

**References:**

**REMEDIAL LAW COMPENDIUM (Volume 2)**  
by Associate Justice Florenz Regalado (Ret.)

**Criminal procedure**

- It is the method fixed by law or the Rules of Court for the apprehension and prosecution of persons accused of any criminal offense and for their punishment in case of conviction.
- It is the method prescribed by law for the apprehension and prosecution of persons accused of any criminal offense and for their punishment, in case of conviction (*Remedial Law IV, Herrera*)
- It deals with the set of rules governing the series of proceedings through which the government enforces substantive criminal law. (*Cornell*)

**Accused**

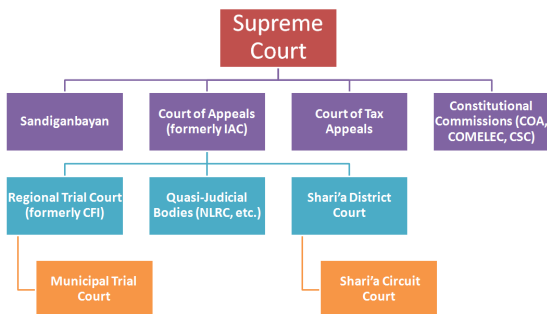
- A person or group of people who are charged with or on trial for a crime.

**Private complainant**

- The offended person in the commission of a crime by the accused.

**Criminal jurisdiction**

- It is the power of the State to try and punish a person for violation of its penal laws.
- Is the authority to hear and try a particular offense and impose the punishment for it. (*People v. Mariano, G.R. No. L-40527, June 30 1976*)

**Hierarchy of courts****Prosecution of Offenses (Rule 110)**

**Section 1. Institution of criminal actions.** — Criminal actions shall be instituted as follows:

- For offenses where a preliminary investigation is required pursuant to section 1 of Rule 112, by filing the complaint with the proper officer for the purpose of conducting the requisite preliminary investigation.
- For all other offenses, by filing the complaint or information directly with the Municipal Trial Courts and Municipal Circuit Trial Courts, or the complaint with the office of the prosecutor. In Manila and other chartered cities, the complaint shall be filed with the office of the prosecutor unless otherwise provided in their charters.

**Venue vs. Jurisdiction**

<b>Venue</b>	<b>Jurisdiction</b>
Jurisdictional in criminal case, being an essential element of jurisdiction	Determined by the extent of penalty which the law imposes
The territory where the criminal case will be tried as a result of its commission	It may be over the subject matter, territory or person of the accused
Venue is fixed except for continuing crimes ( <i>delito continuado</i> ); but first to acquire excludes others	Once vested in the court, it is retained up to the end of litigation ( <i>Dela Cruz v. Moya, 160 SCRA 838</i> )

**Complaint vs. Information**

<b>Complaint</b>	<b>Information</b>
Subscribed by the offended party, any peace officer, or other public officer charged with the enforcement of the law violated.	Subscribed by the prosecutor and filed with the court.
Sworn to by person signing it.	Need not be under oath.

**Prosecution of Civil Action (Rule 111)**

**GENERAL RULE:** When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged shall be deemed instituted with the criminal action.

**EXCEPTIONS:**

- When the offended party waives the civil action;
- When the offended party reserves his right to institute a separate civil action;
- When offended party institutes a civil action prior to the criminal action.

**EXCEPTION TO THE EXCEPTION:** Existence of a **prejudicial question**. Elements:

- the previously instituted civil action involves an issue similar or intimately



related to the issue raised in the subsequent criminal action, and

- (b) the resolution of such issue determines whether or not the criminal action may proceed.

### **Preliminary Investigation (Rule 112)**

A preliminary investigation is required to be conducted before the filing of a complaint or information for an offense where the penalty prescribed by law is **at least four (4) years, two (2) months and one (1) day** without regard to the fine. (Sec. 1)

### **Arrest (Rule 113)**

**Arrest** – is the taking of a person into custody in order that he may be bound to answer for the commission of an offense.

- An arrest is made by an actual restraint of a person to be arrested, or by his submission to the custody of the person making the arrest.
- No violence or unnecessary force shall be used in making an arrest. The person arrested shall not be subject to a greater restraint than is necessary for his detention.

#### ***Arrest without warrant, when lawful:***

- (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
- (b) When an offense has just been committed, and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and
- (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraph (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with section 7 of Rule 112.

### **Bail (Rule 114)**

**Bail** is the security given for the release of a person in custody of the law, furnished by him or a bondsman, to guarantee his appearance

before any court as required under the conditions hereinafter specified.

#### ***Forms:***

- (a) **Corporate surety** – Any domestic or foreign corporation, licensed as a surety in accordance with law and currently authorized to act as such, may provide bail by a bond subscribed jointly by the accused and an officer of the corporation duly authorized by its board of directors
- (b) **Property bond** – A property bond is an undertaking constituted as lien on the real property given as security for the amount of the bail. Within ten (10) days after the approval of the bond, the accused shall cause the annotation of the lien on the certificate of title on file with the Register of Deeds if the land is registered, or if unregistered, in the Registration Book on the space provided therefor, in the Registry of Deeds for the province or city where the land lies, and on the corresponding tax declaration in the office of the provincial, city and municipal assessor concerned.
- (c) **Cash deposit** – The accused or any person acting in his behalf may deposit in cash with the nearest collector or internal revenue or provincial, city, or municipal treasurer the amount of bail fixed by the court, or recommended by the prosecutor who investigated or filed the case. Upon submission of a proper certificate of deposit and a written undertaking showing compliance with the requirements of Section 2 Rule 114, the accused shall be discharged from custody. The money deposited shall be considered as bail and applied to the payment of fine and costs while the excess, if any, shall be returned to the accused or to whoever made the deposit.
- (d) **Recognizance** – Whenever allowed by law or Rules of Court, the court may release a person in custody to his own recognizance or that of a responsible person.

#### ***When to bail:***

- (a) Before or after conviction by the Metropolitan Trial Court, Municipal Trial Court, Municipal Trial Court in Cities, or Municipal Circuit Trial Court, and
- (b) Before conviction by the Regional Trial Court of an offense not punishable by death, *reclusion perpetua*, or life imprisonment.



### **Rights of the Accused (Rule 115)**

**Section 1.** *Rights of accused at the trial.* — In all criminal prosecutions, the accused shall be entitled to the following rights:

- (a) To be presumed innocent until the contrary is proved beyond reasonable doubt.
- (b) To be informed of the nature and cause of the accusation against him.
- (c) To be present and defend in person and by counsel at every stage of the proceedings, from arraignment to promulgation of the judgment. The accused may, however, waive his presence at the trial pursuant to the stipulations set forth in his bail, unless his presence is specifically ordered by the court for purposes of identification. The absence of the accused without justifiable cause at the trial of which he had notice shall be considered a waiver of his right to be present thereat. When an accused under custody escapes, he shall be deemed to have waived his right to be present on all subsequent trial dates until custody over him is regained. Upon motion, the accused may be allowed to defend himself in person when it sufficiently appears to the court that he can properly protect his right without the assistance of counsel.
- (d) To testify as a witness in his own behalf but subject to cross-examination on matters covered by direct examination. His silence shall not in any manner prejudice him.
- (e) To be exempt from being compelled to be a witness against himself.
- (f) To confront and cross-examine the witnesses against him at the trial. Either party may utilize as part of its evidence the testimony of a witness who is deceased, out of or can not with due diligence be found in the Philippines, unavailable or otherwise unable to testify, given in another case or proceeding, judicial or administrative, involving the same parties and subject matter, the adverse party having the opportunity to cross-examine him.
- (g) To have compulsory process issued to secure the attendance of witnesses and production of other evidence in his behalf.
- (h) To have speedy, impartial and public trial.
- (i) To appeal in all cases allowed and in the manner prescribed by law.

### **Rights of the Accused (under the 1987 Constitution)**

**Section 12.<sup>1</sup>**

1. **Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.**
2. **No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him. Secret detention**

**places, solitary, incommunicado, or other similar forms of detention are prohibited.**

3. **Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.**
4. **The law shall provide for penal and civil sanctions for violations of this Section as well as compensation to the rehabilitation of victims of torture or similar practices, and their families.**

**Section 13.** All persons, except those charged with offenses punishable by *reclusion perpetua* when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of habeas corpus is suspended. Excessive bail shall not be required.

**Section 14.**

1. No person shall be held to answer for a criminal offense without due process of law.
2. In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused: Provided, that he has been duly notified and his failure to appear is unjustifiable.

**Section 15.** The privilege of the writ of habeas corpus shall not be suspended except in cases of invasion or rebellion, when the public safety requires it.

**Section 16.** All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

**Section 17.** No person shall be compelled to be a witness against himself.

**Section 18.**

1. No person shall be detained solely by reason of his political beliefs and aspirations.
2. No involuntary servitude in any form shall exist except as a punishment for a crime whereof the party shall have been duly convicted.

**Section 19.**

1. Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. Neither shall death penalty be imposed, unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it. Any death penalty already imposed shall be reduced to *reclusion perpetua*.
2. The employment of physical, psychological, or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law.

<sup>1</sup> Rights of the accused under custodial investigation



**Section 20.** No person shall be imprisoned for debt or non-payment of a poll tax.

**Section 21.** No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

### Arraignment (Rule 116)

**Arraignment** – is the formal mode of implementing the constitutional right of the accused to be informed of the nature of the accusation against him. (*People vs. Pangilinan, 518 SCRA 368*)

### Motion to Quash (Rule 117)

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

**Section 2. Form and contents.** — The motion to quash shall be in writing, signed by the accused or his counsel and shall distinctly specify its factual and legal grounds. The court shall consider no ground other than those stated in the motion, except lack of jurisdiction over the offense charged. (2a)

#### **Grounds for Motion to Quash**

- (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;
- (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.

### Pre-trial (Rule 118)

**Section 1. Pre-trial; mandatory in criminal cases.** — In all criminal cases cognizable by the Sandiganbayan, Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court and Municipal Circuit Trial Court, the court shall after arraignment and within thirty (30) days from the date the court acquires jurisdiction over the person of the accused, unless a shorter period is provided for in special laws or circulars of the Supreme Court, order a pre-trial conference to consider the following:

- (a) plea bargaining;
- (b) stipulation of facts;
- (c) marking for identification of evidence of the parties;
- (d) waiver of objections to admissibility of evidence;
- (e) modification of the order of trial if the accused admits the charge but interposes a lawful defense; and
- (f) such other matters as will promote a fair and expeditious trial of the criminal and civil aspects of the case.

### Trial (Rule 119)

**Section 11. Order of trial.** — The trial shall proceed in the following order:

- (a) The prosecution shall present evidence to prove the charge and, in the proper case, the civil liability.
- (b) The accused may present evidence to prove his defense, and damages, if any, arising from the issuance of a provisional remedy in the case.
- (c) The prosecution and the defense may, in that order, present rebuttal and sur-rebuttal evidence unless the court, in furtherance of justice, permits them to present additional evidence bearing upon the main issue.
- (d) Upon admission of the evidence of the parties, the case shall be deemed submitted for decision unless the court directs them to argue orally or to submit written memoranda.
- (e) When the accused admits the act or omission charged in the complaint or information but interposes a lawful defense, the order of trial may be modified.

### Judgment (Rule 120)

**Judgment** – is the adjudication by the court that the accused is guilty or not guilty of the offense charged and the imposition on him of the proper penalty and civil liability, if any. It must be written in the official language, personally and directly prepared by the judge and signed by him and shall contain clearly and distinctly a statement of the facts and the law upon which it is based.



**Contents of the judgment**

If conviction, it shall state:

- (1) the legal qualification of the offense constituted by the acts committed by the accused and the aggravating or mitigating circumstances which attended its commission;
- (2) the participation of the accused in the offense, whether as principal, accomplice, or accessory after the fact;
- (3) the penalty imposed upon the accused; and
- (4) the civil liability or damages caused by his wrongful act or omission to be recovered from the accused by the offended party, if there is any, unless the enforcement of the civil liability by a separate civil action has been reserved or waived.

If acquittal, it shall state:

- (1) whether the evidence of the prosecution absolutely failed to prove the guilt of the accused, or
- (2) merely failed to prove his guilt beyond reasonable doubt.

In either case, the judgment shall determine if the act or omission from which the civil liability might arise did not exist.

**Summary Procedure**

**Applicability**

**Section 1. Scope** – This rule shall govern the summary procedure in Metropolitan Trial Courts, the Municipal Trial Courts in Cities, the Municipal Trial Courts, and the Municipal Circuit Trial Courts in the following cases falling within their jurisdiction:

- (1) Violations of traffic laws, rules and regulations;
- (2) Violations of the rental law;
- (3) Violations of municipal or city ordinances;
- (4) All other criminal cases where the penalty prescribed by law for the offense charged is imprisonment not exceeding six months, or a fine not exceeding (P1,000.00), or both, irrespective of other imposable penalties, accessory or otherwise, or of the civil liability arising therefrom: Provided, however, that in offenses involving damage to property through criminal negligence, this Rule shall govern where the imposable fine does not exceed ten thousand pesos (P10,000.00).

This Rule shall not apply to a civil case where the plaintiffs cause of action is pleaded in the same complaint with another cause of action subject to the ordinary procedure; nor to a criminal case where the offense charged is necessarily related to another criminal case subject to the ordinary procedure.

**Sec. 2. Determination of applicability.** — Upon the filing of a civil or criminal action, the court shall issue an order declaring whether or not the case shall be governed by this Rule. A patently erroneous determination to avoid the application of the Rule on Summary Procedure is a ground for disciplinary action.

**Prohibited Pleadings and Motions**

- (a) Motion to dismiss the complaint or to quash the complaint or information except on the ground of lack of jurisdiction over the subject matter, or failure to comply with the preceding section;
- (b) Motion for a bill of particulars;
- (c) Motion for new trial, or for reconsideration of a judgment, or for opening of trial;
- (d) Petition for relief from judgment;
- (e) Motion for extension of time to file pleadings, affidavits or any other paper;
- (f) Memoranda;
- (g) Petition for *certiorari*, *mandamus*, or prohibition against any interlocutory order issued by the court;
- (h) Motion to declare the defendant in default;
- (i) Dilatory motions for postponement;
- (j) Reply;
- (k) Third party complaints;
- (l) Interventions.

Ordinary Procedure	Summary Procedure
Preliminary investigation is either mandatory or discretionary	Preliminary investigation is not applicable
The prosecutor dismisses the complaint or by non-filing of its information	The court dismisses the complaint or information if it finds no cause or ground
Plea of guilty still necessitates admission of evidence and trial	Plea of guilty shall forthwith be sentenced accordingly
Plea of guilty to a lesser offense shall be during arraignment	Plea of guilty to a lesser offense shall be during preliminary conference
Direct examination shall be obtained through testimonies of witnesses	Affidavits submitted by the parties shall constitute direct examination
Warrant of arrest is issued to the accused	Order of arrest is issued to the accused
Most pleadings are acceptable upon the discretion of the court	Prohibited several pleadings, motions or petitions ( <i>see prohibited pleadings above</i> )

**End of Topic for Midterm Purposes**