

Republic of the Philippines  
SANDIGANBAYAN  
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff,

SB-13-CRM-0907

-Versus-

PRESENT:

PONFERRADA, J., Chairperson  
MIRANDA, &  
MUSNGI, \* JJ.

HARRY C. ANGPING, &  
EDMUNDO C. MONTANES,  
Accused.

Promulgated:

**MAY 30 2017**

x

R E S O L U T I O N

PONFERRADA, J.:

This refers to the following –

1. the *Motion for Leave to File Demurrer to Evidence* dated April 17, 2017, of accused Harry C. Angping;
2. the prosecution's *Comment/Opposition (To Accused Harry C. Angping's Motion for Leave to File Demurrer to Evidence)* dated April 24, 2017;
3. the *Motion for Leave to File Demurrer to Evidence* dated April, 23, 2015, with attached *Demurrer to Evidence* of accused Edmundo C. Montanes;
4. the prosecution's *Comment/Opposition (To Accused Edmundo C. Montanes' Motion for Leave to File Demurrer to Evidence)* dated May 10, 2017; and

\* Special Member in view of the vacancy in the 6<sup>th</sup> Division, per Administrative Order No. 124-2017 dated April 4, 2017.

5. the *Reply to Opposition/Comment To Accused Montanes' Motion for Leave to File Demurrer to Evidence*) dated May 23, 2017, of accused Edmundo C. Montanes.

After passing upon the entirety of the evidence presented by the prosecution consisting of both oral and documentary evidence *vis-a-vis* the elements of the offense charged in the Information, the Court is not inclined to grant leave to file demurrer to evidence. The accused, however, are given a non-extendible period of ten (10) days from notice within which to file, if they so desire, a Demurrer to Evidence without prior leave of court subject to the legal consequences set forth in Section 23, Rule 119 of the 2000 Rules of Criminal Procedure, which reads –

*SEC. 23. Demurrer to evidence. - After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) upon demurrer to evidence filed by the accused with or without leave of court.*

*“If the court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his defense. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution.*


*“The motion for leave of court to file demurrer to evidence shall specifically state its grounds and shall be filed within a non-extendible period of five (5) days after the prosecution rested its case. The prosecution may oppose the motion within a non-extendible period of five (5) days from its receipt.*

*“If leave of court is granted, the accused shall file the demurrer to evidence within a non-extendible period of ten (10) days from notice. The prosecution may oppose the demurrer to evidence within a similar period from its receipt.*

*“The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment.” (Emphasis supplied)*

**WHEREFORE**, the respective *Motions for Leave to File Demurrer to Evidence* of accused Harry C. Angping and Edmundo C. Montanes are **DENIED**.


**SO ORDERED.**

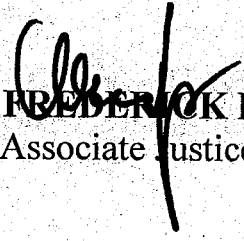
  
**RODOLFO A. PONFERRADA**  
Associate Justice  
Chairperson





**WE CONCUR:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**MICHAEL FREDERICK L. MUSNGI\***  
Associate Justice

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\* Special Member in view of the vacancy in the 6<sup>th</sup> Division, per Administrative Order No. 124-2017 dated April 4, 2017.