



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**RAMON A. SYHUNLIONG,**  
 Petitioner,

**G.R. No. 200148**

Present:

SERENO, C.J.,  
*Chairperson,*  
 LEONARDO-DE CASTRO,  
 BERSAMIN,  
 VILLARAMA, JR., and  
 REYES, JJ.

- versus -

**TERESITA D. RIVERA,**  
 Respondent.

Promulgated:

**JUN 04 2014**

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**RESOLUTION**

**REYES, J.:**

For review is the instant Petition<sup>1</sup> filed by Ramon A. Syhunliong (Syhunliong) seeking the reversal of the Decision<sup>2</sup> rendered on July 11, 2011 and Resolution<sup>3</sup> issued on January 6, 2012 by the Court of Appeals (CA) in CA-G.R. SP No. 110335. The CA set aside the Orders dated December 4, 2008<sup>4</sup> and June 18, 2009<sup>5</sup> of the Regional Trial Court (RTC) of Quezon City, Branch 84, which denied the Motion to Dismiss/Quash on Jurisdictional Challenge<sup>6</sup> (Motion to Quash) filed by the herein respondent, Teresita D. Rivera (Rivera), in Criminal Case No. Q-07-147802, an action for libel.

<sup>1</sup> Rollo, pp. 8-27.  
<sup>2</sup> Penned by Associate Justice Mario L. Guarifia III, with Associate Justices Japar B. Dimaampao and Manuel M. Barrios, concurring; id. at 29-38.  
<sup>3</sup> Id. at 40-41.  
<sup>4</sup> Issued by Presiding Judge Luisito G. Cortez; id. at 56-59.  
<sup>5</sup> Id. at 60-63.  
<sup>6</sup> Id. at 46-54.

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### Antecedents

Syhunliong and Rivera are respectively the private complainant and defendant in Criminal Case No. Q-07-147802. Syhunliong is the President of BANFF Realty and Development Corporation (BANFF) and likewise owns interests in construction, restaurant and hospital businesses. On the other hand, Rivera used to be the Accounting Manager of BANFF. She was hired in September of 2002 with a monthly salary of Php 30,000.00.

About three years after, Rivera, citing personal and family matters, tendered her resignation to be effective on February 3, 2006. However, Rivera actually continued working for BANFF until March of the same year to complete the turn over of papers under her custody to Jennifer Lumapas (Lumapas), who succeeded her.

Sometime in April of 2006, Rivera called Lumapas to request for the payment of her remaining salaries, benefits and incentives. Lumapas informed Rivera that her benefits would be paid, but the check representing her salaries was still unsigned, and her incentives were put on hold by Syhunliong.<sup>7</sup>

On April 6, 2006, at around 11:55 a.m., Rivera sent the following text message to one of BANFF's official cellular phones held by Lumapas:

I am expecting that[.] [*G*]rabe talaga sufferings ko dyan hanggang pagkuha ng last pay ko. I don't deserve this [because] I did my job when I [was] still there. God bless ras[.]<sup>8</sup> [*S*]ana yung pagsimba niya, alam niya real meaning.<sup>9</sup> (Italics ours)

Minutes later, Rivera once again texted another message, which reads:

*Kailangan release niya lahat [nang] makukuha ko diyan including incentive up to the last date na nandyan ako para di na kami abot sa labor.*<sup>10</sup> (Italics ours)

Subsequently, on December of 2006, Rivera filed before the National Labor Relations Commission a complaint against Syhunliong for underpaid salaries, 13<sup>th</sup> to 16<sup>th</sup> month and incentive pay, gratuities and tax refund in the total sum of Php 698,150.48.<sup>11</sup>

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<sup>7</sup> Id. at 29-30.

<sup>8</sup> The initials of Syhunliong.

<sup>9</sup> *Rollo*, p. 30.

<sup>10</sup> Id.

<sup>11</sup> Id. at 46-47.

On April 16, 2007,<sup>12</sup> pending the resolution of the aforecited labor case, Syhunliong instituted against Rivera a complaint for libel, the origin of the instant petition. The information, dated June 21, 2007, charged Rivera with the following:

That on or about the 6<sup>th</sup> day of April, 2006, in Quezon City, Philippines, the said accused, with malicious intent of impeaching the honor, virtue, character and reputation of one RAMON A. SYHUNGLIONG [sic] and with evident intent of exposing the complainant to public dishonor, discredit, contempt and ridicule, did then and there willfully, unlawfully, feloniously and maliciously publish in the form of text messages and/or caused to be publish[ed] the following defamatory statements through the company's cellular phone, to wit:

X X X X

that with the said text message, the said accused meant and intended to convey as in fact she did mean and convey, malicious and offensive insinuations and imputations that tends [sic] to destroy the good name and reputation of Ramon Syhunliong, with no good or justifiable motive but solely for the purpose of maligning and besmirching the good name, honor, character and reputation of the said complainant and to expose it, as in fact [he] was exposed to public hatred, contempt and ridicule, to the damage and prejudice of said offended party.

CONTRARY TO LAW.<sup>13</sup>

Rivera filed a Motion to Quash<sup>14</sup> the aforequoted information. She argued that the text message, which was the subject of the libel complaint, merely reflected the undue stress she had suffered due to the delay in the release of her unpaid salaries, benefits and incentives. Further, the facts charged in the information did not constitute the crime of libel as the elements of malice and the making of defamatory imputation for public consumption were wanting. Her text message was not prompted by ill will or spite, but was merely sent as part of her duty to defend her own interests.

During the arraignment on October 11, 2007, Rivera entered a plea of not guilty.<sup>15</sup>

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<sup>12</sup> Per Syhunliong's narration in the instant petition, the complaint was filed on August 18, 2007 (id. at 14). However, the information for libel filed with the RTC against Rivera was dated June 21, 2007 (id. at 44). The said information could not have been filed earlier than Syhunliong's complaint. The CA decision and the orders of the RTC do not indicate when Syhunliong filed the complaint. However, in Rivera's Petition for *Certiorari* filed before the CA, it was indicated that Syhunliong's complaint was instituted on April 16, 2007 (id. at 68).

<sup>13</sup> Id. at 44.

<sup>14</sup> Id. at 46-54.

<sup>15</sup> Id. at 55.

### The Orders of the RTC

On December 4, 2008, the RTC issued an Order<sup>16</sup> denying Rivera's Motion to Quash on these grounds:

[T]he grounds raised by [Rivera] in the motion to quash [are] evidentiary in nature[,] which can only be threshed out in a full blown hearing to determine if said [t]ext message falls squarely within the parameters of "Privileged Communication" or the elements of Article 353 of the Revised Penal Code [are] not fully established by the Prosecution's evidence.

The Rule on Criminal Procedure in the prosecution of any felony or offense requires only the existence of probable cause in order to indict an accused of the crime charged. x x x [P]robable cause was established seasonably during the preliminary investigation. [Rivera] should have participated during the preliminary investigation or filed a Motion for re-investigation [if] she was not accorded such right and raised these grounds, before she enter[ed] her plea during arraignment.

The Supreme Court ruled that "[i]t should be noted that the libelous material [or text] must be viewed as a whole. In order to ascertain the meaning of [the] published article [or text message], the whole of the article must be considered, each phrase must be construed in the light of the entire publication."

The Supreme Court held that "writing [or texting] to a person other than the person defamed is sufficient to constitute publication, for the person to whom the letter [text message] is addressed is a third person in relation to its writer and the person defamed therein. In this case, the wife of the complainant[,] who received the unsealed letter[,] is held a third person to whom the publication is made.[[] ]"<sup>17</sup> (Citations omitted)

The RTC thereafter issued an Order<sup>18</sup> on June 18, 2009 denying Rivera's motion for reconsideration to the foregoing. Citing *Lu Chu Sing and Lu Tian Chiong v. Lu Tiong Gui*,<sup>19</sup> the RTC explained that the privileged character of a communication merely does away with the presumption of malice. However, the plaintiff is not precluded from proving the existence of such malice. The RTC once again concurred with the Public Prosecutor's finding that there was probable cause to indict Rivera for having ascribed to Syhunliong the possession of a vice or defect, or for having committed an act, tending to cause dishonor or discredit to the latter's name.

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<sup>16</sup> Id. at 56-59.

<sup>17</sup> Id. at 58-59.

<sup>18</sup> Id. at 60-63.

<sup>19</sup> 76 Phil. 669 (1946).

Rivera challenged the orders issued by the RTC through a Petition for *Certiorari*<sup>20</sup> filed before the CA. Quoting Article 354 of the Revised Penal Code (RPC), she emphasized that “every defamatory imputation is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown,” except in “a private communication made by any person to another in the performance of any legal, moral or social duty.”<sup>21</sup> Citing *Brillante v. Court of Appeals*,<sup>22</sup> Rivera enumerated the requisites, compliance with which would make a statement fall within the purview of a qualified privileged communication, *viz*: (1) the person who made the communication had a legal, moral, or social duty to make the communication, or at least, had an interest to protect, which interest may either be his own or of the one [for] whom it is made; (2) the communication is addressed to an officer or a board, or superior, having some interest or duty in the matter, and who has the power to furnish the protection sought; and (3) the statements in the communication are made in good faith and without malice.<sup>23</sup> Rivera likewise stressed that under Sections 3(a)<sup>24</sup> and 9,<sup>25</sup> Rule 117<sup>26</sup> of the Rules of Court, an accused may move to quash the information even after arraignment if the facts charged therein do not constitute an offense. She thus concluded that the text message she sent to Lumapas was in the nature of a qualified privileged communication, it being merely an expression of her legitimate grievances over the delay in the release of her unpaid salaries and other entitlements. Rivera texted Lumapas because the latter was in the best position to help expedite the release of the checks. Rivera had no intent to injure anyone’s reputation. Lastly, Rivera labeled as erroneous the RTC’s declaration regarding the necessity of a full blown trial since facts sufficient for the resolution of the case were allegedly already extant in the records.

### The CA Ruling

On July 11, 2011, the CA rendered the herein assailed Decision<sup>27</sup> directing the dismissal of the information for libel filed against Rivera. The CA favorably considered her argument that when the facts in an information fail to charge an offense, the said ground can be invoked by the accused in a

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<sup>20</sup> *Rollo*, pp. 64-84.

<sup>21</sup> *Id.* at 79.

<sup>22</sup> 483 Phil. 568 (2004).

<sup>23</sup> *Rollo*, p. 80.

<sup>24</sup> Sec. 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;

x x x x

<sup>25</sup> Sec. 9. *Failure to move or 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 the said motion, shall be deemed a waiver of any objections except those based on the grounds provided for in paragraphs (a) [the facts charged do not constitute an offense], (b), (g) [the criminal action or liability has been extinguished] and (i) of section 3 of this Rule.

<sup>26</sup> Motion to Quash.

<sup>27</sup> *Rollo*, pp. 29-38.

motion to quash filed even after arraignment. The CA likewise explained that:

The focal issue to the parties in the present case is whether the facts charged in the information[,] as well as the undeniable facts appearing on the record[,] show that an offense of libel has been committed. Our criminal law convincingly provide us with a definition of libel – *It is a public and malicious imputation of a crime, or of a vice or defect ... or any act, omission, condition, status or circumstance tending to cause the dishonor, discredit or contempt of ... a person.* x x x.

The first procedural requisite in the determination of the existence of libel is *whether there is a defamatory imputation.* The history of the law on libel abounds in examples of utterances or statements that are not necessarily considered libelous because they are a [sic] mere expression[s] of an [sic] opinion[s] of a [sic] person[s] in connection with a [sic] plea[s] or grievance[s]. Libel is inherently a limitation on the liberty of speech and press freedom, and must be construed in a manner that does not trench upon constitutionally protected freedoms.

x x x There can be libel only if the words used are calculated to induce the hearer or reader to suppose and understand them as impeaching the honesty, virtue or reputation of another. The question is not what the writer or speaker meant by his words but what they convey to those who heard or read them.

x x x x

We can break up the text message of [Rivera] to [Lumapas] into three parts. The utterance is mercifully short so that it could not be difficult to infer the whole sense and understanding of the message from the standpoint of Lumapas to whom the message was conveyed. In context, [Rivera] was seeking payment of her wage claims consequent to her resignation and receiving [BANFF's] response through Lumapas. [Rivera] retorted with three things in her message to Lumapas – (1) that she suffered a lot in collecting her last pay from [BANFF] *Grabe talaga sufferings ko dyan hanggang pagkuha ng last pay ko.;* (2) *that she does not deserve to suffer this way [because she] did [her] job when [she was] still there[;]* and (3) *turning to [Syhunliong] himself [she] said – God bless ras[.] [S]ana yung pagsimba niya, alam niya real meaning.*

If libel is to be understood as an imputation of a crime, vice or defect to another, there can be no libel in the first two of the three statements which announced only the sufferings, albeit undeserved[,] of [Rivera]. The proposition gets to be dicey in the third statement because now she makes a distinct reference to [Syhunliong][,] *[b]ut is the imputation defamatory?* We hesitate to reach this conclusion, and all doubts in criminal law, we are basically taught, must be resolved in favor of the accused. To articulate the legal wisdom, [Rivera] has the right to express an opinion in a matter in which she has an undeniable interest.

[Rivera said] in the last part of the text that [Syhunliong] should understand the real meaning of the *mass* when he goes to attend it. It is in this tail end of the message that [Syhunliong] is mentioned. But what is conveyed by the words [“]sana alam niya real meaning?[“] Does it impute a crime, vice or defect in [Syhunliong], either directly or by way of innuendo? But the innuendo can only be explanatory of a libelous imputation and cannot alter the sense of the words claimed to be libelous. If the publication is not actionable *per se*, an innuendo cannot make it so, and if the publication is actionable *per se*, the innuendo would not even be necessary.

We hold that the text message is not *actionable libel*. It does not serve to cast a shadow on [Syhunliong’s] character and integrity[,] there being no direct and personal imputation of a venality to him. At best, the statement that [Syhunliong] should understand the meaning of the *mass* suggests that [Syhunliong] should be more *compassionate* and *caring* to the employee. But is being the converse of *compassionate* and *caring* suggestive of a vice or defect in the person alluded to? We do not think so. Otherwise, even courts should be exposed to contempt and ridicule for reaching at times decisions in favor of capital and against labor. x x x To follow the intent of the message as ordinarily conveyed by the words and the context in which they are said, it can only suggest the intention of [Rivera] to describe [Syhunliong] as strict and selfish. But[,] there are legitimate reasons why a person who acts in the interest of the employer may appear strict and selfish to the other side. One may have to be so to protect the interest of his company and, indeed, the outcome of the labor case vindicates the stand of [Syhunliong] against giving [Rivera] the claims she sought after.

A responsible officer whose decisions may affect the fortunes of others and who is faced with criticism such as in this case should not be so onion-skinned as to react through the criminal law. Instead, he should use methods of discussion and persuasion to dispel the misgivings over his decisions. He should, in particular, explain through the same source that told him of the comment why [BANFF] cannot satisfy all [of Rivera’s] claims.

x x x The matter contained in the text message is privileged communication under Article 354 of the Revised Penal Code which [negates] the existence of malice in – *a private communication made by any person to another in the performance of any legal, [moral] or social duty*. x x x It was Lumapas who told her of the stand of [Syhunliong] on the matter of her wage claims, and her reaction through the text message may be deemed a part of her duty to seek redress of her grievances through the same source. She was speaking in response to duty and not out of an intent to injure the reputation of the person who claims to be defamed. There was no unnecessary publicity of the message beyond the necessity of conveying it to the party concerned.<sup>28</sup> (Citations omitted and italics supplied)

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Id. at 33-37.

The CA denied Syhunliong's motion for reconsideration to the above through the herein assailed Resolution<sup>29</sup> dated January 6, 2012.

### **Issues and Arguments of the Parties**

Undaunted, Syhunliong now presents to this Court the issues of whether or not: (a) the trial court's denial of a motion to quash information may be validly assailed through a special civil action for *certiorari*; (b) Rivera may validly question the denial of her motion to quash before the CA after voluntarily allowing herself to be arraigned even during the pendency of such motion to quash; (c) the CA may validly review on *certiorari* what was, at best, an error of judgment made by the RTC; (d) the CA correctly ruled that the facts charged in the information do not constitute the offense of libel; and (e) the CA committed reversible error in ordering the outright dismissal of Criminal Case No. Q-07-147802 on the putative ground that the allegedly libelous text messages were privileged communication.<sup>30</sup>

In support of the petition, Syhunliong cites *Soriano, et al. v. People, et al.*<sup>31</sup> where the Court declared that in assailing the denial of a motion to quash an information, the accused should not file a special civil action for *certiorari*. Instead, the accused should enter a plea, go to trial *sans* prejudice to present the special defenses he or she had invoked in the motion to quash, and if an adverse decision is rendered, file an appeal therefrom.

Syhunliong further avers that Rivera was arraigned on October 11, 2007. Section 1, Rule 117 of the Rules of Court clearly provides that the accused may only be allowed to file a motion to quash at any time before entering a plea. In Rivera's case, she had already voluntarily entered a plea; hence, it was tantamount to an effective abandonment of her motion to quash.

It is also Syhunliong's argument that the CA improperly arrogated unto itself the power to review the Public Prosecutor and RTC's uniform finding of the existence of probable cause. Even if it were to be assumed that the RTC erred in its disposition, it was a mistake of judgment and not of jurisdiction.

Syhunliong also refutes the CA's finding that the facts charged in the information did not constitute the crime of libel. The text message was apparently an indictment of his personality and character since it portrayed him as a hypocrite.

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<sup>29</sup> Id. at 40-41.

<sup>30</sup> Id. at 16-17.

<sup>31</sup> 609 Phil. 31 (2009).

Lastly, Syhunliong invokes *People v. Judge Gomez*<sup>32</sup> which enunciated the doctrine that in a libel case, the privileged nature of a communication is not a ground for a motion to quash, but is merely a matter of defense to be proven during the trial.

In Rivera's Comment,<sup>33</sup> she reiterates the arguments in the Motion to Quash filed with the RTC. Additionally, she contends that the RTC no longer had jurisdiction to take cognizance of Syhunliong's complaint. The text message was sent on April 6, 2006. Per Syhunliong's narration in the instant petition, his complaint was filed on August 18, 2007,<sup>34</sup> beyond the one year prescriptive period for instituting actions for libel provided for in Articles 90<sup>35</sup> and 91<sup>36</sup> of the RPC.

Further, the ground that the facts charged in the information did not constitute an offense can be raised even after arraignment and is broad enough to cover within its ambit lack of probable cause. This, the court can re-assess in the exercise of its inherent power of judicial review.

Rivera also laments that she was deprived of due process and of the opportunity to submit countervailing evidence during preliminary investigation.

### **Our Ruling**

*There is no merit in the instant petition.*

#### **Prescription had set in.**

Syhunliong raised five issues before this Court, but the Court's resolution of the same would be a superfluity in the light of Rivera's unrefuted averment that prescription had set in before the complaint for libel was instituted.

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<sup>32</sup> 187 Phil. 110 (1980).

<sup>33</sup> *Rollo*, pp. 86-105.

<sup>34</sup> *Id.* at 14.

<sup>35</sup> Art. 90. *Prescription of crime.* x x x

x x x x

The crime of libel or other similar offenses shall prescribe in one year.

<sup>36</sup> Art. 91. *Computation of prescription of offenses.* – The period of prescription shall commence to run from the day on which the crime is discovered by the offended party, the authorities, or their agents, and shall be interrupted by the filing of the complaint or information, and shall commence to run again when such proceedings terminate without the accused being convicted or acquitted, or are unjustifiably stopped for any reason not imputable to him.

In *Romualdez v. Hon. Marcelo*,<sup>37</sup> the Court, partially quoting *People v. Moran*,<sup>38</sup> stressed the reason behind and the character of prescription of penal offenses, to wit:

“Here the State is the grantor, surrendering by act of grace its rights to prosecute, and declaring the offense to be no longer the subject of prosecution. *The statute is not a statute of process, to be scantily and grudgingly applied, but an amnesty, declaring that after a certain time oblivion shall be cast over the offence; x x x that from henceforth[,] he may cease to preserve the proofs of his innocence, for the proofs of his guilt are blotted out.* Hence[,] it is that statutes of limitation are to be liberally construed in favor of the defendant, not only because such liberality of construction belongs to all acts of amnesty and grace, but because the very existence of the statute, is a recognition and notification by the legislature of the fact that time, while it gradually wears out proofs of innocence, has assigned to it fixed and positive periods in which it destroys proofs of guilt. Independently of these views, it must be remembered that delay in instituting prosecutions is not only productive of expense to the State, but of peril to public justice in the attenuation and distortion, even by mere natural lapse of memory, of testimony. It is the policy of the law that prosecutions should be prompt, and that statutes, enforcing such promptitude should be vigorously maintained. They are not merely acts of grace, but checks imposed by the State upon itself, to exact vigilant activity from its subalterns, and to secure for criminal trials the best evidence that can be obtained.”

Indeed, there is no reason why we should deny petitioner the benefits accruing from the liberal construction of prescriptive laws on criminal statutes. Prescription emanates from the liberality of the State. x x x Any doubt on this matter must be resolved in favor of the grantee thereof, the accused.<sup>39</sup> (Italics supplied)

In the case at bar, it is extant in the records that Syhunliong filed his complaint against Rivera more than one year after the allegedly libelous message was sent to Lumapas. Whether the date of the filing of the complaint is April 16, 2007 or August 18, 2007,<sup>40</sup> it would not alter the fact that its institution was made beyond the prescriptive period provided for in Article 90 of the RPC. The Court finds no persuasive reason why Rivera should be deprived of the benefits accruing from the prescription of the crime ascribed to her.

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<sup>37</sup> 529 Phil. 90 (2006).

<sup>38</sup> 44 Phil. 387 (1923).

<sup>39</sup> Supra note 37, at 112-113.

<sup>40</sup> Please see note 12.

*People v. Castro*,<sup>41</sup> on the other hand, is instructive anent the effect in criminal proceedings of the failure of an accused to raise prescription as a ground in a motion to quash an information, viz:

Does the failure of the accused to move to quash before pleading constitute a waiver to raise the question of prescription at a later stage of the case?

A case in point is *People vs. Moran*, 44 Phil., 387. x x x [T]he court ruled that the crime had already prescribed holding that this defense can not [b]e deemed waived even if the case had been decided by the lower court and was pending appeal in the Supreme Court. The philosophy behind this ruling was aptly stated as follows: “Although the general rule is that the defense of prescription is not available unless expressly set up in the lower court, as in that case it is presumed to have been waived and cannot be taken advantage of thereafter, *yet this rule is not always of absolute application in criminal cases*, such as that in which prescription of the crime is expressly provided by law, for the State not having then the right to prosecute, or continue prosecuting, *nor to punish, or continue punishing*, the offense, or to continue holding the defendant subject to its action through the imposition of the penalty, the court must so declare.” And elaborating on this proposition, the Court went on to state as follows:

“As prescription of the crime is the loss by the State of the right to prosecute and punish the same, it is absolutely indisputable that from the moment the State has lost or waived such right, the defendant may, at any stage of the proceeding, demand and ask that the same be finally dismissed and he be acquitted from the complaint, and such petition is proper and effective even if the court taking cognizance of the case has already rendered judgment and said judgment is merely in suspense, pending the resolution of a motion for a reconsideration and new trial, and this is the more so since in such a case there is not yet any final and irrevocable judgment.”

The ruling above adverted to squarely applies to the present case. Here, the rule provides that the plea of prescription should be set up before arraignment, or before the accused pleads to the charge, as otherwise the defense would be deemed waived; but, as was well said in the *Moran* case, this rule is not of absolute application, especially when it conflicts with a substantive provisions of the law, such as that which refers to prescription of crimes. Since, under the Constitution, the Supreme Court has only the power to promulgate rules concerning pleadings, practice and procedure, and the admission to the practice of law, and cannot cover substantive rights (section 13, article VIII, of the Constitution), the rule we are considering cannot be interpreted or given such scope or extent that would come into conflict or defeat an express provision of our substantive law. One of such provisions is article 89 of the Revised Penal Code which provides that the prescription of crime has the effect of totally extinguishing the criminal liability. And so we hold that the ruling laid

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<sup>41</sup> 95 Phil. 462 (1954).

down in the Moran case still holds good even if it were laid down before the adoption of the present Rules of Court.<sup>42</sup> (*Italics supplied*)

While *Castro* is an old jurisprudence, it still finds application in the case at bench in view of Section 9, Rule 117 of the Rules of Court, which in essence partially provides that the defense of extinction of criminal action or liability, e.g., prescription, is not deemed waived even if the accused had not raised the same in a motion to quash. In Rivera's case, the issue of prescription is raised in her comment to the instant petition before this Court. Syhunliong does not specifically refute Rivera's averment, thus, it is deemed admitted.

In sum, even if the Court were to sustain Syhunliong's stance that Rivera availed of the wrong remedy when she resorted to filing a petition for *certiorari* before the CA to assail the RTC orders denying the motion to quash, the result would only prove circuitous. Even if the trial proceeds and an adverse decision is rendered against Rivera, she can appeal the same, but the CA and this Court would still be compelled to order the dismissal of the information on account of prescription of the crime.

**Prescription of the crime is already a compelling reason for this Court to order the dismissal of the libel information, but the Court still stresses that the text message which Rivera sent to Lumapas falls within the purview of a qualified privileged communication.**

“The rule on privileged communication means that a communication made in good faith on any subject matter in which the communicator has an interest, or concerning which he has a duty, is privileged if made to a person having a corresponding duty.”<sup>43</sup>

In order to prove that a statement falls within the purview of a qualified privileged communication under Article 354, No. 1, the following requisites must concur: (1) the person who made the communication had a legal, moral, or social duty to make the communication, or at least, had an interest to protect, which interest may either be his own or of the one to whom it is made; (2) the communication is addressed to an officer or a board, or superior, having some interest or duty in the matter, and who has

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<sup>42</sup> Id. at 464-466.

<sup>43</sup> *Novicio v. Aggabao*, 463 Phil. 510, 517 (2003).

the power to furnish the protection sought; and (3) the statements in the communication are made in good faith and without malice.<sup>44</sup>

In the case at bar, it was Lumapas who informed Rivera of either the delay or denial of the latter's claims for payment of salaries, benefits and incentives by Syhunliong. Rivera expressed through the subject text message her grievances to Lumapas. At that time, Lumapas was the best person, who could help expedite the release of Rivera's claims.

Prescinding from the above, the Court thus finds no error in the CA's declaration that Rivera's text message falls within the ambit of a qualified privileged communication since she "was speaking in response to duty [to protect her own interest] and not out of an intent to injure the reputation"<sup>45</sup> of Syhunliong. Besides, "[t]here was no unnecessary publicity of the message beyond [that] of conveying it to the party concerned."<sup>46</sup>

**IN VIEW OF THE FOREGOING**, the petition is **DENIED**. The Decision rendered on July 11, 2011 and Resolution issued on January 6, 2012 by the Court of Appeals in CA-G.R. SP No. 110335 ordering the Regional Trial Court of Quezon City, Branch 84, to dismiss the information for libel filed by Ramon A. Syhunliong against Teresita D. Rivera are **AFFIRMED**.

**SO ORDERED.**

  
**BIENVENIDO L. REYES**  
Associate Justice

**WE CONCUR:**

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice  
Chairperson

<sup>44</sup> *Buatis, Jr. v. People*, 520 Phil. 149, 162-163 (2006).

<sup>45</sup> *Rollo*, p. 37.

<sup>46</sup> *Id.*

*Teresita Leonardo de Castro*  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

*Lucas P. Bersamin*  
**LUCAS P. BERSAMIN**  
Associate Justice

*Martin S. Villarama, Jr.*  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

**CERTIFICATION**

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

*Maria Lourdes P. A. Sereno*  
**MARIA LOURDES P. A. SERENO**  
Chief Justice