[1985 RULES ON CRIMINAL PROCEDURE, January 01, 1985]

PROMULGATED BY THE SUPREME COURT 0F THE PHILIPPINES ON NOVEMBER 22, 1984

RULE 110 PROSECUTION OF OFFENSES

SECTION 1. How instituted.— For offenses not subject to the rule on summary procedure in cases, the institution of criminal actions shall be as follows:

> (a) For offenses falling under the jurisdiction of the Regional Trial Courts, by filing the complaint with the appropriate officer for the purpose of conducting the requisite preliminary investigation therein; (b) For offenses falling under the jurisdiction of the Municipal Trial Courts and Municipal Circuit Trial Courts, by filing the complaint or information directly with the said courts, or a complaint with the fiscal's office. However, in Metropolitan Manila and other chartered cities, the complaint may be filed only with the office of the fiscal. (n)

SEC. 2. The complaint or information. — The complaint or information shall be in writing in name of the People of the Philippines against all persons who appear to be responsible for offense involved. (1a) **SEC. 3. Complaint defined.**—Complaint is a sworn written statement charging a person with an offense, subscribed by the offended party, any peace officer or other public officer charged with the enforcement of the law violated. (2a) **SEC. 4. Information defined.**—An information is accusation in writing charging a person with offense subscribed by the fiscal and filed with the court. (3) **SEC. 5. Who must prosecute criminal actions.** — All criminal actions either commenced by complaint or by information shall be prosecuted under the direction and control of the fiscal. However, in the Municipal Trial Courts or Municipal Circuit Trial Courts when there is no fiscal available, the offended party, any peace officer or public charged with the enforcement of the law violated may prosecute the case. This authority ceases upon actual intervention of the fiscal or upon elevation of the case to the Regional Trial Court. The crimes of adultery and concubinage shall not be prosecuted except upon a complaint filed by the offended spouse. The offended party cannot institute criminal prosecution without including both the guilty parties, if they are both alive, nor, in any case, if the offended party has consented to the offense or pardoned the offenders. The offenses of seduction, abduction, rape or acts of Lasciviousness, shall not be prosecuted except upon a complaint filed by the offended party or her parents, grandparents, or guardian, nor, in any case, if the offender has been expressly pardoned by the above-named persons, as the case may be. In case the offended party dies or becomes incapacitated before she could file the complaint and has no known parents, grandparents or guardian, the State shall initiate the criminal action in her behalf. The offended party, even if she were & minor, has the right to institute the prosecution for the above offenses, independently of her parents, grandparents or guardian, unless she is incompetent or incapable of doing so upon grounds other than her minority. Where the offended party who is a minor fails to file the complaint, her parents, grandparents, or guardian may file the same. The right to file the action granted to the parents, grandparents or guardian shall be exclusive of

all other persons and shall be exercised successively in the order herein provided, except as stated in the immediately preceding paragraph. No criminal action for defamation which consists in the imputation of an offense mentioned above, shall be brought except at the instance of and upon complaint filed by the offended party. (4a) **SEC. 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 by the statute; the acts or omissions complained of as constituting the of offense; the name of the offended party; the approximate time of the commission of the offense, and the place wherein the offense was committed. When an offense is committed by more than one person, all of them shall be included in the complaint or information. (5a) **SEC.7. Name of accused.**—A complaint or information must state the name and surname of the accused or any appellation or nickname by which he has been or is known, or if his name cannot he discovered he must be described under a fictitious name with a statement that his true name is unknown. If in the course of the proceeding the true name of the accused is disclosed by him, or appears in some other manner to the court, the true name of the accused shall be inserted in the complaint or information and record. (6a) **SEC. 8. Designation of the offense.**—Whenever possible, a complaint or information should state the designation given to the offense by the statute, besides the statement of the acts or omissions constituting the same, and if there is no such designation, reference should be made to the section or subsection of the statute punishing it. (7) **SEC 9. Cause of accusation.**—The acts or omissions complained of as constituting the offense must be stated in ordinary and concise language without repetition, not necessarily in the terms of the statute defining the offense, but in such form as is sufficient to enable a person of common understanding to know what offense is intended to be charged, and enable the court to pronounce proper judgment. (8) **SEC 10. Place of the commission of the offense.** —The complaint or information is sufficient if it can be understood there from that the offense was committed or some of the essential ingredients thereof occurred at some place within the jurisdiction of the court, unless the particular place wherein it was committed constitutes an essential element of the offense or is necessary for identifying the offense charged. (9) **SEC. 11. Time of the commission of the offense.** —It is not necessary to state in the complaint or information the precise time at which the offense was committed except when time is a material ingredient of the offense, but the act may be alleged to have been committed at any time as near to the actual date at which the offense was committed as the information or complaint will permit. (10) **SEC. 12. Name of the offended party.**—A complaint or information must state the name and surname of the person against whom or against whose property the offense was committed, or any appellation or nickname by which such person has been or is known, and if there is no better way of identifying him, he must be described under a fictitious name.

> (a) In case of offenses against property, if the name of the offended party is unknown, the property, subject matter of the offense, must be described with such particularity as to properly identify the particular offense charged. (b) If in the course of the trial the true name of the person against whom or against whose property the offense was committed is disclosed or ascertained, the court must cause the true name to be inserted in the complaint or information, or record. (c) If the offended party is a corporation any other juridical person, it is sufficient to state the name of such corporation or juridical person, or any name or designation by which it has been or is known, or by which it may be

identified, without necessity of averring that it is a corporation, or that it is organized in accordance with law. (11)

SEC. 13. Duplicity of offense. – A complaint or information must charge but one offense, except only in those cases in which existing laws prescribe a single punishment for various offenses. (12) **Sec. 14. Amendment.**—The information or complaint may be amended, in substance or form, without leave of court, at any time before the accused pleads; and thereafter and during trial as to all matters of form, by leave at the discretion of the court, when the same can be done without prejudice to the rights of the accused. If it appears at any time before judgment that a mistake has been made in charging the proper offense, the court shall dismiss the original complaint or information upon the filing of one charging the proper offense in accordance with Rule 119. Section 11, provided the accused would not be placed thereby in double jeopardy, and may also require the witnesses to give bail for their appearance at the trial. (13a) **Sec. 15. Place where action is to instituted.**–

(a) Subject to existing laws, in all criminal prosecutions the action shall be instituted and tried in the court of the municipality or territory wherein the offense was committed or any one of the essential ingredients thereof took place. (b) Where an offense is committed on a railroad train, in an aircraft, or in any other public private vehicle while in the course of its trip, the criminal action may be instituted and tried in the court of any municipality or territory where such train, aircraft or other vehicle passed during such trip, including the place of departure and arrival. (c) Where an offense is committed on board a vessel in the course of its voyage, .the criminal action may be instituted and tried in the proper court of the first port of entry or of any municipality or territory through which the vessel passed during such voyage subject to the generally accepted principles of international law. (d) Other crimes committed outside of the Philippines but punishable therein under Article 2 of the Revised Penal Code shall be cognizable by the proper court in which the charge is first filed. (14a)

Sec. 16. Intervention of the offended party in criminal action.— Unless the offended party has waived the civil action or expressly reserved the right to institute it separately from the criminal action, and subject to the provision of Section 5 hereof, he may intervene by counsel in the prosecution of the offense. (15a)

Rule 111 PROSECUTION OF CIVIL ACTION

SECTION 1. Institution of criminal and civil actions.— When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged is impliedly instituted with the criminal action, unless the offended party expressly waives the civil action or reserves his right to institute it separately. However, after criminal action has been commenced, the civil action cannot be instituted until final judgment has been rendered in the criminal action. When the offended party seeks to enforce civil liability against the accused by way of actual, moral, nominal, temperate or exemplary damages, the filing fees for such civil action as provided in these Rules shall first be paid to the Clerk of Court of the court where the criminal case is filed. In all other cases, the filing fees corresponding to the civil liability awarded by the court shall constitute a first lien on the judgment award and no payment by execution or otherwise may be made to the offended party without his first paying the amount of such filing fees to the Clerk of Court. (1a) **SEC. 2. Independent civil action.**— In the cases provided for in Articles 32,

33 and 34 of the Civil Code of the Philippines, an independent civil action entirely separate and distinct from the criminal action, may be brought by the injured party during the pendency of the criminal case. Such civil action shall proceed independently of the criminal prosecution, and shall require only a preponderance evidence. (2a) **SEC.3. Other civil actions arising from offenses.** – Whenever the offended party shall have instituted the civil action to enforce the civil liability arising from the offense, as contemplated in the first paragraph of Section 1 hereof, the following rules shall be observed:

> (a) After a criminal action has been commenced, the pending civil action arising from the same offense shall be suspended, in whatever stage it may be found, until final judgment in the criminal proceeding has been rendered. However, if no final judgment has been rendered by the trial court the civil action, the same may be consolidated with the criminal action upon application the court trying the criminal action. If the application is granted, the evidence presented and admitted in the civil action shall be deemed automatically reproduced in the criminal action, without prejudice to the admission of additional evidence that any party may wish to present. (b) Extinction of the penal action does not carry with it extinction of the civil, unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil might arise did not exist. In other cases, the person entitled to the civil action may institute it in the jurisdiction and in the manner provided by law against the person who may be liable for restitution of the thing and reparation or indemnity for the damage suffered. (3a)

Sec. 4. Judgment in civil action not a bar.—A final judgment rendered in a civil action absolving the defendant from civil liability is no bar to a criminal action. (4) **Sec. 5. Elements of prejudicial question.**—The two (2) essential elements of a prejudicial question are: (a) the civil action involves an issue similar or intimately related to the issue raised in the criminal action; and (b) the resolution of such issue determines whether or not the criminal action may proceed. (n) **Sec. 6. Suspension by reason of prejudicial question.** — (a) A petition for suspension of the criminal action based upon the pendency of a prejudicial question in a civil action may be presented in the fiscal's office during the preliminary investigation. When the criminal action has been filed in court either for preliminary investigation or for trial, the petition to suspend shall be filed in the same criminal action at any time before the prosecution rests. (b) The pendency of a petition for suspension of the criminal action still undergoing preliminary investigation in the fiscal's office shall interrupt the prescriptive period for filing the corresponding complaint or information. (5a)

Rule 112 PRELIMINARY INVESTIGATION

Section 1. Definition.—Preliminary investigation is an inquiry or proceeding for the purpose of determining whether there is sufficient ground to engender a well founded belief that a crime cognizable by the Regional Trial Court has been committed and that the respondent is probably guilty thereof, and should be held for trial, (1a) **Sec. 2. Officers authorized to conduct preliminary investigation.**— The following may conduct a preliminary investigation :

> (a) Provincial or city fiscals and their assistants; (b) Judges of the Municipal Trial Courts and Municipal Circuit Trial Courts; (c) National and Regional state prosecutors; and (d) Such other officers as may be authorized by law.

Their authority to conduct preliminary investigation shall include all crimes cognizable by the proper court in their respective territorial jurisdictions. (2a) **SEC. 3. Procedure.**— Except as provided for in Section 7 hereof, no complaint or information for an offense cognizable by the Regional Trial Court shall be filed without a preliminary investigation having been first conducted in the following manner:

> (a) The complaint shall state the known address of the respondent and be accompanied by affidavits of the complainant and his witnesses as well as other supporting documents, in such number of copies as there are respondents, plus two (2) copies for the official file. The said affidavits shall be sworn to before any fiscal, state prosecutor or government official authorized to administer oath, or, in their absence or unavailability, a notary public, who must certify that he has personally examined the affiants and that he is satisfied that they voluntarily executed and understood their affidavits. (b) If the investigating officer finds no ground to continue with the inquiry, he shall dismiss the complaint. Otherwise, he shall issue a subpoena to the respondent, attaching thereto a copy of the complaint, affidavits and other supporting documents and granting him ten (10) days from receipt within which he may submit counter-affidavits and other supporting documents. The respondent shall have the right to examine all other evidence submitted by the complainant. (c) Such counter-affidavits and other supporting evidence submitted by the respondent shall also be sworn to and certified as prescribed in paragraph (a) hereof and copies thereof shall be furnished by him to the complainant. (d) If the respondent cannot be subpoenaed, or if subpoenaed, does not submit counter-affidavits within the ten (10) day period, the investigating officer shall base his resolution on the evidence presented by the complainant. (e) If the investigating officer believes that there are matters to be clarified, he may set a hearing to propound clarificatory questions to the parties or their witnesses, during which the parties shall be afforded an opportunity to be present but without the right to examine or cross-examine. If the parties so desire, they may submit questions to the investigating officer which the latter may propound to the parties or witnesses concerned. (f) Thereafter, the investigation shall be deemed concluded, and the investigating officer shall resolve the case within ten (10) days therefrom. Upon the evidence thus adduced, the investigating officer shall determine whether or not there is sufficient ground to hold the respondent for trial. (14a)

Sec. 4. Duty of investigating fiscal.— If they investigating fiscal finds cause to hold the respondent for trial, he shall prepare the resolution and corresponding information. He shall certify under oath that he has 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 dismissal of the complaint. In either case, he shall forward the records of the case to the provincial or city fiscal or chief state prosecutor within five (5) days from his resolution. The latter shall take appropriate action thereon within ten (10) days from receipt thereof, immediately informing the parties of said action. No