

**REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY**

SPECIAL THIRD DIVISION

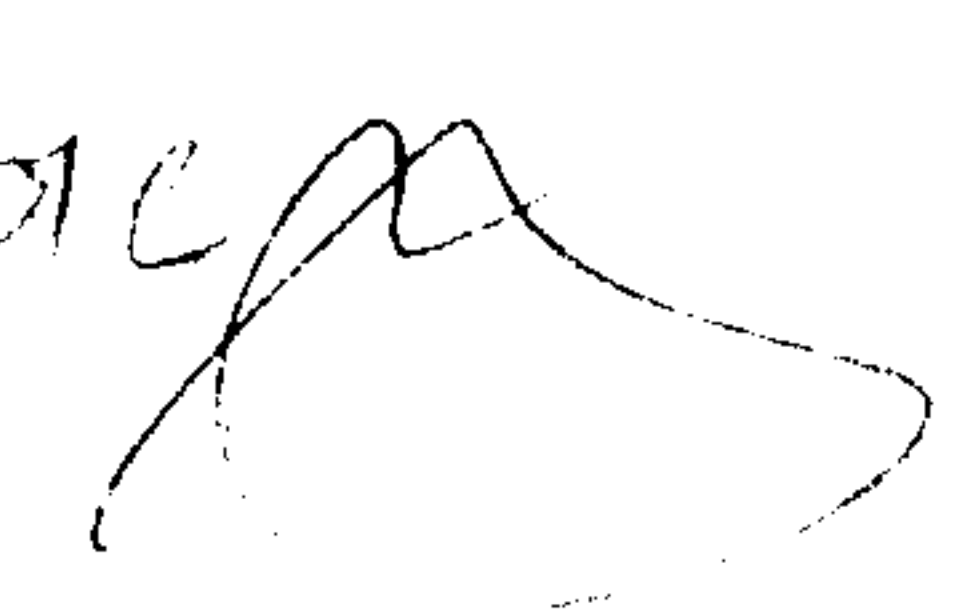
PEOPLE OF THE PHILIPPINES,	Plaintiff,	Criminal Case No. SB-14-CRM-0433 For: Violation of Section 7(d), Republic Act No. 6713
- versus -		

JESUS ORLANDO M. QUIÑONES,
Accused.

Present:

CABOTAJE-TANG, P.J.,
Chairperson
MARTIRES, J.
FERNANDEZ, J. and

Promulgated

OCTOBER 11, 2016 

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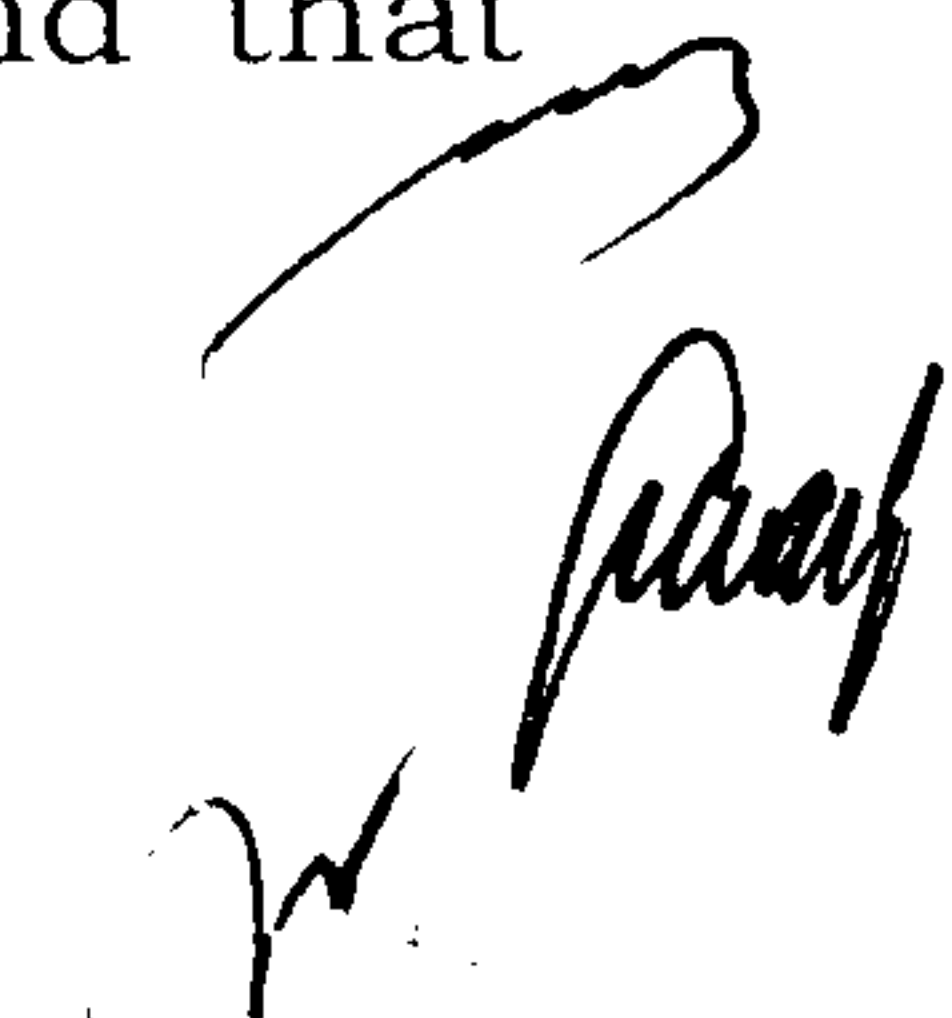
RESOLUTION

CABOTAJE-TANG, PJ:

For resolution is accused Jesus Orlando M. Quiñones's "Motion For Reconsideration (Re: Resolution dated 01 June 2016)" dated June 20, 2016 which assails the Court's Resolution promulgated on June 1, 2016 denying his motion to quash Information.¹

In his motion for reconsideration, the accused argues that the Information should be quashed on the ground that

¹ pp. 398, Record



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“the Court has no jurisdiction over the Information” allegedly because the complaint against him was not instituted or endorsed by the Civil Service Commission (CSC) pursuant to Section 12 of R. A. Act No. 6713.² According to the accused, Section 12 is similar to Article 344 of the Revised Penal Code (RPC) which deals with the institution and prosecution of private crimes. Thus, he argues that like private crimes, any criminal prosecution under R.A. No. 6713 must have a prior endorsement of the CSC. The accused also argues that the ruling in **Carabeo vs. Sandiganbayan**³ does not apply to his case purportedly because (1) the Supreme Court did not categorically rule therein that prior CSC endorsement/transmittal of criminal cases involving violations of R.A. No. 6713 can be dispensed with; and (2) **Carabeo** involves violation of R.A. No. 3019 and not violation of R. A. No. 6713.⁴

The accused further argues that the allegation in the Information that the accused committed the offense “in relation to office” does not constitute violation of Section 7(d) of R. A. No. 6713. He insists that the act of solicitation under Section 7(d) of R. A. No. 6713 must be made “in the course of their official duties” as defined under Section 7(d) of R. A. No. 6713. Thus, he contends that “there must be a pending case, matter, issue or transaction before the public officer that was the reason for such solicitation.” Allegedly, such allegation is not present in the Information because what was averred therein is that he had already rendered an adverse decision at the time of the questioned incident.⁵

The prosecution opposes subject motion claiming that the constitutional power of the Ombudsman to investigate and prosecute erring government officials is plenary and unqualified; hence, it could not be made dependent on the prior action of the CSC. It also claims that the facts alleged in the Information sufficiently establish the essential elements of violation of Section 7(d) of R. A. No. 6713. It argues that the

² otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees

³ 643 SCRA 603 (2011)

⁴ pp. 2-4, Motion for Reconsideration; pp. 399-401, Record

⁵ pp. 4-6, Motion for Reconsideration; pp. 401-403, Record

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use of the phrase “committing the offense in relation to his office and in the discharge of his official functions” instead of “in the course of official duties,” which is used in the definition of the offense charged, is sufficient to charge the accused. It also points out that even if the accused had already rendered a decision a month before the alleged solicitation incident, the accused retained custody of the case records because no appeal had yet been filed and that he issued an order inhibiting himself from hearing the case three (3) days after the solicitation incident.⁶

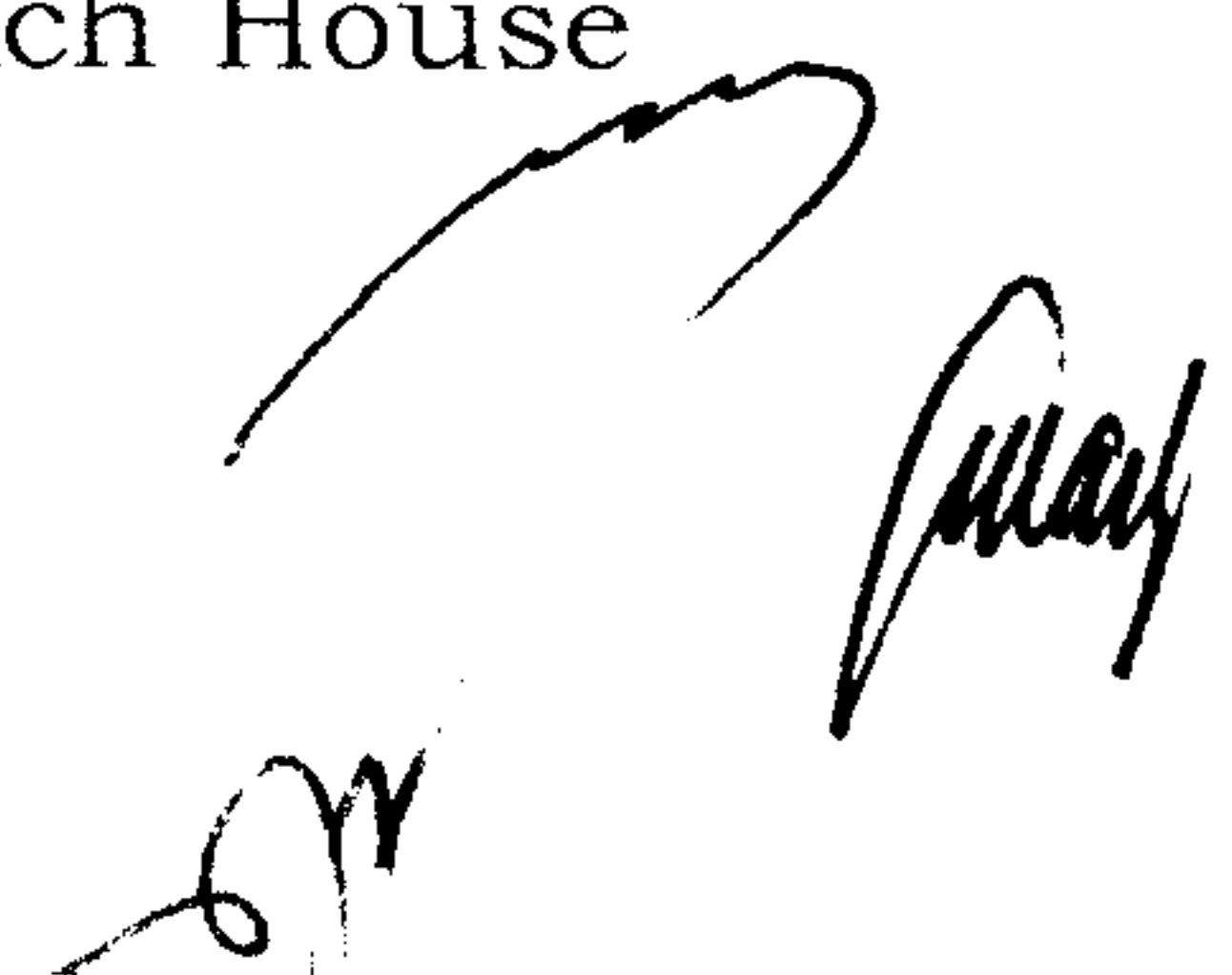
Notably, the accused’s motion to quash, which was denied by the Court in its assailed Resolution, was anchored on the ground that the facts alleged therein do not constitute an offense. In his subject motion for reconsideration, however, he invokes an additional ground for the quashal of the Information, *i.e.*, “the Court has no jurisdiction over the Information” because of the absence of a prior endorsement from the CSC.

The Court finds the accused’s motion for reconsideration devoid of merit.

First. Section 12 of R.A. No. 6713 provides that the CSC has the primary responsibility in the administration and enforcement of the said Act:

Section 12. Promulgation of Rules and Regulations, Administration and Enforcement of this Act. — The Civil Service Commission shall have the primary responsibility for the **administration and enforcement** of this Act. It shall transmit all cases for prosecution arising from violations of this Act to the proper authorities for appropriate action: Provided, however, That it may institute such administrative actions and disciplinary measures as may be warranted in accordance with law. Nothing in this provision shall be construed as a deprivation of the right of each House

⁶ pp. 408-416, Record



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of Congress to discipline its Members for disorderly behavior.

The Civil Service Commission is hereby authorized to promulgate rules and regulations necessary to carry out the provisions of this Act, including guidelines for individuals who render free voluntary service to the Government. The Ombudsman shall likewise take steps to protect citizens who denounce acts or omissions of public officials and employees which are in violation of this Act.⁷

On the other hand, paragraph (1) of Section 13, Article XI of the 1987 Constitution reads:

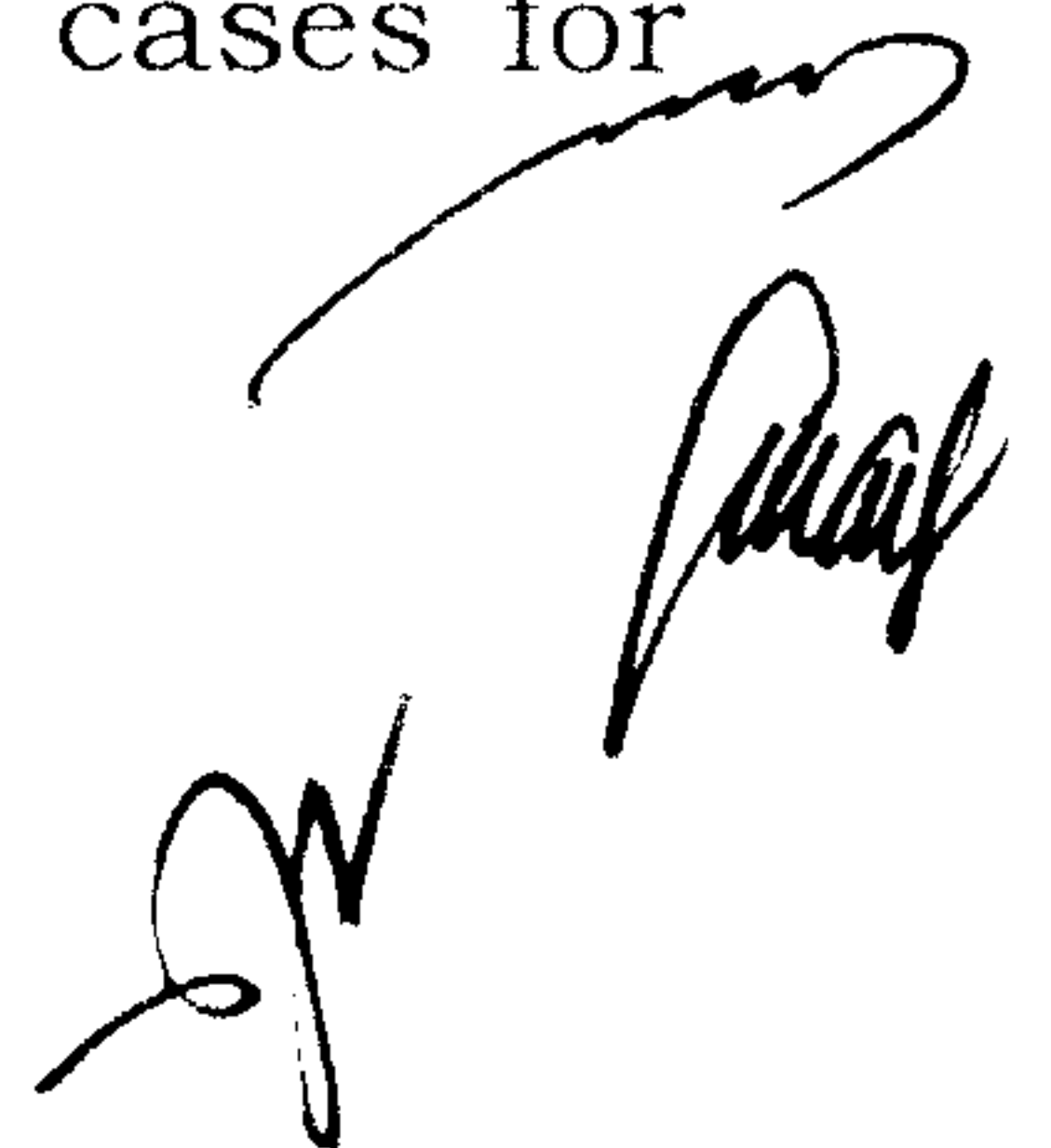
Section 13. The Office of the Ombudsman shall have the following powers, functions, and duties:

1 Investigate on its own, or on complaint by any person, any act or omission of any public official, employee, office or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient.

Under the aforequoted Section 12, the CSC is primarily responsible in the administration and enforcement of R. A. No. 6713. Administration is defined as the management or performance of the executive duties of a government, institution or business while enforcement is the act or process of compelling compliance with the law, mandate, command, decree or agreement.⁸ In other words, under R. A. No. 6713, the CSC is primarily responsible in seeing to it that the provisions of R. A. No. 6713 are complied with. In the discharge of said responsibility, it shall transmit all cases for

⁷ emphasis supplied

⁸ Black's Law Dictionary, 8th Edition

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prosecution arising from violations of the said Act to the proper authorities for appropriate action or it may institute administrative actions and disciplinary measures as may be warranted in accordance with law.

On the other hand, the Office of the Ombudsman is vested with the **sole power to investigate and prosecute**, *motu proprio* or on complaint of any person, any act or omission of any public officer or employee, office, or agency when such act or omission appears to be illegal, unjust, improper, or inefficient. The Ombudsman's power to investigate and to prosecute is plenary and unqualified.⁹

To investigate is to inquire into a matter systematically and to prosecute is to commence or carry out a legal action.¹⁰ Thus, the Office of the Ombudsman is responsible in the prosecution of any illegal acts or omissions committed by any public officer or employee. The filing or non-filing of the Information is primarily lodged within the "full discretion" of the Ombudsman.¹¹

Clearly, the transmittal of criminal cases for prosecution from the CSC involving violations of R.A. No. 6713 cannot be construed as a "condition precedent" to the valid exercise by the Ombudsman of its power to prosecute cases arising from a violation of R.A. No. 6713.

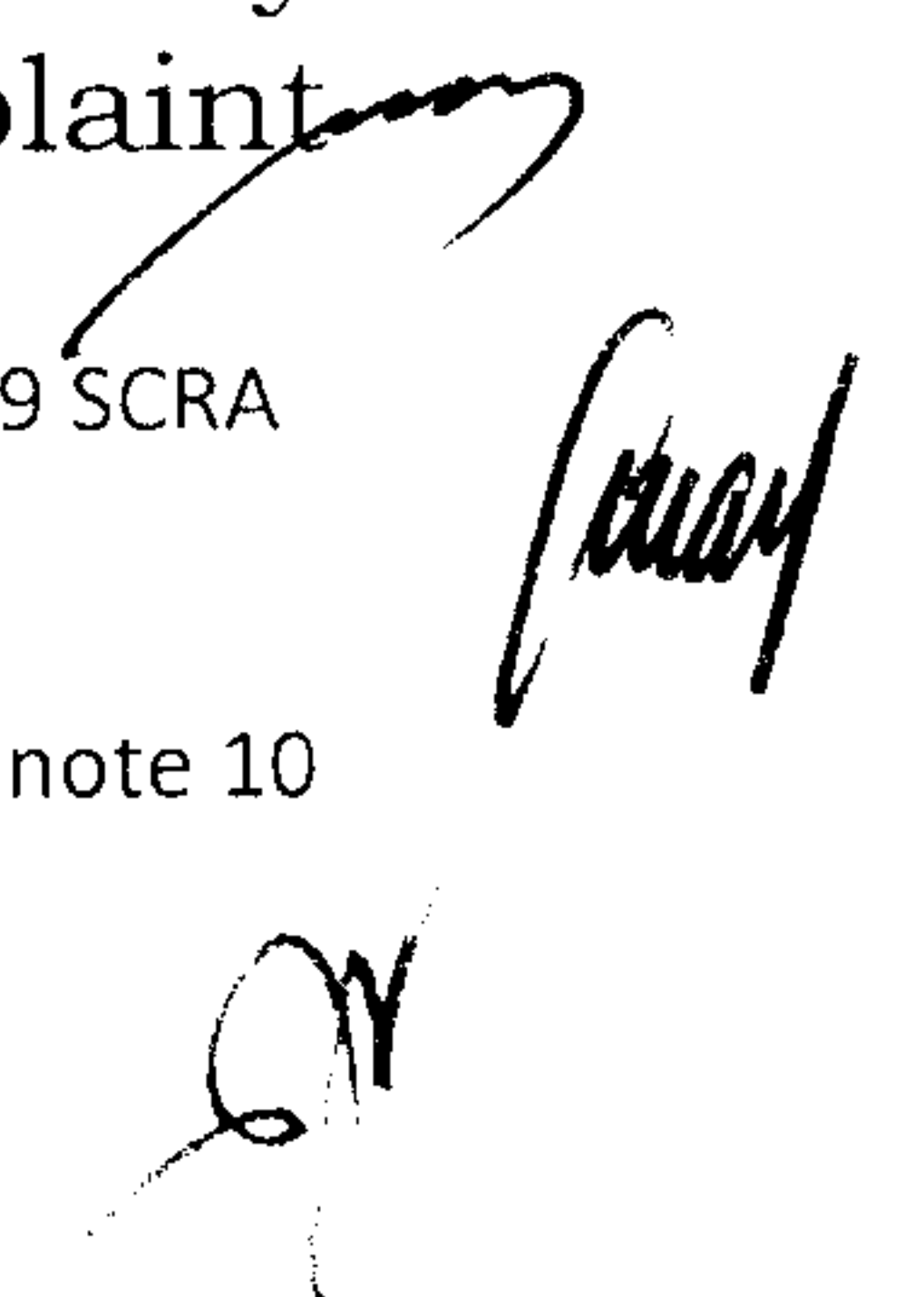
In **Carabeo vs. Sandiganbayan**,¹² the CSC did not transmit the case to the Office of the Ombudsman for appropriate action. It was the Department of Finance Revenue Integrity Protection Service (DOF-RIPS) which filed before the Office of the Ombudsman a complaint against therein petitioner Carabeo for violation of Section 7, R. A. No. 3019, as amended, in relation to Section 8, R. A. No. 6713, among other cases, for failing to disclose personal properties, misdeclaring the acquisition cost of real property in Laguna, and falsely declaring his net worth in his SALN for 2003. The complaint

⁹ Vergara vs. Ombudsman, 580 SCRA 693 (2009), citing Trinidad vs. Office of the Ombudsman, 539 SCRA 415 (2007); Schroeder vs. Salcevar, 522 SCRA 624 (2007)

¹⁰ Black's Law Dictionary, 8th Edition

¹¹ Soriano vs. Fernandez, G.R. No. 168157, August 19, 2015, citing Vergara vs. Ombudsman, *supra* note 10

¹² *supra* note 5



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was filed as a result of the lifestyle check of the DOF officials and employees. In fact, in rejecting therein petitioner's claim that he should have been given the opportunity by his office to correct his SALN, the Supreme Court held that the Office of the Ombudsman could file Informations against therein petitioner Carabeo without any help from the DOF-RIPS.

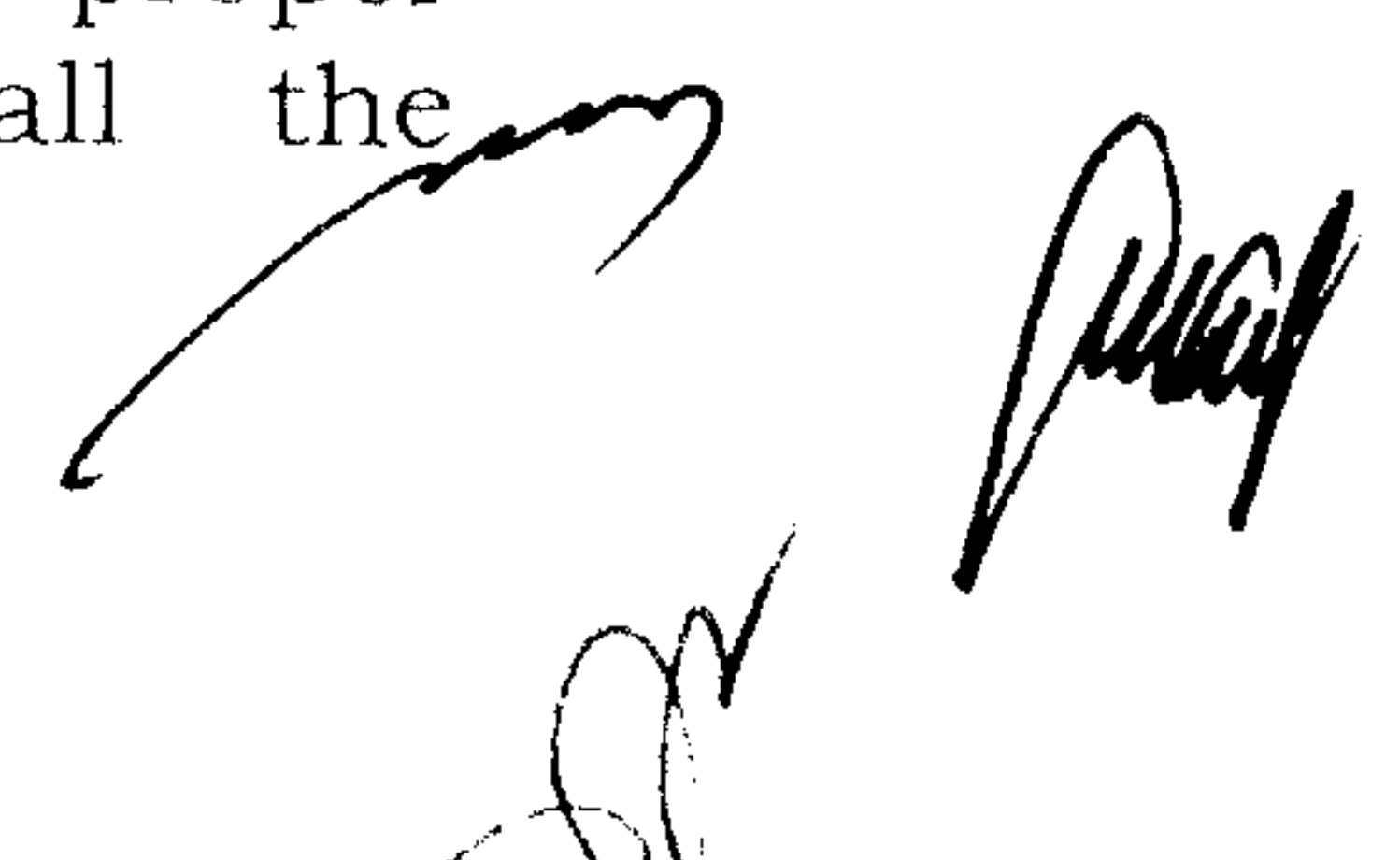
The accused, however, argues that **Carabeo** does not apply to his case because it does not involve a violation of R. A. No. 6713 but a violation of R. A. No. 3019 and that the Supreme Court in the said case did not categorically rule that prior CSC transmittal or endorsement for criminal cases involving violations of R.A. No. 6713 can be dispensed with.

The Court finds the argument without basis.

The Court cited **Carabeo** to stress that the Office of the Ombudsman's power to investigate and prosecute, *motu proprio* or on complaint of any person, any act or omission of any public officer or employee, office, or agency when such act or omission appears to be illegal, unjust, improper, or inefficient, is plenary and unqualified. Thus, the Court, citing **Carabeo**, declared:

But what Carabeo fails to grasp is that it was eventually the Office of the Ombudsman, not the DOF-RIPS, that filed the criminal cases against him before the Sandiganbayan. That office is vested with the sole power to investigate and prosecute, *motu proprio* or on complaint of any person, any act or omission of any public officer or employee, office, or agency when such act or omission appears to be illegal, unjust, improper, or inefficient. **The Office of the Ombudsman could file the informations subject of these cases without any help from the DOF-RIPS.**

True, Section 10 of R.A. 6713 provides that when the head of office finds the SALN of a subordinate incomplete or not in the proper form such head of office must call the



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subordinate's attention to such omission and give him the chance to rectify the same. But this procedure is an internal office matter. Whether or not the head of office has taken such step with respect to a particular subordinate cannot bar the Office of the Ombudsman from investigating the latter. **Its power to investigate and prosecute erring government officials cannot be made dependent on the prior action of another office. To hold otherwise would be to diminish its constitutionally guarded independence.**¹³

Applying the above-ruling in **Carabeo**, it is thus indisputable that the power of the Ombudsman to investigate and prosecute erring government officials cannot be made dependent on the prior action of the CSC. To hold otherwise would dilute the constitutionally-conferred power of the Ombudsman which simply could not be done.¹⁴

To further support his contention that prior endorsement of the CSC is required in cases involving violations of R. A. No. 6713 for a court to acquire jurisdiction over the complaint, the accused contends that Section 12 thereof is similar to Article 344 of the RPC requiring a specific complainant before a private crime may be investigated and prosecuted. Thus, like private crimes, R. A. No. 6713 mandates that any criminal prosecution thereof must have the prior transmittal of the CSC.

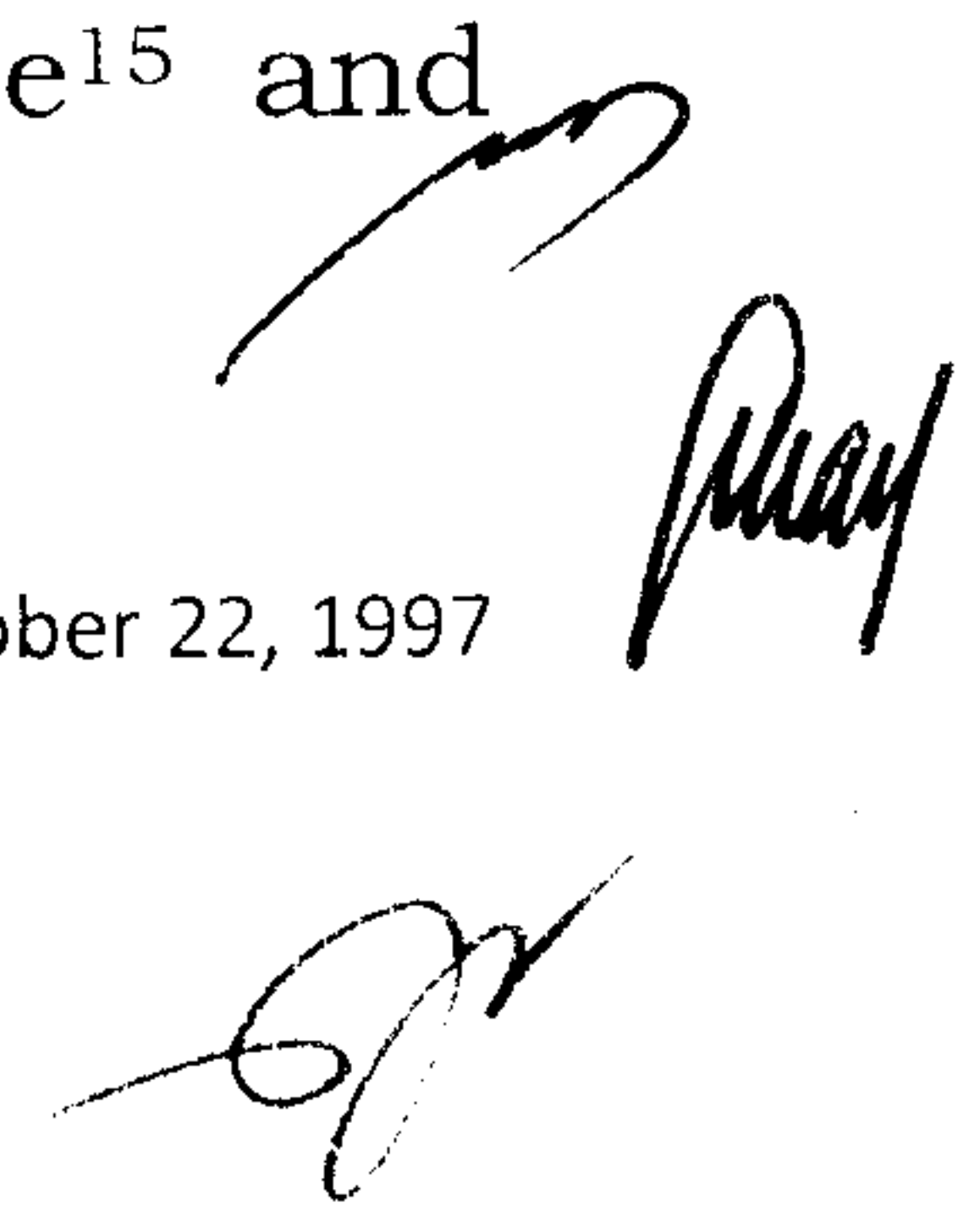
The Court finds the contention absurd.

Private crimes are crimes against chastity such as adultery and concubinage, seduction, abduction, rape¹⁵ and

¹³ emphasis supplied

¹⁴ pp. 10-11, Resolution promulgated on June 1, 2016

¹⁵ Republic Act (R. A.) No. 8353 or the "The Anti-Rape Law of 1997" which took effect on October 22, 1997 classified the crime of rape as a crime against persons.



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acts of lasciviousness. Their institution, prosecution and extinction are governed by Article 344 of the Revised Penal Code:¹⁶

Article 344. Prosecution of the crimes of adultery, concubinage, seduction, abduction, rape and acts of lasciviousness. — 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 he shall have consented or pardoned the offenders.

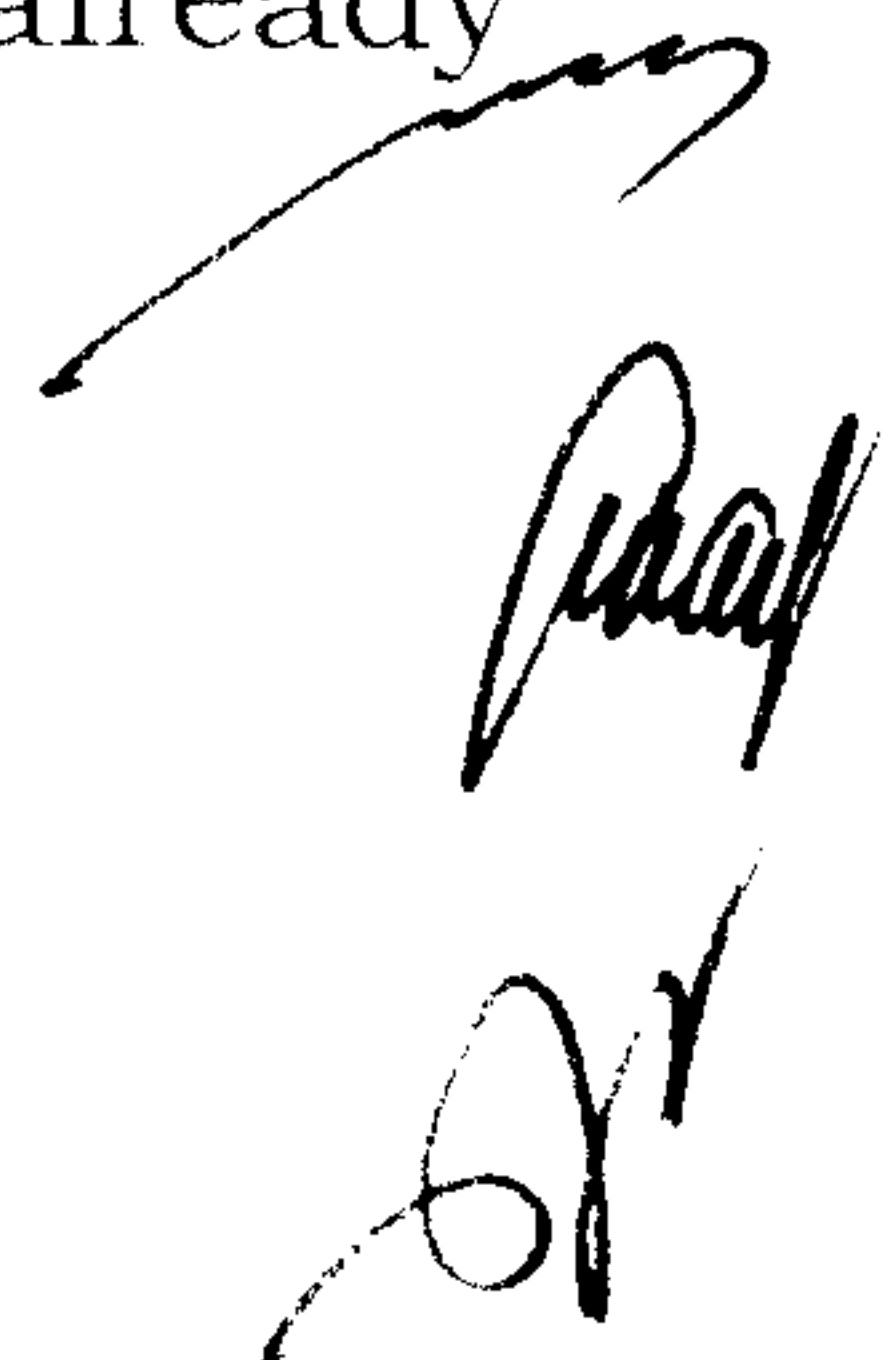
The complaint required in said Article is merely a condition precedent to the exercise by the proper authorities of the power to prosecute the guilty parties. Such condition has been imposed out of consideration for the offended woman and her family who might prefer to suffer the outrage in silence rather than go through with the scandal of a public trial.¹⁷

In this case, the accused is charged with violation of R. A. No. 6713, a public offense which must be prosecuted by the State on its own volition being the offended party. The rationale of the law on the requirement of a complaint in the prosecution of private crimes cannot apply to the present case since there is no private offended party in this case.

Second. Accused insists that there was “no case or matter still pending before [him] that would be the reason or justification for the alleged solicitation” allegedly because “as early as 01 October 2008, or more than one (1) month prior to the alleged incident complained of, the accused had already

¹⁶ *Alonte vs. Savellano, Jr.*, 287 SCRA 245 (1998)

¹⁷ *People vs. Bugton*, 169 SCRA 797 (1989)



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rendered an adverse decision against the private complainant.”¹⁸

In filing the motion to quash, the accused thereby hypothetically admitted the truth of the averments in the subject Information which, as found by the Court in its assailed Resolution, sufficiently alleges all the constitutive elements of the crime of violation of Section 7 (d) of R.A. No. 6713.¹⁹

Moreover, the accused’s insistence that there was no longer any case pending before him when he allegedly solicited the amount of Php2,000,000.00 from the private complainant because he already decided the labor case a month prior to the subject incident are clearly matters *aliunde*; hence, are clearly inappropriate grounds for a motion to quash.²⁰

At any rate, as pointed out by the prosecution, the accused issued an order in the labor case subject of the case voluntarily inhibiting himself after the questioned incident. The prosecution thus aptly concluded that the labor case was still pending with him at the time of the alleged solicitation, *viz:*

13. At this juncture, it bears stressing that accused Quiñones’ assertion that Atty. Ortega had no pending transaction or case before him at the time of the solicitation incident falls flat in the face of his own admission that he inhibited himself from further hearing the labor case of Atty. Ortega. That accused Quiñones had to voluntarily inhibit from the case necessarily implies that the case was still pending in his sala; otherwise, why would he inhibit from hearing a case over which he has no control?

... ..




¹⁸ pp. 5-6, Motion for Reconsideration; pp. 402-403, Record

¹⁹ pp. 4-6, Resolution promulgated on June 1, 2016; pp. 383-385, Record

²⁰ Please refer to **Lazarte vs. Sandiganbayan**, 581 SCRA 431 (2009).

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15 Consistent with the above-quoted rule, accused Quiñones retained custody of Atty. Ortega's case records at the time of the solicitation incident. In the Order of Inhibition, which accused Quiñones issued three days after the solicitation incident, he directed that the records of the labor case against Atty. Ortega and his university be transmitted to NLRC RAB V, Legaspi City, for appropriate disposition. Thus the Order states:

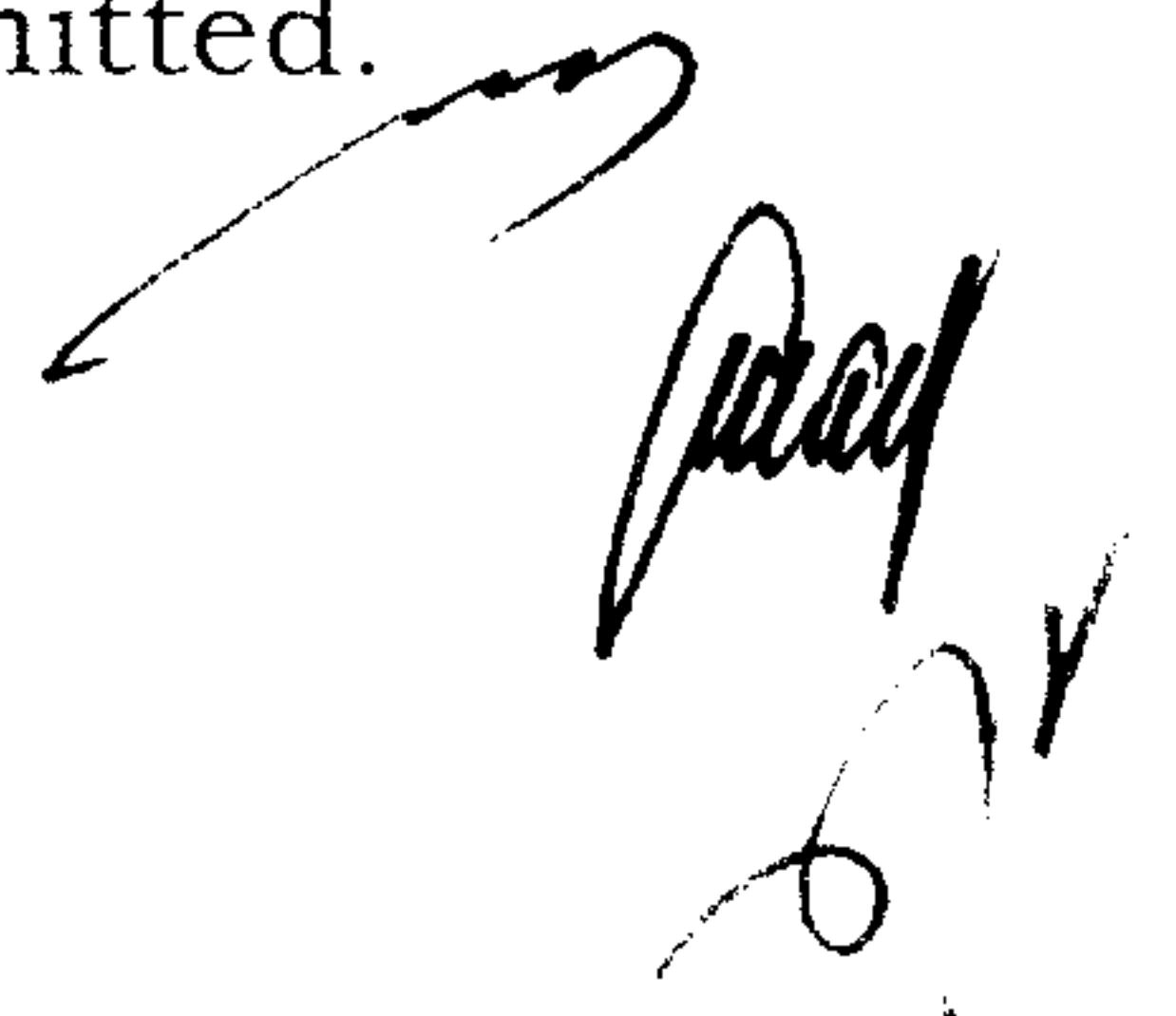
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16. It bears stressing that no appeal had yet been filed in connection with Atty. Ortega's labor case at the time of the solicitation incident. Accused Quiñones himself declared in his Reply dated January 27, 2015 that Atty. Ortega's Memorandum of Appeal was filed only on November 27, 2008, or seventeen (17) days after the solicitation incident on November 10, 2008.

Third. The fact that the Information does not allege the phrase "in the course of their official duties," as used in Section 7(d) of R. A. No. 6713, has no material bearing on the sufficiency, or insufficiency, of the allegations in the subject Information.

Section 6, Rule 110 of the Revised Rules of Criminal Procedure provides the parameters in determining the sufficiency of the allegations in a criminal Information, to wit:

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 given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

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Here, all the matters required under Section 6, Rule 110 of the Rules of Court are alleged in the subject Information.

Moreover, although the subject Information does not use the phrase “in the course of their official duties,” under Section 7 (d) of R. A. No. 6713, it nevertheless alleges that the solicitation of the amount of Php2,000,000.00 by the accused-movant from the private complainant was done “in relation to office and in the discharge of his official functions.” It is settled that the use of derivatives or synonyms or allegations of basic facts constituting the offense charged is sufficient.²¹

In sum, the accused failed to raise any argument which would merit a reversal of the assailed Resolution. Moreover, the issues raised by the accused had been thoroughly passed upon by the Court.

WHEREFORE, accused Jesus Orlando M. Quiñones’s “*Motion For Reconsideration (Re: Resolution dated 01 June 2016)*” is DENIED for lack of merit and/or for being *pro forma*.

SO ORDERED.

Quezon City, Metro Manila


AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson

WE CONCUR:


SAMUEL R. MARTIRES
Associate Justice


SARAH JANE T. FERNANDEZ
Associate Justice

²¹ *People vs. Quitlong, et. al.*, 292 SCRA 360 (1998)