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The charge against respondent Macli-ing refers to his conduct as a *prosecutor*. He was exonerated of that charge by no less than the Chief Magistrate of the land.

Inasmuch as no imputation has been made against him *as a Judge of the Court of First Instance*, there is no justification for this Court to take any disciplinary action against him.

WHEREFORE, this case is considered closed and terminated.

SO ORDERED.

Fernando (Chairman), Barredo, Antonio, and *Concepcion, Jr., JJ.*, concur.

Santos, J., is on leave.

SECOND DIVISION

[G.R. No. L-46228. January 17, 1978]

THE PEOPLE OF THE PHILIPPINES, *petitioner*, *vs.* **HON. ROLANDO R. VILLARAZA (as City Judge of Cagayan de Oro City), and CAESAR PUERTO**, *respondents*.

SYLLABUS

1. CONSTITUTIONAL LAW; BILL OF RIGHTS; EX POST FACTO LAW; INCREASED PENALTY FOR THE CRIME OF ESTAFA IMPOSED BY PRESIDENTIAL DECREE NO. 818 HAS NO RETROACTIVE EFFECT. — The increased penalty imposed by Presidential Decree No. 818 for the crime of estafa does not apply to estafa committed prior to its promulgation, otherwise it would make the decree an *ex-post facto law*. Its retroactive

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application is prohibited by Articles 21 and 22 of the Revised Penal Code and Section 12, Article IV of the Constitution.

2. **REMEDIAL LAW; COURTS; CONCURRENT JURISDICTION OF CITY COURTS AND COURTS OF FIRST INSTANCE OVER OFFENSES IN WHICH THE PENALTY PROVIDED BY LAW DOES NOT EXCEED SIX YEARS.** — Under Section 87 of the Judiciary Law, as amended by Republic Acts Nos. 2613 and 3828, judges of city courts shall have like jurisdiction as the Court of First Instance to try parties charged with an offense committed within their respective jurisdiction, in which the penalty provided by law does not exceed *prision correccional* or imprisonment for not more than six years or fine not exceeding six thousand pesos or both.

3. **ID.; CRIMINAL PROCEDURE; PRELIMINARY INVESTIGATION; CITY COURT NEED NOT CONDUCT PRELIMINARY WHERE CASE IS FILED BY FISCAL.** — It is not necessary for the city court to conduct a preliminary investigation over a criminal case filed by the fiscal. The filing of the information by the fiscal presupposes that he had conducted the requisite preliminary investigation pursuant to Rule 112 of the Rules of Court and Republic Act 5180 as amended by Presidential Decree No. 77.

APPEARANCES OF COUNSEL

Francisco P. Rabanes, Edgardo Y. Raagas, Casiano A. Gamotin, Jr., Office of the City Fiscal of Cagayan de Oro City for petitioner.

Eric Menchavez for respondent Caesar Puerto.

D E C I S I O N

AQUINO, *J.*:

This case is about the jurisdiction of a city court in estafa cases.

On December 3, 1975 an assistant city fiscal charged Caesar Puerto with estafa in the city court of Cagayan de Oro City for having issued on October 16, 1974 two bouncing checks for the total sum of ₱4,966.63 (Criminal Case No. 32140).

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City Judge Rolando R. Villaraza in his order dated March 31, 1976 noted that the accused had waived the second stage of the preliminary investigation. He directed that the case be elevated, for trial, to the Court of First Instance or the Circuit Criminal Court.

Upon petition of the prosecution, the Court of First Instance of Misamis Oriental, Cagayan de Oro City Branch VIII, in its order of February 3, 1977 returned the case to the city court because in its opinion the case falls within the concurrent jurisdiction of the two courts and, the city court, as the first court which took cognizance of the case, should try it.

Disagreeing with the Court of First Instance, respondent city judge in his order of April 21, 1977 directed the re-elevation of the case. His view is that the case falls within the exclusive original jurisdiction of the Court of First Instance because estafa committed by the accused is punishable by *prision mayor* medium under Presidential Decree No. 818 which took effect on October 22, 1975 and which amended Article 315 of the Revised Penal Code.

That order of respondent judge is assailed in the petition for *certiorari* filed in this Court on May 27, 1977 by the office of the city fiscal of Cagayan de Oro City.

We hold that the case was properly filed with the city court which has original jurisdiction over it. The estafa imputed to Caesar Puerto is punishable under Article 315 of the Revised Penal Code by *arresto mayor* maximum to *prision correccional* minimum or four months and one day to two years and four months.

The penalty of *prision mayor* medium, or eight years and one day to ten years, imposed by Presidential Decree No. 818, applies only to swindling by means of issuing bouncing checks which was committed on or after October 22, 1975.

That increased penalty does not apply to the estafa committed by Puerto on October 16, 1974. To apply it to Puerto would make the decree an *ex post facto* law. Its retroactive application

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is prohibited by Articles 21 and 22 of the Revised Penal Code and Section 12, Article IV of the Constitution.

The city court has original jurisdiction over the case because the penultimate paragraph of Section 87 of the Judiciary Law, as amended by Republic Acts Nos. 2613 and 3828, provides that "judges of city courts shall have like jurisdiction as the Court of First Instance to try parties charged with an offense committed within their respective jurisdictions, in which the penalty provided by law does not exceed *prision correccional* or imprisonment for not more than six years or fine not exceeding six thousand pesos or both."

As Section 87 itself shows, that jurisdiction is concurrent with the Court of First Instance which is empowered to try "all criminal cases in which the penalty provided by law is imprisonment for more than six months, or a fine of more than two hundred pesos" (Sec. 44[f], Judiciary Law. See *People vs. Nazareno*, L-40037, April 30, 1976, 70 SCRA 531).

It was not necessary for the city court to have conducted the preliminary investigation of the case. The filing of the information by the fiscal presupposes that he had conducted the requisite preliminary investigation pursuant to Rule 112 of the Rules of Court and Republic Act No. 5180, as amended by Presidential Decree No. 77.

WHEREFORE, the order of the Court of First Instance, returning the case to the city court, is affirmed and the two orders of the respondent city judge, elevating the case to the Court of First Instance, are set aside. The city court is directed to try the case. No costs.

SO ORDERED.

Fernando (Chairman), Barredo, Antonio, and *Concepcion Jr., JJ.*, concur.

Santos, J., is on leave.