



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

versus

SB- 15-CRM – 0252-0279

For: Violation of Section 3(e)
of RA 3019, as amended.

P/C SUPT. RAUL PETRASANTA, ET AL.,
Accused.

Present:

PONFERRADA, J., Chairperson
MUSNGI, &
PAHIMNA, JJ.

Promulgated:

SEP 04 2017 *[Signature]*

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RESOLUTION

Ponferrada, J.:

This refers to the Motion for Reconsideration (of Resolution denying the Motion to Quash dated 28 March 2017) of accused Regino S. Catiis filed on August 10, 2017 (Motion); and the prosecution's Comment to the Motion for Reconsideration by accused Catiis (Re: Denial of His Motion to Quash) dated August 22, 2017.

After a careful study, the Court finds no valid reason to reconsider its previous action it appearing that the principal grounds/issues raised in the Motion are mere rehash/repetition of the grounds/issues in the Motion to Quash which were already considered and resolved in the Resolution sought

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to be reconsidered. It is well to reiterate the main portions of the assailed Resolution, to wit:

“The accused-movant is charged with violation of Section 3 (e) of R.A. 3019, as amended, which has the following elements:

1. that the accused is a public officer discharging administrative, judicial or official function;
2. that he must have acted with manifest partiality, evident bad faith, or gross inexcusable negligence; and
3. that his action caused undue injury to any party, including the government, or gave any party any unwarranted benefits, advantage or preference in the discharge of his official functions.¹

It is settled that a motion to quash is a hypothetical admission of the facts alleged in the Information, hence, the Court in resolving the instant Motion cannot consider facts contrary to those alleged in the information or which do not appear on the face of the information, except those admitted by the prosecution.² The test in resolving a motion to quash on the ground that the information charges no offense is whether the material facts alleged in the complaint or information will establish the essential elements of the offense charged as defined by law. The trial court may consider a situation contrary to that set forth in the criminal complaint or information. Facts which constitute the defense of the accused against the charge under the information must be proved during the trial. Such facts or circumstances do not constitute proper grounds for a motion to quash the information on the ground that the material averments do not constitute the offense.³

A reading of the assailed Informations shows that they allege essential elements of violation of Section 3 (e) of R.A. 3019. The Informations state that accused-movant and his co-accused, as high ranking public officials, in conspiracy with one another and with private individual Isidro Lozada, in the performance of their official functions as such, with manifest partiality and evident bad faith, wilfully, unlawfully and criminally facilitated, processed and approved the Applications for Firearms License with Administrative Control Nos. J-A 062539 (Case No. SB 15 CRM 0253), J-A 062538 (Case No. SB 15 CRM 0254), and A-J 062542 (Case No. SB 15 CRM 0255) of Claver Mineral Development Corporation for a total of fifty (50) units of AK47, by the use of spurious and/or incomplete documents and without complying with the Operating Procedure No. 13 on Licensing of Firearms, thereby giving unwarranted benefits, advantage and preference to individual accused Isidro Lozada and causing undue injury to the government.

By filing his Motion to Quash, accused-movant Catiis hypothetically admits the facts alleged in the Informations which clearly show a violation of Section 3 (e) of R.A. 3019.

¹ Jacinto v. Sandiganbayan, 178 SCRA 254.

² Regalado, Remedial Law Compendium, Vol. II, 10th Rev. Ed., p. 477 citing People v. Navarro, et al., 75 Phil. 516; People v. Cadabis, 97 Phil. 829; People v. Ferrer, 101 Phil. 234; People v. De la Rosa, etc., et al., L-34112, June 25, 1980.

³ Torres v. Garchitorena, 394 SCRA 494, 503 (2002) citing Cruz, Jr. vs. Court of Appeals 194 SCRA 145 (1991).

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On accused-movant's claim that the general allegation of conspiracy without specific acts attributed to him to show his participation makes the Informations incomplete, it may be mentioned that there is a distinction in the manner of alleging the indictment between conspiracy as a crime and conspiracy as a mode of committing a crime that must be set forth in the complaint or information. In *Estrada v. Sandiganbayan*⁴ the Supreme Court held that it is enough to allege conspiracy, as a mode of committing an offense, in either of the following manner: 1) by use of the word conspire, or its derivatives or synonyms, such as confederate, connive, collude, etc.: or 2) by allegations of basic facts constituting the conspiracy in a manner that a person of common understanding would know what is intended, and with such precision as would enable the accused to competently enter a plea to subsequent indictment based on the same facts.

In these cases, the "conspiracy" alleged is simply a mode of committing the offense because it is not the gravamen of the offense charged. As such, it is not necessary for the prosecution to allege specific acts attributed to accused-movant to warrant the sufficiency of Informations against him.

Movant's claims for details are not defect in the Informations. They are evidentiary matters which need not be stated in the Information but should be threshed out in full-blown trial. Thus, his claim that his participation in the offenses charged was in lawful exercise of his duty as a member of IABAC-TWG is a matter of defense.

Hence, it is quite clear that the assailed Informations are sufficient in form and substance and charge the accused-movant with offense of violation of Section 3 (e) of Republic Act 3019 for three (3) counts.

It must be emphasized, however, that the matter of whether or not accused-movant is guilty of the offense of violation of Section 3 (e) of R.A. 3019, including the alleged conspiracy, as charged in the Informations, is subject to the evidence to be presented by the parties in the trial of these cases. Of course, it is incumbent upon the prosecution to show the accused-movant's involvement or participation in the commission of the offense charged by proof beyond reasonable doubt."

As regards the alleged "constitutional dimension" of the Motion to Quash, a re-examination of the records reveals that movant-accused Catiis was already arraigned on January 27, 2017, a fact that the Court inadvertently failed to previously consider and which should have been an added reason/ground for the denial of the Motion to Quash. With the said arraignment, the movant-accused has recognized the validity of the subject Informations and acknowledged that he was duly informed of the charges against him. A motion to quash should be filed before an accused enters his plea pursuant to Section 1 Rule 117 of the Rules of Criminal Procedures, to wit:

Sec. 1. "Time to move to quash.- At any time before entering his plea,, the accused may move to

⁴ G.R. No. 148965, February 26, 2002.


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quash the complaint or information". (Emphasis supplied).

Otherwise, a motion to quash is no longer appropriate and should not be given due course and/or favourable action.

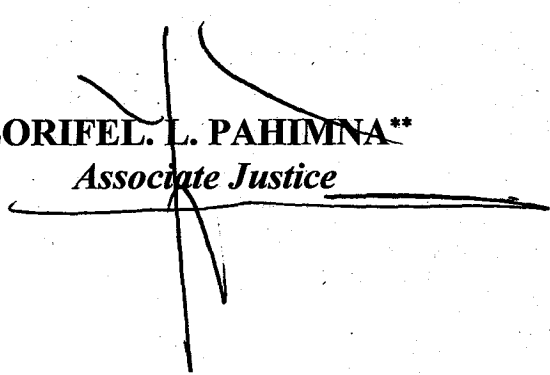
WHEREFORE, the Motion is **DENIED**.

SO ORDERED.


RODOLFO A. PONFERRADA
Associate Justice
Chairperson

WE CONCUR:


MICHAEL FREDERICK L. MUSNGI*
Associate Justice


LORIFEL L. PAHIMNA**
Associate Justice

* Sitting as Special Member in lieu of Justice Karl B. Miranda per Administrative Order No. 136-2016 dated May 16, 2017.

** Sitting as Special Member in view of the vacancy in the Sixth Division per Administrative Order no. 205-2017 dated May 31, 2017.