



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

Fifth Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-17-CRM-1423

- versus -

For: Violation of Section 3 (e) of R.A.
No. 3019

FILEMON M. GALSIM,

Present:

Accused.

LAGOS, J., *Chairperson*, CRUZ* and
MENDOZA-ARCEGA, JJ.

Promulgated:

August 17, 2017 *led*

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RESOLUTION

LAGOS, J.:

For resolution of this Court is the prosecution's Compliance/Manifestation¹ to this Court's Minute Resolution dated July 26, 2017 where this Court resolved that:

After perusing the Information and carefully assessing the resolution of the Office of the Ombudsman, the evidence in support thereof and the records of the preliminary investigation attached thereto, the Court finds the need for the prosecution to present additional evidence to provide sufficient grounds for the finding of probable cause, for the issuance of a warrant of arrest in this case.

WHEREFORE, the Office of the Ombudsman is ordered to submit additional evidence to establish the

* As per Administrative Order No. 025-2017 dated February 1, 2017.

¹ Filed August 4, 2017.

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existence of probable cause, within five (5) days from notice thereof.

So ordered.

In its Compliance/Manifestation, the prosecution stated that:

- (a) Upon verification with the Records Division of the Office of the Special Prosecutor, it was informed that all the records of the preliminary investigation conducted was forwarded to this Court, which are the same as the records transmitted to the undersigned.
- (b) Prior to the receipt of the Court's resolution, the undersigned sent two separate Subpoena Duces Tecum on August 1, 2017 to the Municipal Treasurer and the Municipal Accountant of the Municipality of Sta. Cruz, Occidental Mindoro, requesting for the submission of the Reports of Checks Issued and the Disbursement Vouchers and Checks Issued for the procurement and payment of petroleum, oil and other lubricants (POL) subject of this case.

RULING

Rule 112, Section 6 states that:

Section 6. When warrant of arrest may issue. — (a) *By the Regional Trial Court.* — Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused has already been arrested pursuant to a warrant issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to section 7 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint or information.

The function and duty for the determination of probable cause consists of two kinds. One is "executive," and the other is "judicial." The executive kind is one made during preliminary investigation and it is a function that rightly pertains to the public prosecutor, who is given a broad



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discretion to determine whether probable cause exists and to charge those whom he or she believes to have committed the crime as defined by law and thus should be held for trial. On the other hand, the **judicial** determination of probable cause is one made by the judge to ascertain whether a warrant of arrest should be issued against the accused. It is rooted on Article III, Sec. 2 of the 1987 Constitution which provides, among others, that no arrest warrant shall issue except upon probable cause to be determined personally by the judge. In this regard, the judge must be satisfied that based on the evidence submitted, there is necessity to place the accused under custody in order not to frustrate the ends of justice.² What the law requires as *personal determination* on the part of the judge is that he should not rely *solely* on the report of the investigating prosecutor. In the past, the Supreme Court has stressed that the judge should consider not only the report of the investigating prosecutor but also the affidavit and the documentary evidence of the parties, the counter-affidavit of the accused and his witnesses, as well as the transcript of stenographic notes taken during the preliminary investigation, if any, submitted to the court by the investigating prosecutor upon the filing of the Information.³

In *Teresita Tanghal Okabe v. Hon. Pedro De Leon Gutierrez*⁴, the Supreme Court pronounced that the purpose of the duty of the judge to first determine probable cause is to protect those falsely charged of crimes from the tribulations, expenses and anxiety of a public trial from the very start:

It must be stressed, however, that in these *exceptional cases*, the Court took the *extraordinary step* of annulling findings of probable cause either to prevent the misuse of the strong arm of the law or to protect the orderly administration of justice. *The constitutional duty of this Court in criminal litigations is not only to acquit the innocent after trial but to insulate, from the start, the innocent from unfounded charges.* For the Court is aware of the strains of a criminal accusation and the stresses of litigation which should not be suffered by the clearly innocent. The filing of an unfounded criminal information in court exposes the innocent to severe distress especially when the crime is not bailable. Even an acquittal of the innocent will not

² See Pamaran, Manuel R., *Revised Rule of Criminal Procedure Annotated*, 2012 ed., pp. 236-237, citing *People v. Castillo*, 590 SCRA 95.

³ *AAA v. Hon. Antonio Carbonell* (G.R. No. 171465, June 8, 2007).

⁴ G.R. No. 150185. May 27, 2004.

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fully bleach the dark and deep stains left by a baseless accusation for reputation once tarnished remains tarnished for a long length of time. The expense to establish innocence may also be prohibitive and can be more punishing especially to the poor and the powerless. *Innocence ought to be enough and the business of this Court is to shield the innocent from senseless suits right from the start.*

Citing *Doris Teresa Ho v. People of the Philippines*⁵, the Supreme Court explained that it is not required that the *complete* or *entire* records of the case during the preliminary investigation be submitted to and examined by the judge. What is required, rather, is that the judge must have *sufficient* supporting documents (such as the complaint, affidavits, counter-affidavits, sworn statements of witnesses or transcripts of stenographic notes, if any) upon which to make his independent judgment or, at the very least, upon which to verify the findings of the prosecutor as to the existence of probable cause. He cannot rely solely and entirely on the prosecutor's recommendation. Although the prosecutor enjoys the legal presumption of regularity in the performance of his official duties and functions, which in turn gives his report the presumption of accuracy, the Constitution commands the judge to *personally* determine probable cause in the issuance of warrants of arrest. He fails in his bounden duty if he relies merely on the certification or the report of the investigating officer.

Proceeding from the aforementioned rulings of the Supreme Court, it is incumbent on this Court to make its own independent determination of probable cause. Such a determination must be based on the documents originally attached to the resolution of the Ombudsman or, if those are found to be lacking, as was previously found in this case, whatever additional documents the prosecution thereafter provides. From said determination, this Court will proceed to either issue a warrant of arrest against the accused or dismiss the case.

Attached to the Information against accused Galsim was the Resolution of the Ombudsman finding probable cause, the Order of the Ombudsman denying accused's motion for reconsideration, the Amended Complaint by Ricardo Castro Sr., a Department of Trade and Industry Certification that the business name R4 Fuel Refilling Station is registered under the name of Lydia Catibog Rodriguez, the Certificate of Live Birth of Florence Masangkay Galsim, the Certificate of Live Birth of Eddie Catibog Rodriguez, the Certificate of Marriage of Florence Masangkay Galsim and

⁵ G.R. No. 106678, October 9, 1997.


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Eddie Catibog Rodriguez, an **unsigned** Summary of Transactions of the Municipality of Sta. Cruz Occidental Mindoro with R-4 Fuel Refilling Station for the Period from February 1, 2014 to December 31, 2014 allegedly prepared and submitted by Ricardo Castro Sr., the complainant, and accused Galsim and Eddie Catibog Rodriguez's Joint Counter-Affidavit. As stated in this Court's July 26, 2017 Resolution, these documents are insufficient to constitute sufficient grounds for a finding of probable cause, hence, the prosecution was ordered to submit additional evidence.

However, in its Compliance/Manifestation, the prosecution admitted that it possessed no other supporting documents apart from those originally attached to the Information and that it only subpoenaed additional documents on August 1, 2017. These originally attached documents were already found by this Court to be insufficient to constitute as grounds for probable cause. The documents only proved, at best, that accused Galsim's daughter was married to the son of the owner of the establishment named R-4 Fuel Refilling Station. There is no reliable proof of the purported transactions made at said R-4 Fuel Refilling Station, which is the heart of the charge of Section 3 (e) of Republic Act No. 3019. The Summary of Transactions prepared by the private complainant was not supported by any document which could establish the purchase and payment of the petroleum products. The prosecution in fact admits this as it only belatedly subpoenaed these source documents only on August 1, 2017. This summary of transactions was not even signed by the private complainant. The only piece of evidence that the prosecution appears to rely on is the complainant's affidavit which, for the most part, contains mere bare allegations. As mentioned, such bare allegations will not suffice to meet the standards of proof necessary to constitute probable cause. Therefore, given this lack of adequate supporting documents, this Court is constrained to dismiss this case for lack of probable cause.

WHEREFORE, premises considered, the charge of Section 3(e) of Republic Act No. 3019 against accused Filemon M. Galsim in SB-17-CRM-1423 is hereby **DISMISSED** for lack of probable cause.

SO ORDERED.

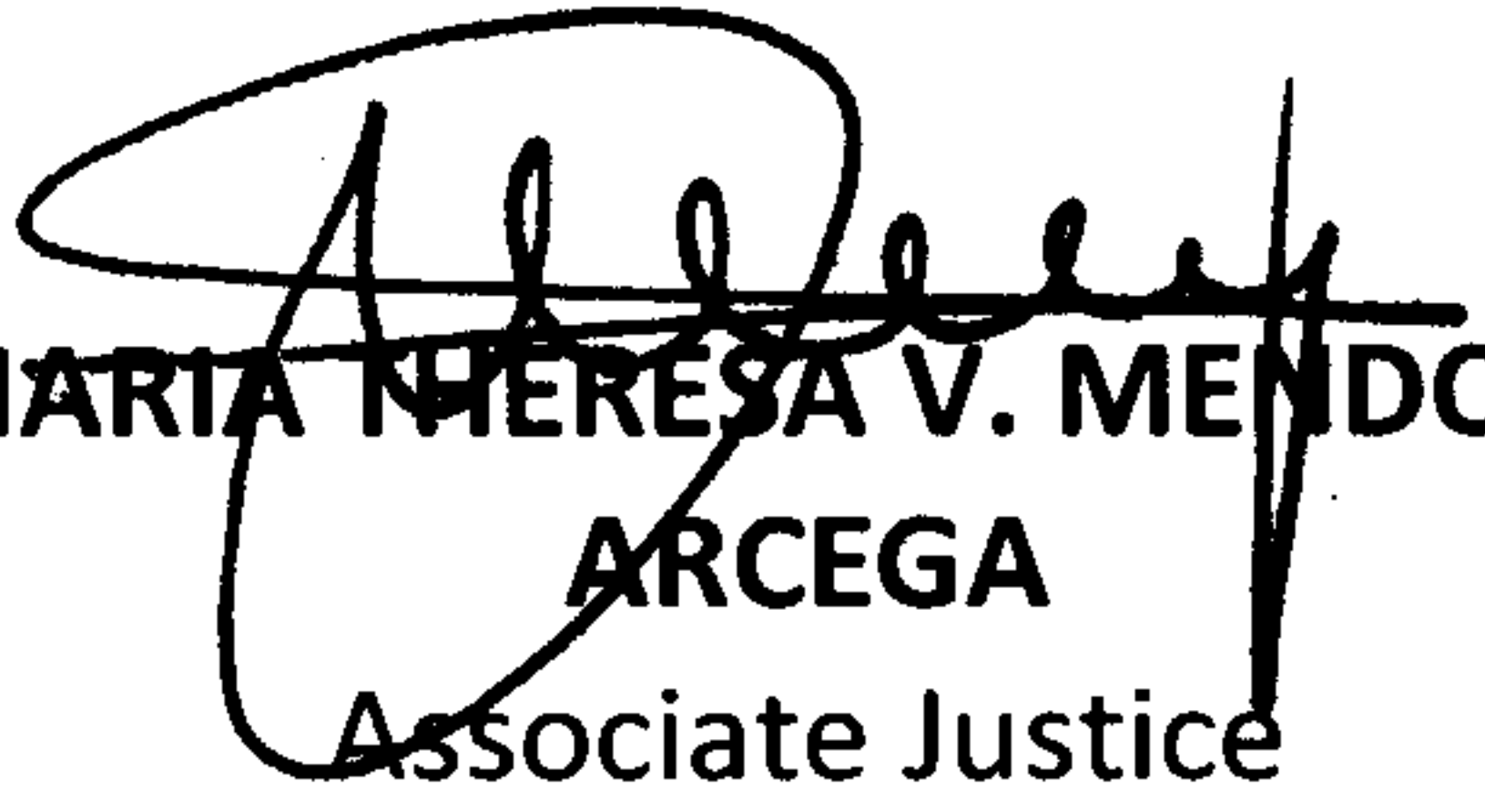

RAFAEL R. LAGOS
Associate Justice
Chairperson



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WE CONCUR:


REYNALDO P. CRUZ
Associate Justice


**MARIA MERESA V. MENDOZA-
ARCEGA**
Associate Justice

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