



Republic of the Philippines  
**Sandiganbayan**  
Quezon City

**SIXTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff,*

**SB-16-CRM-0728 & 0729**

For: Violation of Section 3(e) of  
Republic Act No. 3019, and  
Article 286 of the Revised Penal  
Code (Grave Coercion)

- versus -

*Present:*

**FERNANDEZ, SJ, J.**  
*Chairperson*  
**MIRANDA, J. and**  
**VIVERO, J.**

**GUILLERMO GACIS SO**  
**and RICK GRONA FRANCISCO,**  
*Accused.*

*Promulgated:*

*April 26, 2019*

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**DECISION**

**VIVERO, J.:**

**THE CHARGE**

Accused, Guillermo Gacis So<sup>1</sup> (So, for brevity), Mayor of the municipality of Matnog, Sorsogon, and Rick Grona Francisco (*Francisco*, for brevity), Municipal Administrator<sup>2</sup> of said local

<sup>1</sup> Accused Guillermo G. So died during the pendency of the above-entitled case; consequently, the cases leveled against him had been dismissed.

<sup>2</sup> Rick G. Francisco was appointed as Municipal Civil Registrar on December 1, 2008 (EXHIBIT "3"), and his assumption of office (EXHIBIT "3-A") was on the same date. Notably, at the time (March 1 to 6, 2009) material to the informations in this case, that is his official position.

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government unit (LGU), are indicted for violation of Section 3(e) of Republic Act No. 3019, and Article 286 of the Revised Penal Code of the Philippines (RPC). The accusatory portions of the two (2) Informations are couched in the following language:

**SB-16-CRM-0728<sup>3</sup>**  
(For violation of Section 3(e) of R.A. No. 3019)

“That from 01 March 2009 to 06 March 2009 and subsequent thereto, in the Municipality of Matnog, Province of Sorsogon, and within the jurisdiction of this Honorable Court, accused **GUILLERMO GACIS SO** and **RICK GRONA FRANCISCO**, both public officers, being then the Municipal Mayor and Municipal Administrator, respectively, of the Municipality of Matnog, while in the performance of their official functions, acting with evident bad faith, manifest partiality or gross inexcusable negligence, conspiring and confederating with each other, did then and there, willfully, unlawfully, and criminally cause or cause the closure of the office and business operations of Sorsogon Terminals and Arrastre Services Corporation (STASCO), without any prior notice, written closure order, or due process of law, which closure resulted in the destruction of STASCO’s office facilities and the failure of STASCO’s employees and officers to collect the required terminal fees and port charges in the amount of Php 12,000.00 per day or the total amount of Php 72,000.00 for six (6) days, thereby causing undue injury to the government and STASCO in the amount of at least Php 72,000.00.

“CONTRARY TO LAW.

“Quezon City, Philippines, 28 June 2016.”

**SB-16-CRM-0729<sup>4</sup>**  
(For Grave Coercion)

“That from 01 March 2009 to 06 March 2009 and subsequent thereto, in the Municipality of Matnog, Province of Sorsogon, and within the jurisdiction of this Honorable Court, accused **GUILLERMO GACIS SO** and **RICK GRONA FRANCISCO**, both public officers, being then the Municipal Mayor and Municipal Administrator, respectively, of the Municipality of Matnog, committing the crime charged in relation to their office, and taking advantage of their official positions, conspiring and confederating with each other, did then and there, willfully,

<sup>3</sup> Records, Vol. 1, pp. 1 – 3.

<sup>4</sup> Records, Vol. 2, pp. 4 - 6.

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unlawfully, and feloniously prevent, through violence, threats or intimidation, the officials and employees of Sorsogon Terminals and Arrastre Services Corporation (STASCO) from managing, operating and maintaining the passenger terminal building and conducting other business operations of STASCO at the Port of Matnog, which are not prohibited by law, without any right to do so or authority of law, to the damage and prejudice of STASCO and its officials and employees and detriment of (sic) public service.

**"CONTRARY TO LAW.**

"Quezon City, Philippines, 28 June 2016."<sup>5</sup>

## THE CASE

On March 26, 2009, Alberto G. Gine, an officer of Sorsogon Terminals and Arrastre Services Corporation (STASCO), the authorized cargo-handling operator at the Port of Matnog, Sorsogon, filed a *Complaint-Affidavit* <sup>6</sup> before the Office of the Ombudsman against the following officials, namely:

1. Guillermo G. So (Municipal Mayor of Matnog, Sorsogon);
2. Rick G. Francisco (Municipal Administrator of Matnog); and
3. Ryan T. Geñorga (Municipal Treasurer of Matnog).

Said complaint consists of two aspects, to wit:

1. Criminal aspect:

- a. Violation of Section 3(e) of R.A. No. 3019; and
- b. Violation of Article 286 of the RPC (Grave Coercion).

2. Administrative aspect:

- a. Gross misconduct;
- b. Oppression; and
- c. Grave abuse of authority.<sup>7</sup>

<sup>5</sup> Records, Vol. 1, page 1 - 2.

<sup>6</sup> **EXHIBITS "S" to "S-15"**: Complaint-Affidavit (including Verification and Certificate of Non-Forum Shopping) dated March 26, 2009, of Alberto G. Gine, pp. 1 - 13 (Records, Vol. 1, pp. 39 - 51).

<sup>7</sup> *Ibid.*

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On December 2009, Rick G. Francisco filed his counter-affidavit,<sup>8</sup> wherein he alleged that:

"3. x x x I did my duty as Municipal Administrator of Matnog, Sorsogon, at the time of closure of STASCO . . .

"x x x

"3.4 In CY 2009, STASCO failed to apply for a Mayor's permit at all . . .

"3.5 The office of the Mayor then ordered the closure of STASCO ... Thus, then PNP Chief of Police Perfecto Lovina, Jr. together with some members of the police force and municipal employees including myself closed down STASCO.

"x x x

"3.22 ... [T]here is no damage or injury to STASCO since just after the closure of STASCO ..., it remained open after the PNP and municipal employees left the port premises obviously with the imprimatur of the PPA.

"x x x." <sup>9</sup>

On January 4, 2010, Mayor Guillermo Gacis So filed his counter-affidavit.<sup>10</sup> Salient portions therefrom are quoted below, viz:

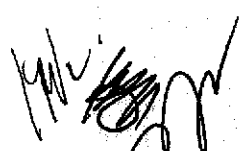
"4.6 ... [I]f I refuse to issue [the] mayor's permit to STASCO for violation of E.O. 170 and 170-a and the tax ordinance, I can legally do so. x x x

"4.8 (sic) What is being prevented by the closure of STASCO is to stop business establishments in the port of Matnog from operating by just securing a permit to operate from PPA and not from the Municipality of Matnog. x x x

"5. x x x

6. The entire police force just followed my orders and did their job pursuant to the provisions of the Local Government Code when it closed down STASCO . . . x x x

"x x x." <sup>11</sup>



<sup>8</sup> Counter-affidavit dated December 5, 2009, pp. 1 – 8 (Records, Vol. 1, pp. 299 – 306).  
<sup>9</sup> *Id.*, at pp. 1 – 5.  
<sup>10</sup> Counter-affidavit dated January 4, 2010, pp. 1 – 6 (Records, Vol. 1, pp. 422 – 427).  
<sup>11</sup> *Id.* at pp. 3 – 4.

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Following a thorough investigation, the Office of the Ombudsman found weighty and probative evidence to sue respondents So and Francisco for violation of Section 3(e) of R.A. No. 3019. On the other hand, the criminal complaint against respondent Geñorga was ordered dismissed for lack of probable cause.<sup>12</sup>

Respondent Francisco filed a *Motion for Partial Reconsideration*, but the Office of the Ombudsman denied it for lack of merit.<sup>13</sup>

After perusing the Information and evaluating the prosecutor's resolution, including the evidence adduced as found in the records of the preliminary investigation, sufficient grounds undergird a finding of probable cause against the two accused. Coetaneously, warrants of arrest<sup>14</sup> and Hold Departure Orders<sup>15</sup> were issued against them.

On October 24, 2016, accused Francisco voluntarily surrendered<sup>16</sup> and posted bail.<sup>17</sup> Accordingly, the warrant of arrest issued against said accused was recalled,<sup>18</sup> and the arraignment was set.

On January 23, 2017, accused Francisco, while assisted by counsel *de officio*, was arraigned and he pleaded "**Not Guilty**" to the offenses charged in the Informations.<sup>19</sup>

On March 6, 2017, the scheduled preliminary conference was cancelled to give accused Francisco the opportunity to secure the

<sup>12</sup> Consolidated Resolution dated December 15, 2014, of the Office of the Ombudsman, pp. 1 - 20 (Records, Vol. 1, pp. 8 - 24).

<sup>13</sup> Consolidated Order dated April 21, 2015, of the Office of the Ombudsman, pp. 1 - 10 (Records, Vol. 1, pp. 28 - 37).

<sup>14</sup> Records, Vol. 1, pp. 470 - 486.

<sup>15</sup> Hold Departure Order dated October 3, 2016 (Records, Vol. 1, p. 469).

<sup>16</sup> Certificate of Detention dated October 24, 2016 (Records, Vol. 1, p. 487).

<sup>17</sup> Resolution dated November 28, 2016, p. 1 (Records, Vol. 1, p. 489); Resolution dated January 5, 2017, p. 1 (Records, Vol. 1, p. 495).

<sup>18</sup> Records, Vol. 1, p. 504; Vol. 2, p. 14.

<sup>19</sup> Order dated January 23, 2017, pp. 1 - 2 (Records, Vol. 1, pp. 501 - 502).

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services of counsel.<sup>20</sup> Several postponements, as agreed upon by the parties, stalled the proceedings.<sup>21</sup> On July 31, 2017, the preliminary conference was held and, in the course thereof, documentary exhibits of the parties were marked accordingly.<sup>22</sup> On October 5, 2017, pre-trial was terminated.<sup>23</sup>

As fate would have it, accused Guillermo Gacis So *died* on June 20, 2017.<sup>24</sup> Pursuant to Article 89 of the Revised Penal Code, this Court ordered the *dismissal* of the instant cases against him.<sup>25</sup> Be that as it may, adversarial proceedings against accused Francisco moved on.

Trial commenced on November 28, 2017.<sup>26</sup> The Prosecution completed the presentation of its nine (9) witnesses on April 18, 2018.<sup>27</sup> Immediately thereafter, Atty. Rey R. Lor, counsel of accused Francisco, manifested that he intends to file a motion for leave to file demurrer to evidence. Accordingly, the Court directed the Prosecution to file its formal offer of evidence. Correlatively, the Court stressed that after it shall have ruled on the Prosecution's formal offer of evidence, accused Francisco may file his motion.<sup>28</sup>

The Office of the Special Prosecutor filed its *Formal Offer of Evidence*<sup>29</sup> on April 30, 2018, while accused Francisco filed his comments and objections thereto within the reglementary period.<sup>30</sup> With the admission of its documentary exhibits, including the testimonies of the witnesses who testified thereon, the prosecution was deemed to have rested its case.<sup>31</sup>

<sup>20</sup> Minutes of proceedings dated March 6, 2017, pp. 1-2 (Records, Vol. 2, pp. 25 - 26).

<sup>21</sup> Records, Vol. 2, pp. 42 - 46.

<sup>22</sup> *Op. cit.*, pp. 61 - 62; TSN dated July 31, 2017, pp. 2 - 17.

<sup>23</sup> TSN dated October 5, 2017, p. 5; Order dated October 5, 2017, p. 1 of 2 (Records, Vol. 2, pp. 76 - 77).

<sup>24</sup> Certificate of Death with Registry No. 2017-12393 of Guillermo Gacis So which was issued by the Philippine Statistics Authority (PSA), pp. 1 - 2 (Records, Vol. 2, pp. 94 - 95); TSN dated October 5, 2017, p. 3.

<sup>25</sup> Minute Resolution dated November 29, 2017, p. 1 (Records, Vol. 2, p. 110).

<sup>26</sup> TSN dated November 28, 2017, pp. 1 - 14.

<sup>27</sup> Order dated April 18, 2018, pp. 1 - 2 (Records, Vol. 2, pp. 435 - 436).

<sup>28</sup> *Ibid.*; TSN dated April 18, 2018, p. 20.

<sup>29</sup> Formal Offer of Evidence (with Motion for Permanent Marking) dated April 24, 2018, pp. 1 - 12 (Records, Vol. 2, pp. 439 - 450).

<sup>30</sup> Objections & Comments to Formal Offer of Evidence dated May 8, 2018, pp. 1 - 5 (Records, Vol. 3, pp. 126 - 130).

<sup>31</sup> Resolution dated May 10, 2018, p. 1 (Records, Vol. 3, p. 131).

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On June 20, 2018, accused Francisco moved for leave to file demurrer to evidence,<sup>32</sup> and contended that:

“3. x x x [N]o documentary evidence established accused Francisco’s participation in the commission of the offense/ crime.

“4. . . . [P]rosecution witness Carlos M. Reyes, general manager of STASCO, even exonerated accused Francisco. Mr. Reyes testified that accused Francisco was a mere victim of the ‘capricho’ of accused Guillermo So who was then the municipal mayor of Matnog, Sorsogon and ‘warlord’ of their town. Accused Francisco indeed had no hand in the closure of STASCO’s office.  
x x x

“5. . . . [P]rosecution witness Natalio Gaton, Jr. emphatically testified that it was Mr. Gonoy Castillo and his group who actually closed down the office of STASCO using coco lumbers. Gonoy Castillo is a known bodyguard of accused Mayor Guillermo So. According to witness Gaton, accused Francisco did not participate, nor intervene, nor did anything in closing down STASCO[’s] office.

“x x x

“8. Actually, the prosecution’s lack of evidence against Francisco only confirms their **admission** during the pre-trial conference that it was accused Mayor Guillermo So who ordered the closing down of STASCO[’s] office on March 1, 2009.

“x x x.”<sup>33</sup>

The prosecution countered that:

“7. There is no truth on (sic) Francisco’s claim that Prosecution witness Carlos M. Reyes exonerated him by stating that accused Francisco was a mere victim of ‘capricho’ of accused So. This statement only bolster[s] the fact that accused Francisco followed and had done everything that accused So ordered him to do, and one of them is the illegal closure of STASCO’s office.

“8. Furthermore, accused Francisco misleads the Court in claiming that prosecution [witness] Natalio Gaton, Jr. identified Mr. Gonoy Castillo and his group as the persons who actually closed STASCO’s office. Gaton claimed that Gonoy and his group

<sup>32</sup> Motion for Leave to File Demurrer to Evidence dated June 20, 2018, p. 1 – 4 (Records, Vol. 3, pp. 139 – 142).

<sup>33</sup> *Op. cit.*, pp. 2 – 3.

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were the persons who actually closed STASCO's office, but conveniently failed to state that the same was done under (sic) the presence and under the command of accused Francisco.

"x x x

"15. STASCO, being a private company contracted by PPA to collect terminal fees within the Matnog Port, was forcibly and illegally closed by the accused without any right or authority to do so. The closure was not made under authority of law or in the exercise of any lawful right.

"x x x." 34

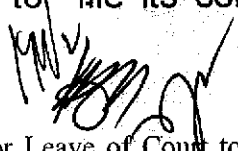
This Court ruled that:

"After a careful study of the documentary and testimonial evidence submitted by the prosecution, the Court finds that, if unrebutted, the same is sufficient to support a verdict of guilt for violation of Section 3(e), R.A. No. 3019 and of Article 286, Revised Penal Code (Grave Coercion). The Court hereby **DENIES** the *Motion for Leave of Court to File Demurrer to Evidence* filed by accused Francisco.

"This is without prejudice to the filing by the accused of his *Demurrer to Evidence*, without leave of court, but subject to the legal consequence provided under Section 23, Rule 119 of the *Revised Rules of Criminal Procedure*, that is, he shall waive his right to present evidence and is submitting this case for judgment on the basis of the evidence adduced by the prosecution.

"x x x." 35

On August 23, 2018, accused Francisco took the witness stand.<sup>36</sup> He completed his testimony on September 11, 2018.<sup>37</sup> Yet, he moved for continuance to make way for additional witnesses.<sup>38</sup> Lamentably, however, his witnesses backed out,<sup>39</sup> so his counsel manifested during the trial that nobody else will testify. Accordingly, the Court ordered the defense to file its formal offer of evidence, and the prosecution was directed to file its comment, if any, thereon.<sup>40</sup> Both parties were compliant.<sup>41</sup>



<sup>34</sup> Comment/ Opposition (Re: Motion for Leave of Court to File Demurrer to Evidence) dated June 25, 2018, pp. 2 – 4 (Records, Vol. 3, pp. 147 – 149).

<sup>35</sup> Resolution dated July 20, 2018 (Records, Vol. 3, pp. 155 – 157).

<sup>36</sup> Minutes of Proceedings on August 23, 2018, p. 1 (Records, Vol. 3, p. 198).

<sup>37</sup> Minutes of Proceedings of September 11, 2018, p. 1 (Records, Vol. 3, p. 204).

<sup>38</sup> Order dated September 11, 2018 (Records, Vol. 3, p. 206).

<sup>39</sup> Order dated October 24, 2018 (Records, Vol. 3, p. 221).

<sup>40</sup> Order dated December 3, 2018 (Records, Vol. 3, p. 225-A).



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With the admission of accused's documentary exhibits and the testimony of the witnesses who testified thereon, accused Francisco is deemed to have rested his cases.<sup>42</sup> Pursuant to the Court's Order on December 3, 2018, and the prosecution's manifestation that no rebuttal evidence will be adduced,<sup>43</sup> the parties were directed to file their respective memoranda.<sup>44</sup> In compliance therewith, the prosecution filed its memorandum<sup>45</sup> on February 20, 2019, while accused Francisco file his<sup>46</sup> on February 22, 2019. Thence, this case was submitted for decision.

## FACTS

The facts, as culled from the records, are summarized below, viz:

The Philippine Ports Authority (PPA), thru the Port Management Office (PMO) of Legazpi granted a one-year Permit to Operate to the incumbent cargo handling operator – the Sorsogon Terminals Arrastre Services Corp. (STASCO), at the port of Matnog, to manage, maintain and operate the Passenger Terminal Building (PTB) effective March 1, 2009.<sup>47</sup> This is in line with the privatization program of the PPA. All the while, STASCO had been operating continuously in the port of Matnog, Sorsogon despite the fact that no Mayor's / Business Permit had been issued to STASCO due to non-submission of complete requirements.

On March 1, 2009, Mayor Guillermo Gacis So ordered the closure, without prior notice, of STASCO's office and the concomitant cessation of its operations.<sup>48</sup> Accordingly, Municipal

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<sup>41</sup> Accused filed his Formal Offer of Evidence (Records, Vol. 3, pp. 227 – 229) on December 12, 2018; on the other hand, the Prosecution filed its Comment [Re: Accused Rick G. Francisco's Formal Offer of Evidence] (Records, Vol. 3, pp. 246 - 248) on December 17, 2018.

<sup>42</sup> Resolution dated January 14, 2019 (Records, Vol. 3, p. 249).

<sup>43</sup> Records, Vol. 3, p. 225-A.

<sup>44</sup> Resolution dated January 14, 2019 (Records, Vol. 3, p. 249).

<sup>45</sup> Memorandum dated February 19, 2019, of the plaintiff, pp. 1 - 11 (Records, Vol. 3, pp. 255 – 265).

<sup>46</sup> Memorandum for Rick C. (sic) Francisco dated February 20, 2019, pp. 1 - 35 (Records, Vol. 3, pp. 266 -300).

<sup>47</sup> EXHIBIT "M": Permit to Operate M203-FAS-09-034 issued by the Philippine Ports Authority (Records, Vol. 1, p. 252).

<sup>48</sup> TSN dated July 31, 2017; This is an *admitted fact*.