavez*, 282 Phil. 858, 880-881 (1992), citation omitted.

In this jurisdiction, the relevant governing procedures in the conduct of litigation and court appearances are laid out in Secs. 33 and 34 of Rule 138 of the Rules of Court as follows:

> **Section 33.** ***Standing*** *in court of person authorized to appear for Government.* — **Any official or other person appointed or designated in accordance with law to appear for the Government of the Philippines** shall have all the rights of a duly authorized member of the bar to appear in any case in which said government has an interest direct or indirect.
>
> **Section 34.** *By whom litigation conducted.* — In the court of a justice of the peace a party may conduct his litigation in person, with the aid of an agent or friend appointed by him for the purpose, or with the aid an attorney. In any other court, a party may conduct his litigation personally or by aid of an attorney, and his appearance must be either personal or by a duly authorized member of the bar. (emphasis supplied)

Both aforementioned sections of Rule 138 set out two (2) major categories of representation and clearly delineate the rules regarding a person's capacity to appear or stand in court depending on who or what is being represented.

In the first category, Sec. 33 states that a person appointed or designated in accordance with law to appear **on behalf of the Government** with a direct or indirect interest in a litigation shall have all the rights, of a duly authorized member of the Bar, to appear before the courts. This means that duly authorized officials, even if they are not members of the Bar, have the authority to sue in behalf of and bind their principals to the judgment or any disposition of a competent court in the same manner and capacity as those who are actual members of the Bar. Such category of legal representation is part of the performance of official acts as mandated by law.

In the second category, Sec. 34 enumerates the modes of appearance for **private** or **non-governmental parties**: (1) by counsel or assisted appearance, where they assign legal representatives to appear on their behalf by virtue of some contract of engagement or proceed with the litigation through compulsory legal assistance (*i.e.,* appointment as counsel *de officio*); and (2) *pro se* or personal appearance, where they enter their personal appearance and conduct their own litigation.

In criminal cases, the filing of a Complaint or Information in court initiates a criminal action.[106] Such act of filing signifies that the handling prosecutor has **entered** his or her **appearance** on behalf of the People of the Philippines and is presumably clothed with ample authority from the agency concerned such as the Department of Justice or the Office of the Ombudsman. However, the **appearance** of a handling prosecutor, in the form of filing an Information against the accused, is conditioned by Sec. 4 of Rule 112 of the Rules of Court with a requirement of a prior written authority or approval from the city or provincial prosecutor. Since a handling prosecutor is an officer of the government's prosecutorial arm, the Court also considers it necessary to expound on the nature of prosecutorial functions in relation to Sec. 33 of Rule 138.

For a clearer understanding of the nature of a prosecutor's duties and corresponding scope of authority, the Court highlights that the prosecution of crimes pertains to the Executive Branch of Government whose principal duty is to see to it that our laws are faithfully executed. A necessary component of this duty is the right to prosecute their violators.[107] Concomitant to this duty is the function of conducting a preliminary investigation which is defined as "an inquiry or proceeding to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial."[108] The purposes of such inquiry or proceeding are: (1) to inquire concerning the commission of a crime and the connection of the accused with it, in order that he may be informed of the nature and character of the crime charged against him, and, if there is probable cause for believing him guilty, that the State may take the necessary steps to bring him to trial; (2) to preserve the evidence and keep the witnesses within the control of the State; and (3) to determine the amount of bail, if the offense is bailable.[109] Moreover, such proceeding is also meant to: (1) avoid baseless, hasty, malicious and oppressive prosecution; and (2) to protect the innocent against the trouble, expense and anxiety of a public trial as a result of an open and public accusation of a crime.[110] In essence, a preliminary investigation serves the following main purposes: (1) to protect the innocent against wrongful prosecutions; and (2) to spare the State from using its funds and resources in useless prosecutions.[111] Stated succinctly, such proceeding was established to prevent the indiscriminate filing of criminal cases to the detriment of the entire administration of justice.

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[106] *Crespo v. Judge Mogul,* 235 Phil. 465, 474 (1987).
[107] *Ampatuan, Jr. v. Secretary De Lima,* 708 Phil. 153, 162 (2013).
[108] *Yusop v. Sandiganbayan*, 405 Phil. 233, 239 (2001), citation omitted.
[109] *Callo-Claridad v. Esteban,* 707 Phil. 172, 184 (2013).
[110] See *Sales v. Adapon,* 796 Phil. 368, 378 (2016); see also *Ventura v. Bernabe*, 148 Phil. 610, 616 (1971).
[111] *Sec. De Lima v. Reyes*, 776 Phil. 623, 648 (2016).

In determining the proper officer of the Executive Branch charged with the handling of prosecutorial duties before the courts, it is noteworthy to point out that the important condition for the valid filing of an Information was first provided in Sec. 1 of Republic Act *(R.A.)* No. 5180[112] – a statute which first prescribed and outlined a uniform system of preliminary investigation by state, provincial and city prosecutors – which states that "no assistant fiscal or state prosecutor may file an [I]nformation or dismiss a case except with the prior authority or approval of the provincial or city fiscal or Chief State Prosecutor."[113] The same provision was eventually incorporated in what is now Sec. 4, Rule 112 of the Rules of Court concerning preliminary investigations which is hereby reproduced in *verbatim* as follows:

> **Section 4.** *Resolution of investigating prosecutor and its review.* — If the investigating prosecutor finds cause to hold the respondent for trial, he shall prepare the resolution and information. He shall certify under oath in the information that he, or as shown by the record, an authorized officer, has personally examined the complainant and his witnesses; that there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof; that the accused was informed of the complaint and of the evidence submitted against him; and that he was given an opportunity to submit controverting evidence. Otherwise, he shall recommend the dismissal of the complaint.
>
> Within five (5) days from his resolution, he shall forward the record of the case to the provincial or city prosecutor or chief state prosecutor, or to the Ombudsman or his deputy in cases of offenses cognizable by the Sandiganbayan in the exercise of its original jurisdiction. They shall act on the resolution within ten (10) days from their receipt thereof and shall immediately inform the parties of such action.
>
> **No complaint or information may be filed or dismissed by an investigating prosecutor without the prior written authority or approval of the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy.**
>
> Where the investigating prosecutor recommends the dismissal of the complaint but his recommendation is disapproved by the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy on the ground that a probable cause exists, the latter may, by himself, file

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[112] An Act Prescribing a Uniform System of Preliminary Investigation by Provincial and City Fiscals and their Assistants, and by State Attorneys or their Assistants (September 8, 1967), as amended by Presidential Decree Nos. 77 (December 6, 1972) and 911 (March 23, 1976).

[113] Section 87 of Republic Act No. 296 (Judiciary Act of 1948 [June 17, 1948]) and Section 37 of Batas Pambansa Bilang 129 (The Judiciary Reorganization Act of 1980 [August 14, 1981]) both gave trial judges the power to conduct preliminary investigation concurrent with that of the government's various prosecutorial arms. This was justified by **both Section 13, Article VIII of the 1935 Constitution and Section 5(5), Article X of the 1973 Constitution which gave Congress/Batasang Pambansa the power to "repeal, alter or supplement" procedural rules promulgated by the Supreme Court.**

> the information against the respondent, or direct any other assistant prosecutor or state prosecutor to do so without conducting another preliminary investigation.
>
> If upon petition by a proper party under such rules as the Department of Justice may prescribe or *motu proprio*, the Secretary of Justice reverses or modifies the resolution of the provincial or city prosecutor or chief state prosecutor, he shall direct the prosecutor concerned either to file the corresponding information without conducting another preliminary investigation, or to dismiss or move for dismissal of the complaint or information with notice to the parties. The same rule shall apply in preliminary investigations conducted by the officers of the Office of the Ombudsman. (emphasis supplied)

Clearly, Sec. 1 of R.A. No. 5180 (as embodied in Sec. 4 of Rule 112) merely provides the guidelines on **how** handling prosecutors, who are subordinates to the provincial, city or chief state prosecutor, should **proceed** in formally charging a person imputed with a crime before the courts. It neither provides for the power or authority of courts to take cognizance of criminal cases filed before them nor imposes a condition on the acquisition or exercise of such power or authority to try or hear the criminal case. Instead, it simply **imposes** a **duty** on investigating prosecutors to first secure a "prior authority or approval" from the provincial, city or chief state prosecutor before filing an Information with the courts. Thus, non-compliance with Sec. 4 of Rule 112 on the duty of a handling prosecutor to secure a "prior written authority or approval" from the provincial, city or chief state prosecutor merely affects the "standing" of such officer "to appear for the Government of the Philippines" as contemplated in Sec. 33 of Rule 138.

Moreover, the Court deems it fit to emphasize that, since rules of procedure are not ends in themselves,[114] courts may still brush aside procedural infirmities in favor of resolving the merits of the case.[115] Correlatively, since legal representation before the courts and quasi-judicial bodies is a matter of procedure, any procedural lapse pertaining to such matter may be deemed waived when no timely objections have been raised.[116] This means that the failure of an accused to question the handling prosecutor's authority in the filing of an Information will be considered as a valid waiver and courts may brush aside the effect of such procedural lapse.

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[114] *Republic v. Gimenez*, 776 Phil. 233, 237 (2016).
[115] See *Dr. Malixi v. Dr. Baltazar*, 821 Phil. 423 (2017).
[116] *Cf. Philippine Nails and Wires Corporation v. Malayan Insurance Company, Inc.*, 445 Phil. 465, 468 (2003).

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In effect, the operative consequence of filing of an Information without a prior written authority or approval from the provincial, city or chief state prosecutor is that the handling prosecutor's **representation** as counsel for the State **may not be recognized by the trial court** as sanctioned by the procedural rules enforced by this Court pursuant to its constitutional power to promulgate rules on pleading, practice and procedure. Courts are not bound by the internal procedures of the Executive Branch, most especially by its hierarchy of prosecution officers. Rightly so because, as pointed out earlier, the prosecution of crimes lies with the Executive Branch of the government whose principal power and responsibility is to see that the laws of the land are faithfully executed.[117]

The Court is certain that the purpose of R.A. No. 5180, as well as Sec. 4, Rule 112 of the Rules of Court, is neither to cripple nor to divest duly appointed prosecutors from performing their constitutional and statutory mandate of prosecuting criminal offenders but to prevent a situation where such powerful attribute of the State might be abused and indiscriminately wielded or be used as a tool of oppression by just any prosecutor for personal or other reasons. Holding fewer top officials in the prosecutorial service accountable on command responsibility exhorts, if not ensures, the implementation of supervisory safeguards and policies, especially in instances when indictments with deficient indications of probable cause are allowed to reach the courts to the detriment of an otherwise blameless accused.

However, such libertarian safeguard outlined in Sec. 4 of Rule 112 should be balanced with the State's constitutional duty to maintain peace and order.[118] The Court emphasizes that the prosecution of crimes, especially those involving crimes against the State, is the concern of peace officers and government prosecutors.[119] Public prosecutors, not private complainants, are the ones obliged to bring forth before the law those who have transgressed it.[120] They are the representatives not of an ordinary party to a controversy, but of a Sovereign whose obligation to govern impartially is as compelling as its obligation to govern at all.[121] Accordingly, while an Information which is required by law to be filed by a public prosecuting officer cannot be filed by another,[122] the latter may still be considered as a *de facto* officer who is in possession of an office in the open exercise of its

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[117] *Punzalan v. Plata*, 717 Phil. 21, 32 (2013).
[118] See *Chavez v. Romulo*, 475 Phil. 486, 491 (2004), citing 1987 PHILIPPINE CONSTITUTION, Art. II, Sec. 5.
[119] *People v. Apawan*, 331 Phil. 51, 59 (1996).
[120] *Metropolitan Bank and Trust Company v. Reynaldo*, 641 Phil. 208, 225 (2010).
[121] *Paredes, Jr. v. Sandiganbayan*, 322 Phil. 709, 725 (1996); *Dimatulac v. Hon. Villon*, 358 Phil. 328, 364 (1998).
[122] See *Maximo v. Villapando, Jr.*, supra note 77.

functions under the color of an appointment even though, in some cases, it may be irregular.[123] This is because a prosecutor is ingrained with the reputation as having the authority to sign and file Informations which makes him or her a *de facto* officer.[124]

Relatedly, the Court in *Corpuz v. Sandiganbayan*[125] even had the occasion to point out that "**[t]he State should not be prejudiced and deprived of its right to prosecute the cases simply because of the ineptitude or nonchalance of the Ombudsman/Special Prosecutor**." This doctrine also applies with equal force to cases where a city or provincial prosecutor fails to sign the Information or duly delegate the signing and filing of the same pleading with the competent court to the handling prosecutor. A necessary component of the power to execute our laws is the right to prosecute their violators.[126] The duties of a public office (such as the Department of Justice or the subordinate Office of the Prosecutor) include all those which: (1) truly lie within its scope; (2) are essential to the accomplishment of the main purpose for which the office was created; and (3) are germane to and serve to promote the accomplishment of the principal purposes, although incidental and collateral.[127] This is the reason why even an irregularity in the appointment of a prosecutor does not necessarily invalidate his or her act of signing complaints, holding investigations, and conducting prosecutions if he or she may be considered a *de facto* officer.[128]

To constitute a *de facto* officer, the following requisites must be present, *viz*: (1) there must be an office having a *de facto* existence or, at least, one recognized by law; (2) the claimant must be in actual possession of the office; and (3) the claimant must be acting under color of title or authority.[129] As to the third requisite, the word "color," as in "color of authority," "color of law," "color of office," "color of title," and "colorable," suggests a kind of **holding out** and means "appearance, semblance, or *simulacrum,*" but not necessarily the reality.[130] Contrastingly, a mere usurper is one who takes possession of an office and undertakes to act

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[123] See *Dimaandal v. Commission on Audit*, 353 Phil. 525, 534 (1998).

[124] The difference between the basis of the authority of a *de jure* officer and that of a *de facto* officer is that one rests on right, the other on reputation (*Civil Service Commission v. Joson, Jr.*, 473 Phil. 844, 858-859, (2004).

[125] 484 Phil. 899 (2004).

[126] *SPO4 Soberano v. People*, 509 Phil. 118, 132-133 (2005).

[127] See *Lo Cham v. Ocampo*, 77 Phil. 635, 639 (1946).

[128] See *Galvez v. Court of Appeals*, 307 Phil. 708, 731 (1994).

[129] *Codilla v. Martinez*, 110 Phil. 24, 27 (1960), citations omitted.

[130] Partial Dissenting Opinion of Justice William O. Douglas in *Adickers v. S.H. Kress & Co.*, 398 U.S. 144 (1970).

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officially without any color of right or authority, either actual or apparent, he or she is no officer at all.[131]

In the present case, the Court cogently acknowledges that the *de facto* doctrine has been formulated, not for the protection of the *de facto* officer principally, but rather for the protection of the public and individuals who get involved in the official acts of persons discharging the duties of an office without being lawful officers.[132] At the very least, an officer who **maliciously insists** on filing an Information without a prior written authority or approval from the provincial or city prosecutor may be held criminally or administratively liable for usurpation provided that all of its elements are present and are proven, especially the *mens rea* in criminal cases.[133] However, a handling prosecutor who files an Information despite lack of authority but without any *indicia* of bad faith or criminal intent will be considered as a mere *de facto* officer clothed with the **color of authority** and exercising **valid** official acts.[134] In other words, the lack of authority on the part of the handling prosecutor may either result in a valid filing of an Information if not objected to by the accused or subject the former to a possible criminal or administrative liability—but it **does not prevent the trial court from acquiring jurisdiction** over the **subject matter** or over the **person** of the accused.

Besides, the OCP's September 21, 2010 Resolution reveals that the subject Information was presumably reviewed by City Prosecutor Aspi before it was filed by ACP Paggao. The contents of such resolution read:

> WHEREFORE, premises considered, Gina Villa Gomez y Anduyan @ Gina is recommended to be prosecuted for violation of THE REVISED PENAL CODE [A]rt. 212 in rel. to [A]rt. 211-A. The **attached Information** is recommended **to be approved** for filing in court. No bail. (emphasis supplied)

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[131] *Re: Nomination of Atty. Chaguile, IBP Ifugao President, as Replacement for IBP Governor for Northern Luzon, Denis B. Habawel*, 723 Phil. 39, 60 (2013).

[132] *Monroy v. Court of Appeals*, 127 Phil. 1, 7 (1967).

[133] A person who, under pretense of official position, performs any act pertaining to any person in authority or public officer of the Philippine Government or any foreign government or any agency thereof, **without being lawfully entitled to do so** may be held liable of usurpation under Article 177 of the Revised Penal Code (see *Gigantoni v. People*, 245 Phil. 133, 137 (1988).

[134] See *Re: Nomination of Atty. Chaguile, IBP Ifugao President, as Replacement for IBP Governor for Northern Luzon, Denis B. Habawel*, supra note 131.

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As such, the Court can reasonably deduce the following facts, to wit:

(1) The accused **did not dispute** the fact that the subject Information was presumably **attached** to the September 21, 2010 Resolution, **as stated in the dispositive portion**, when it was forwarded to City Prosecutor Aspi for approval and Signature.[135]

(2) The OCP's September 21, 2010 Resolution, albeit indicating that that the attached Information was "**to be approved**" for filing, was **actually signed by City Prosecutor Aspi himself below the word "Approved.".**

(3) The attached Information was signed only by Assistant City Prosecutor Paggao and did not contain City Prosecutor Aspi's signature.

(4) Assistant City Prosecutor Paggao merely certified in the subject Information that "is being filed with the prior authority of the City Prosecutor."

Proceeding from the aforementioned observations, the requirement of securing a prior written authority or approval of the provincial or city prosecutor or chief state prosecutor even becomes redundant and inapplicable. The reason being is that, when the draft September 21, 2010 Resolution was presented to City Prosecutor Aspi for review and approval, it came with the subject Information presumably attached to the same Resolution. This can be inferred in the second sentence of the dispositive portion of the OCP's September 21, 2010 Resolution which categorically states that "[t]he **attached Information** is recommended **to be approved** for filing in court."[136] It means that the Resolution recommending for the indictment of the accused is still subject for approval by the city prosecutor. The phrase "to be approved" would normally involve a situation where the approving officer has yet to give his or her *imprimatur* to a document and its contents before the same is made official either by entering it in the public records or filing it with an agency or tribunal. This presupposes that such approving officer has yet to examine the document's content before signifying his or her assent to the contents thereof.

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[135] *Rollo*, p. 71.
[136] Id.

Since a public official enjoys the presumption of regularity in the discharge of one's official duties and functions,[137] it also becomes reasonable for the Court to assume that the attached or accompanying Information was read and understood by City Prosecutor Aspi when he affixed his signature on the September 21, 2020 Resolution. The fact that City Prosecutor Aspi signed the Resolution himself constitutes a tacit approval to the contents of the attached Information as well as to such pleading/document's resultant filing. Clearly, his actions indicate that he had indeed authorized ACP Paggao to file the subject Information. Moreover, the requirement of first obtaining a prior written authority or approval before filing an Information is understood or rendered useless and inoperative when the same Information is **already attached** to the Resolution signed by the city prosecutor himself recommending for the indictment of the accused. There being no factual indication to the contrary, this presupposes that City Prosecutor Aspi had knowledge of the existence and the contents of the subject Information when he signed the OCP's September 21, 2010 Resolution. To require City Prosecutor Aspi's signature on the face of the subject Information under the circumstances would be to impose a redundant and pointless requirement on the Prosecution.

Furthermore, this Court emphatically evinces its observation that what is **primarily** subjected to review by the provincial, city or chief state prosecutor in the context of R.A. No. 5180 is the very **Resolution** issued by an investigating prosecutor recommending either the indictment or the release of a respondent in a preliminary investigation from possible criminal charges. In comparison, the Information merely contains factual recitations which make out an offense; it does not provide for the underlying reasons for such proposed indictment. This means that, whatever authority that a handling prosecutor may have, as it pertains to the filing of an Information, proceeds from the review and subsequent approval by the provincial, city or chief state prosecutor of the underlying Resolution **itself**. Therefore, the authority of a handling prosecutor need not be shown in the face of the Information itself if it is duly established in the records that the provincial, city or chief state prosecutor approved the underlying Resolution recommending the indictment.

More importantly, the petitioner failed to show that ACP Paggao, the investigating and handling prosecutor, did not comply with Sec. 7(a), Rule 112 of the Rules of Court which reads:

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[137] *Yap v. Lagtapon*, 803 Phil. 652, 662 (2017).

> **Section 7.** *Records.* — (a) *Records supporting the information or complaint.* — An information or complaint filed in court shall be supported by the affidavits and counter-affidavits of the parties and their witnesses, together with the other supporting evidence **and the resolution on the case**. x x x (emphasis supplied)

Under the aforecited provision, the handling prosecutor is required to furnish the trial court the **resolution** on the preliminary investigation along with the necessary documents in support of the Information or Complaint. Had the presiding judge been vigilant and circumspect in his duty to carefully scrutinize the records of the case, he would have noticed that the September 21, 2010 Resolution filed, together with the Information, bears City Prosecutor Aspi's signature. This shows that City Prosecutor Aspi not only had knowledge of the contents of the draft Information, **as attached** to the September 21, 2010 Resolution, but also gave his consent for ACP Paggao to file the same pleading with the trial court. The RTC's casual disregard of and dismissive attitude towards the September 21, 2010 Resolution's vital contents make up for a clear case of grave abuse of discretion.

Additionally, the Court also observes that the petitioner-accused was arrested *in flagrante delicto* during an entrapment operation and underwent an inquest proceeding instead of the usual preliminary investigation. Accordingly, there is a need to refer to Sec. 6 of Rule 112 on warrantless arrests and inquests revealing an exception to the requirement of securing prior written authority or approval from the city or provincial prosecutor which reads:

> **Section 6.** *When accused lawfully arrested without warrant.* — When a person is **lawfully arrested without a warrant** involving an offense which requires a preliminary investigation, the complaint or **information may be filed by a prosecutor without need of such investigation provided an inquest has been conducted** in accordance with existing rules. In the **absence** or **unavailability** of an **inquest prosecutor, the complaint may be filed by the offended party or a peace officer directly with the proper court** on the basis of the affidavit of the offended party or arresting officer or person.
>
> Before the complaint or information is filed, the person arrested may ask for a preliminary investigation in accordance with this Rule, but he must sign a waiver of the provisions of Article 125 of the Revised Penal Code, as amended, in the presence of his counsel. Notwithstanding the waiver, he may apply for bail and the investigation must be terminated within fifteen (15) days from its inception.

> After the filing of the complaint or information in court without a preliminary investigation, the accused may, within five (5) days from the time he learns of its filing, ask for a preliminary investigation with the same right to adduce evidence in his defense as provided in this Rule. (emphasis supplied)

Inquest is defined as an informal and summary investigation conducted by a public prosecutor in criminal cases involving persons arrested and detained without the benefit of a warrant of arrest issued by the court for the purpose of determining whether said persons should remain under custody and correspondingly be charged in court.[138] The accelerated process of inquest, owing to its summary nature and the attendant risk of running against Art. 125 of the RPC, ends with either the prompt filing of an Information in court or the immediate release of the arrested person.[139] This is because a person subject of a warrantless arrest must be delivered to the proper judicial authorities within the periods provided in Art. 125 of the RPC, otherwise, the public official or employee could be held liable for the failure to deliver except if grounded on reasonable and allowable delays.[140] Here, time is of the essence when the arrest is warrantless; especially when it is not planned, arranged or scheduled in advance.[141] And, since Sec. 5 of Rule 113 mandates that inquest proceedings be conducted pursuant to warrantless arrests,[142] inquest prosecutors have to take into account that they have to conduct such proceedings in an expeditious matter and in a way which is not violative of the suspect's constitutional rights; otherwise, they risk releasing such person arrested.

At this point, it bears emphasizing that it is a more prudent jurisprudential policy to allow a suspect arrested in *flagrante delicto* (or pursuant to other modes of warrantless arrest) to be lawfully restrained in the interest of public safety.[143] Moreover, the same rule uses the phrase "may be filed by **a prosecutor**" without specifying the rank of such officer. This implies that **any available prosecutor** conducting the inquest may file an Information with the trial court.

As a matter of procedure, Sec. 6 of Rule 112 even allows private offended parties or peace officers to file a Complaint *in lieu* of an Information **directly** with the competent court in the absence or

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[138] *Leviste v. Hon. Alameda*, 640 Phil. 620, 635 (2010).
[139] Id.
[140] *In the Matter of the Petition for Issuance of Writ of Habeas Corpus with Petition for Relief/Integrated Bar of the Philippines Pangasinan Chapter Legal Aid v. Department of Justice*, 814 Phil. 440, 455 (2017).
[141] *People v. Lim*, G.R. No. 231989, September 4, 2018.
[142] *Ladlad v. Senior State Prosecutor Velasco*, 551 Phil. 313 (2007).
[143] *Cf. Veridiano v. People*, 810 Phil. 642 (2017).

unavailability of an inquest prosecutor in instances involving warrantless arrests. Thus, it is with more reason that inquest prosecutors can directly file the Information with the proper court without waiting for the approval of the provincial, city or chief state prosecutor if the latter is unavailable due to the **exigent nature** of processing warrantless arrests.

This Court also points out that, under Rule 117 of the Rules of Court, both lack of jurisdiction over the offense charged under Sec. 3(b) and lack of jurisdiction over the person of the accused under Sec. 3(c) are listed as grounds for the quashal of an Information which are **separate and distinct** from, **not** as **subsets** of, the lack of an officer's authority to file such Information under Sec. 3(d). This means that the various grounds enumerated in Sec. 3 of Rule 117 are separate and distinct from each other, some waivable while others are not.

In sum, a procedural infirmity regarding legal representation is **not** a **jurisdictional defect** or handicap which prevents courts from taking cognizance of a case, it is merely a defect which should not result to the quashal of an Information. As a result, objections or challenges pertaining to a handling prosecutor's lack of authority in the filing of an Information **may be waived** by the accused through silence, inaction or failure to register a timely objection. An Information filed by a handling prosecutor with no prior approval or authority from the provincial, city or chief state prosecutor will be rendered as merely **quashable**, **until waived by the accused**, and **binding** on the part of the State due to the presence of colorable authority.

F. Nature of the Requirement of Obtaining a Prior Written Authority or Approval from the Provincial, City or Chief State Prosecutor

To understand the nature of the requirement for a handling prosecutor to first secure a written authority or approval from the provincial, city or chief state prosecutor before filing an Information, it is necessary to analyze such requisite in the context of the rights accorded by the Constitution to the accused.

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At the outset, the Court deems it noteworthy to point out that some of the more serious grounds which tread on the fine line of constitutional infirmity may even be waived by the accused.

One such example, as mentioned earlier in the discussions pertaining to Sec. 3(c) of Rule 117, is the right of an accused to question the legality of his or her arrest as being a violation of his or her constitutional right to due process. It is already established in jurisprudence that "[t]he right to question the validity of an arrest may be waived if the accused, assisted by counsel, fails to object to its validity before arraignment."[144]

Another example is the right of an accused to be informed of the nature and cause of accusation against him or her, a right which is given life during the arraignment of the accused.[145] The theory in law is that since the accused officially begins to prepare his defense against the accusation **on the basis of the recitals in the Information** read to him or her during arraignment, then the prosecution must establish its case on the basis of the same Information.[146] Accordingly, in instances pertaining to duplicity of offenses (where a single Complaint or Information charges more than one offense),[147] Sec. 3(f) of Rule 117 makes it a ground for the quashal of a Complaint or Information. Even then, such ground may still be validly waived by the accused;[148] notwithstanding the serious constitutional ramification that charging two or more offenses in an Information might confuse the accused in his or her defense,[149] a situation affecting a person's perception of the nature and cause of an accusation.

Relatedly, the constitutional requirements for the exercise of the right to be informed of the nature and cause of accusation are outlined in Sec 6, Rule 110 of the Rules of Court as follows:

> **Section 6.** *Sufficiency of complaint or information.* — A complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

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[144] *Lapi v. People*, G.R. No. 210731, February 13, 2019.
[145] *People v. Sandiganbayan*, G.R. No. 240621, July 24, 2019.
[146] *Dr. Mendez v. People*, 736 Phil. 181, 192 (2014).
[147] *Loney v. People*, 517 Phil. 408, 420 (2006).
[148] *Atty. Dimayacyac v. Court of Appeals*, 474 Phil. 139 (2004); *Sy v. Court of Appeals*, 198 Phil. 713 (1982).
[149] See *People v. Court of Appeals*, supra note 53 at 116, citation omitted.

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> When an offense is committed by more than one person, all of them shall be included in the complaint or information.

In this regard, the Court points out that there is nothing in the aforementioned provision which requires a prior authority, approval or signature of the provincial, city or chief state prosecutor for an Information to be sufficient. Even assuming for the sake of argument that such prior authority, approval or signature is required, this Court in its recent *en banc* ruling in *People v. Solar*[150] where all prosecutors were "**instructed to state with sufficient particularity** not just the acts complained of or the acts constituting the offense, but also **the aggravating circumstances, whether qualifying or generic, as well as any other attendant circumstances, that would impact the penalty to be imposed on the accused should a verdict of conviction be reached,**" held that failure of the accused to question the **insufficiency of an Information** as to the averment of aggravating circumstances with specificity **constitutes a waivable defect**. Logically, if the constitutional right to be informed of the nature and cause of the accusation may be waived by the accused, then it is with more reason that the absence of the requirement pertaining to a handling prosecutor's duty to secure a prior written authority or approval from the provincial, city or chief state prosecutor in the filing of an Information may also be waived.

Consistent with the foregoing observations, if some grounds for the quashal of an Information with serious constitutional implications may be waived, it is with more reason that the ground on securing a prior written approval or authority from the provincial, city or chief state prosecutor, which has nothing to do with the Bill of Rights or with a trial court's jurisdiction to take cognizance of a case, can also be waived by the accused.

At this critical juncture, the Court highlights that the **right** of the accused to a **preliminary investigation** is **merely statutory** as it is not a right guaranteed by the Constitution.[151] Furthermore, such right is personal and may even be waived by the accused.[152] On this score, it is also noteworthy to point out that the requirement of first securing a prior written approval or authority from the provincial, city or chief state prosecutor before filing an Information is **merely contained** in R.A. No. 5180, the substantive law which first recognized the right of an accused to a preliminary investigation. Significantly, even such law **makes no specific mention** of the **effect** on the **validity** of an Information filed without first securing a prior written approval or authority from the provincial, city or chief state prosecutor. Consequently, such statutory requirement of securing

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[150] G.R. No. 225595, August 6, 2019.
[151] *Sec. De Lima v. Reyes*, supra note 111.
[152] See *United States v. Escalante*, 36 Phil. 743, 746 (1917).

a prior written authority or approval cannot be expanded to also touch on the validity of an Information. Moreover, the same law also cannot be interpreted as a condition on the power and authority of trial courts to hear and decide certain criminal cases. *Expressium facit cessare tacitum* — where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to other matters.[153] And since procedural rules should yield to substantive laws,[154] it should be understood that this Court cannot promulgate a rule of procedure which would defeat the trial courts' power to acquire jurisdiction in criminal cases as conferred and outlined by *Batas Pambansa Bilang* 129[155] (The Judiciary Reorganization Act of 1980).

Aside from this observation on the nature of the right of the accused to a preliminary investigation, the Court also reiterates the rudimentary rule that **absence** of a **preliminary investigation** is **not** a **ground** to **quash** a Complaint or Information under Sec. 3, Rule 117 of the Rules of Court.[156] A preliminary investigation may be done away with entirely without infringing the constitutional right of an accused under the due process clause to a fair trial.[157] The reason being is that such proceeding is merely preparatory to trial, not a trial on the merits.[158] An adverse recommendation by the investigating prosecutor in a concluded preliminary investigation does not result in the deprivation of liberty of the accused as contemplated in the Constitution.[159] Relatedly, although the restrictive effect on liberty of those arrested *in flagrante delicto* is more apparent during the initial stages of prosecution (inquest proceedings),[160] it is merely indirect since the

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[153] *Malinias v. COMELEC*, 439 Phil. 319, 335 (2002).

[154] *Fernandez v. Fulgueras*, 636 Phil. 178, 182 (2010).

[155] An Act Reorganizing the Judiciary, Appropriating Funds Therefor, and for Other Purposes (August 14, 1981), as amended.

[156] *Pilapil v. Sandiganbayan*, 293 Phil. 368 (1993).

[157] *Sen. Estrada v. Office of the Ombudsman*, 751 Phil. 821, 870 (2015).

[158] *Maza v. Judge Turla*, 805 Phil. 736, 759 (2017), citation omitted.

[159] In *Cariño v. Commission on Human Rights,* 281 Phil. 547, 561 (1991), the Court essentially explained that an "investigation" does not adjudicate or settle the rights and obligations of contending parties as its purpose is to "to discover, to find out, to learn, obtain information." This implies that, in preliminary investigations, the requirements of due process only become relevant as it pertains to remedies guaranteed by the statute; see *Uy v. Office of the Ombudsman*, 578 Phil. 635, 655 (2008) timely invoked by the accused. The reason being is that "the Due Process Clause is set in motion only when there is actual or a risk of an impending *deprivation* of life, liberty or property (*National Telecommunications Commission v. Brancomm Cable and Television Network Co.,* G.R. No. 204487, December 5, 2019)."

[160] A nuisance *per se* affects the **immediate safety** of **persons** and property, which may be summarily abated under the undefined law of necessity (*Cruz v. Pandacan Hiker's Club, Inc.,* 776 Phil. 336, 346 [2016] citations omitted) – a valid exception to the constitutional guarantee of due process. The instances which are included in this permissible summary abatement are *in flagrante delicto* arrests (see *Legaspi v. City of Cebu*, 723 Phil. 90, 111 [2013], citations omitted). Since *in flagrante delicto* arrests are obviously warrantless, they are subject to inquest proceedings which normally pertain only to a **preliminary determination** of the alleged crime's existence and nature for the purpose of indictment—***not*** an **adjudication** or **final pronouncement** as to the matter of continuing with the preventive imprisonment. The reason being is that warrantless arrests which happened prior to their corresponding inquest proceedings are not due to the instance of inquest prosecutors but of law enforcers (RULES OF COURT, Rule 113, Sec. 8) or private persons (RULES OF COURT, Rule 113, Sec. 9).

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pronouncement on according provisional liberty or imposing preventive imprisonment ultimately depends on the trial court's action after giving all parties the opportunity to be heard in a bail proceeding.

Moreover, Sec. 8,[161] Rule 112 of the Rules of Court even enumerates instances where a preliminary investigation is not required; allowing the complainant (public or private)[162] or handling prosecutor to directly file the Complaint or Information with the trial court. Significantly, even jurisprudence is settled that the absence of a preliminary investigation neither affects the court's jurisdiction over the case nor impairs the validity of the Information or otherwise renders it defective.[163] Hence, if the lack of a preliminary investigation is not even a ground to quash an Information, what more so the lack of prior written authority or approval on the part of the handling prosecutor which is merely a **formal** requirement and part of the preliminary investigation itself? It can only mean that such requirement of prior written authority or approval is **not jurisdictional** and **may be waived** by the accused expressly or impliedly.

In a nutshell, the Court reiterates that even some constitutionally guaranteed rights may be expressly or impliedly waived by the accused. The perceived right of the accused to question a handling prosecutor's authority in the filing of an Information does not even have any constitutional or statutory bearing. At best, it is only recognized by this Court, pursuant to its rule-making power, as a procedural device available for the accused to invoke in aid of the orderly administration of justice. Accordingly, such requirement to obtain a prior written authority or approval from the

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[161] Section 8. *Cases not requiring a preliminary investigation nor covered by the Rule on Summary Procedure.* –

(a) *If filed with the prosecutor.* – If the complaint is filed directly with the prosecutor involving an offense punishable by imprisonment of less than four (4) years, two (2) months and one (1) day, the procedure outlined in Section 3(a) of this Rule shall be observed. The prosecutor shall act on the complaint based on the affidavits and other supporting documents submitted by the complainant within ten (10) days from its filing.

(b) *If filed with the Municipal Trial Court.* – If the complaint or information is filed directly with the Municipal Trial Court or Municipal Circuit Trial Court for an offense covered by this section, the procedure in section 3(a) of this Rule shall be observed. If within ten (10) days after the filing of the complaint or information, the judge finds no probable cause after personally evaluating the evidence, or after personally examining in writing and under oath the complainant and his witnesses in the form of searching question and answers, he shall dismiss the same. He may, however, require the submission of additional evidence, within ten (10) days from notice, to determine further the existence of probable cause. If the judge still finds no probable cause despite the additional evidence, he shall, within ten (10) days from its submission or expiration of said period, dismiss the case. When he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused had already been arrested, and hold him for trial. However, if the judge is satisfied that there is no necessity for placing the accused under custody, he may issue summons instead of a warrant of arrest.

[162] *See* RULES OF COURT, Rule 112, Sec. 6.

[163] *Sanciangco, Jr. v. People*, 233 Phil. 1, 4 (1987).

provincial, city or chief state prosecutor is considered merely a **formal,** and **not** a **jurisdictional,** requisite which **may be waived** by the accused.

G. Relationship Between Jurisdiction and Authority to Appear

Jurisdiction is a matter of substantive law[164]—it establishes a relation between the court and the subject matter.[165] This is because Congress has the power to define, prescribe and apportion the jurisdiction of the various courts; although it may not deprive this Court of its jurisdiction over cases enumerated in Sec. 5, Art. VIII of the Constitution.[166] More importantly, the authority of the courts to try a case is not embraced by the rule-making power of the Supreme Court to promulgate rules of "pleading, practice and procedure in all courts."[167] In other words, only a constitutional or statutory provision can create and/or vest a tribunal with jurisdiction.

Incidentally, the power to define, prescribe and apportion jurisdiction **necessarily includes** the power to expand or diminish the scope of a court's authority to take cognizance of a case, to impose additional conditions or to reduce established requirements with respect to an adjudicative body's acquisition of jurisdiction. This is because every statute is understood, by implication, to contain all such provisions as may be necessary to effectuate its object and purpose, or to make effective rights, powers, privileges or jurisdiction which it grants, including all such collateral and subsidiary consequences as may be fairly and logically inferred from its terms.[168] In effect, only a law (or constitutional provision in the case of this Court) may add or take away any requirement affecting jurisdiction. Not even a rule of procedure or judicial decision can legally accomplish such act as both are not "laws" as used in the context of the Constitution.[169] The purpose of procedural rules or "adjective law" is to ensure the effective enforcement of substantive rights through the orderly and speedy administration of justice;[170] while judicial decisions which apply or interpret the Constitution

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[164] *Radiowealth Finance Company, Inc. v. Pineda, Jr.*, G.R. No. 227147, July 30, 2018.
[165] See *Nocum v. Tan*, 507 Phil. 620, 626 (2005).
[166] The 1987 CONSTITUTION, Art. VIII, Sec. 2.
[167] See *Valera v. Tuason, Jr.*, 80 Phil. 823, 828-829 (1948); see also *Republic v. Court of Appeals*, 331 Phil. 1070 (1996).
[168] *Chua v. Civil Service Commission*, 282 Phil. 970, 986-987 (1992).
[169] Rules of procedure should be distinguished from substantive law—a substantive law creates, defines or regulates rights concerning life, liberty or property, or the powers of agencies or instrumentalities for the administration of public affairs, whereas rules of procedure are provisions prescribing the method by which substantive rights may be enforced in courts of justice (*Primicias v. Ocampo*, 93 Phil. 446, 451-452 (1953), citation omitted). Jurisprudence, in our system of government, cannot be considered as an independent source of law; it cannot create law (*Philippine International Trading Corporation v. Commission on Audit*, 821 Phil. 144, 155 (2017), citing *Columbia Pictures, Inc. v. Court of Appeals*, 329 Phil. 875, 906 (1996).
[170] See *Dr. Malixi v. Dr. Baltazar*, supra note 115.

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or the laws cannot be considered as an independent source of law and cannot create law.[171] As such, while the Rules of Court (specifically the Revised Rules of Criminal Procedure) may impose conditions as to the proper conduct of litigation such as legal standing, it cannot **by itself** (and without any constitutional or statutory basis) impose additional conditions or remove existing requirements pertaining to a tribunal's assumption or acquisition of jurisdiction.

Presently, there is no penal law which prescribes or requires that an Information filed must be personally signed by the provincial, city or chief state prosecutor (or a delegated deputy) in order for trial courts to acquire jurisdiction over a criminal case. Clearly, the pronouncement in *Villa* is not sanctioned by any constitutional or statutory provision. Absence such constitutional or statutory fiat, such pronouncement or ruling cannot operate to create another jurisdictional requirement before a court can acquire jurisdiction over a criminal case without treading on the confines of judicial legislation. In effect, *Villa* is rendered unconstitutional for violating the basic principle of separation of powers.[172] Hence, it now stands to reason that a handling prosecutor's lack of prior written authority or approval from the provincial, city or chief state prosecutor in the filing of an Information **does not affect a trial court's acquisition of jurisdiction over the subject matter or the person** of the accused.

In this regard, the Court reminds the Bench and the Bar that "substantive law" is that part of the law which creates, defines and regulates rights, or which regulates the rights and duties which give rise to a cause of action.[173] Comparatively, "procedural law" refers to the adjective law which prescribes rules and forms of procedure in order that courts may be able to administer justice.[174] It ensures the effective enforcement of substantive rights by providing for a system that obviates arbitrariness, caprice, despotism, or whimsicality in the settlement of disputes.[175] And since jurisdiction is conferred upon courts by substantive law,[176] it cannot be accorded to or taken away from an otherwise competent court for purely procedural reasons. As alluded to earlier, a **court's jurisdiction** is different from a **government officer's authority to sue** as the former fixes the rights

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[171] See *Philippine International Trading Corporation v. Commission on Audit*, supra note 169.

[172] In the cases of *Lu v. Ym, Sr.*, 658 Phil. 156 (2011) and *In Re: Petition Seeking for Clarification as to Validity and Forceful Effect of Two (2) Final and Executory But Conflicting Decisions of the Honorable Supreme Court* (G.R. No. 123780, September 24, 2002, the Court *en banc* declared decisions promulgated by one of its Divisions as void, invalid and **unconstitutional** for violating Sec. 4(3), Article VIII of the Constitution which provides that "no doctrine or principle of law laid down by the court in a decision rendered *en banc* or in division may be modified or reversed except by the court sitting *en banc*."

[173] See *Bernabe v. Alejo*, 424 Phil. 933, 941 (2002).

[174] See *Sumiran v. Spouses Damaso*, 613 Phil. 72, 78 (2009).

[175] See *Asia United Bank v. Goodland Company, Inc.*, 650 Phil. 175, 184 (2010), citations omitted.

[176] See *Savage v. Judge Taypin*, 387 Phil. 718, 725 (2000).

and obligations of the parties after undergoing due process while the latter pertains to internal matters concerning the giving of consent by the State in its own affairs. All told, the Court is convinced that the CA did not commit any reversible error in not applying *Villa,* along with its derivative rulings, and in granting the Prosecution's petition for *certiorari*.

III. *The State's Right to Due Process in Criminal Cases*

It is settled that both the accused and the State are entitled to due process.[177] For the former, such right includes the right to present evidence for his or her defense;[178] for the latter, such right pertains to a fair opportunity to prosecute and convict.[179] Accordingly, in such context, it becomes reasonable to assume that the Constitution affords not only the accused but also the State with the complete guarantee of procedural due process, especially the opportunity to be heard.

Accordingly, in cases involving the quashal of an Information, Sec. 1, Rule 117 of the Rules of Court provides:

> **Section 1.** *Time to move to quash.* — At any time before entering his plea, the accused may move to quash the complaint or information.

The application of such provision as to who may initiate the quashal was clarified by the Court in *People v. Hon. Nitafan*[180] *(Nitafan)* as follows:

> It is also clear from Section 1 that **the right to file a motion to quash belongs only to the accused. There is nothing in the rules which authorizes the court or judge to *motu proprio* initiate a motion to quash if no such motion was filed by the accused**. A motion contemplates an initial action originating from the accused. It is the latter who is in the best position to know on what ground/s he will base his objection to the information. Otherwise, if the judge initiates the motion to quash, then he is not only pre-judging the case of the prosecution but also takes side with the accused. This would violate the right to a hearing before an independent and impartial tribunal. Such independence and impartiality cannot be expected from a magistrate, such as herein respondent judge, who in his show cause orders, orders dismissing the charges and order denying the motions for reconsideration stated and even expounded in a lengthy disquisition with citation of authorities, the grounds and justifications to support his action. Certainly, in compliance

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[177] *People v. Tampal*, 314 Phil. 35, 41 (1995).
[178] See *People v. Yambot*, 397 Phil. 23, 46 (2000).
[179] See *Valencia v. Sandiganbayan*, 510 Phil. 70, 84 (2005).
[180] 362 Phil. 58, 70-71 (1999).

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> with the orders, the prosecution has no choice but to present arguments contradicting that of respondent judge. Obviously, however, it cannot be expected from respondent judge to overturn the reasons he relied upon in his different orders without contradicting himself. To allow a judge to initiate such motion even under the guise of a show cause order would result in a situation where a magistrate who is supposed to be neutral, in effect, acts as counsel for the accused and judge as well. **A combination of these two personalities in one person is violative of due process which is a fundamental right not only of the accused but also of the prosecution.** (emphases supplied)

The rule is clear that only an accused may move to quash a Complaint or Information. However, for the guidance of the Bench and the Bar, the Court deems it imperative to clarify that *Nitafan* does not apply to paragraphs (a), (b), (g) and (i), Sec. 3 of Rule 117. It is obvious that proceeding to trial after arraignment would be utterly pointless if: (1) the Information alleges facts that do not constitute an offense; (2) the trial court has no power and authority to take cognizance of the offense being charged against the accused; (3) the accused cannot anymore be made to stand charges because the criminal action or liability had been extinguished under Art. 89 of the RPC or some other special law; or (4) the accused would be placed in double jeopardy. In these instances, the trial court is allowed to act *sua sponte* provided that it shall first conduct a **preliminary hearing** to verify the existence of facts supporting any of such grounds. Should the trial court find these facts to be adequately supported by evidence, the case shall be dismissed without proceeding to trial. Doing so would unburden both the parties and the courts from having to undergo the rigmarole of participating in a void proceeding.

In the instant case, the RTC, in ordering the dismissal of the case, resultantly quashed the subject Information in a *motu proprio* and summary manner despite the fact that: (1) both the accused and the prosecution had already adduced all of their evidence and both have rested their respective cases; and (2) the same case was already submitted for decision. In doing so, it failed to notify the Prosecution and give the latter an opportunity to be heard on the matter. Since, as comprehensively explained in the previous discussions, lack of authority of the handling prosecutor to file an Information does not affect the trial court's jurisdiction or authority to take cognizance of a criminal case, it is not among the exceptions of *Nitafan* where the RTC may *sua sponte* quash the Information and dismiss the case.

Besides, assuming *arguendo* that a non-waivable ground to quash the subject Information existed in this case, what the RTC should have done was to conduct a preliminary hearing to give the parties, especially the

Prosecution, a right to be heard. In doing so, the RTC may be able to identify (based on evidentiary facts) which grounds are waivable and which are not so that it may properly proceed or dispose of the case, thereby facilitating an expeditious resolution of the criminal case. Verily, the summary act of quashing the subject Information and perfunctorily dismissing the corresponding criminal case is an overt violation of Sec. 1, Rule 117.

As pointed out in *Nitafan*, a *motu proprio* and summary quashal of an Information also violates the State's (and the Prosecution's) fundamental right to due process as the presiding judge who initiates such quashal would now be tainted with bias in favor of the accused. In addition, such perfunctory court action also deprives the Prosecution of its right to be notified and to be accorded the opportunity to be heard regarding such quashal of the Information and eventual dismissal of the criminal case. Such violation of the State's right to due process raises a serious jurisdictional issue which cannot be glossed over or disregarded at will for it has the effect of ousting a court of its jurisdiction.[181]

Finally, a judgment is void when it violates the basic tenets of due process.[182] Since a void judgment creates no rights and imposes no duties,[183] no jeopardy attaches to a judgment of acquittal or order of dismissal where the prosecution, which represents the Sovereign People in criminal cases, is denied due process.[184] In this regard, the CA correctly found the RTC's February 13, 2013 Order to be tainted with grave abuse of discretion necessitating the latter's annulment for exceeding jurisdictional bounds.

Conclusion

All told, the handling prosecutor's authority, particularly as it does not appear on the face of the Information, has no connection to the trial court's power to hear and decide a case. Hence, Sec. 3(d), Rule 117, requiring a handling prosecutor to secure a prior written authority or approval from the provincial, city or chief state prosecutor before filing an Information with the courts, may be waived by the accused through silence, acquiescence, or failure to raise such ground during arraignment or before entering a plea. If,

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[181] See *People v. Judge Bocar*, 222 Phil. 468 (1985).
[182] See *Frias v. Alcayde*, G.R. No. 194262, February 28, 2018.
[183] *Imperial v. Judge Armes*, supra note 87 at 474.
[184] *People v. Hon. Velasco*, 394 Phil. 517, 554-555 (2000), citations omitted.

at all, such deficiency is merely formal and can be cured at any stage of the proceedings in a criminal case.

Moreover, both the State and the accused are entitled to the constitutional guarantee of due process – especially when the most contentious of issues involve jurisdictional matters. A denial of such guarantee against any of the parties of the case amounts to grave abuse of discretion. Consequently, a judgment of acquittal or order of dismissal amounting to an acquittal which is tainted with grave abuse of discretion becomes void and cannot amount to a first jeopardy.

Henceforth, all previous doctrines laid down by this Court, holding that the lack of signature and approval of the provincial, city or chief state prosecutor on the face of the Information shall divest the court of jurisdiction over the person of the accused and the subject matter in a criminal action, are hereby abandoned. It is sufficient for the validity of the Information or Complaint, as the case may be, that the Resolution of the investigating prosecutor recommending for the filing of the same in court bears the *imprimatur* of the provincial, city or chief state prosecutor whose approval is required by Sec. 1 of R.A. No. 5180[185] and is adopted under Sec. 4, Rule 112 of the Rules of Court.

WHEREFORE, in view of the foregoing premises, the Court **DENIES** the Petition for Review on *Certiorari* filed by Gina A. Villa Gomez and **AFFIRMS** the October 9, 2014 Decision of the Court of Appeals, Seventh Division in CA-G.R. SP No. 130290 for absence of any reversible error. Moreover, the Regional Trial Court of Makati City, Branch 57 is hereby **ORDERED** to **RESUME** its proceedings in Criminal Case No. 10-1829 with utmost dispatch.

Let copies of this Decision be furnished to the Department of Justice, National Prosecution Service, Public Attorney's Office and Integrated Bar of the Philippines for their information and guidance.

No pronouncement as to costs.

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[185] Supra note 112.

SO ORDERED.

ALEXANDER G. GESMUNDO
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Chief Justice

Please see Concurring Opinion

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

(On Official Leave)
AMY C. LAZARO-JAVIER
Associate Justice

(No part)
HENRI JEAN PAUL B. INTING
Associate Justice

(On Official Leave)
RODIL V. ZALAMEDA
Associate Justice

(No part)
MARIO V. LOPEZ
Associate Justice

Please see Concurring Opinion

EDGARDO L. DELOS SANTOS
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

RICARDO R. ROSARIO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

DIOSDADO M. PERALTA
Chief Justice