



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

SB-16-CRM-1207 and 1208
For: Violation of Section 3 (b) of
Republic Act (R.A.) No. 3019

-versus-

AL SANCHEZ VITANGCOL III and WILSON TIGNO DE VERA,

Accused,

PRESENT:

FERNANDEZ, S.J., *J.*, Chairperson
MIRANDA, &
MUSNGI¹, *JJ.*

Promulgated: **SEP 27 2017**

X-----X

RESOLUTION

MIRANDA, *J.*:

This resolves: 1) accused Al Sanchez Vitangcol III's (Vitangcol) Motion for Issuance of Subpoena *Duces Tecum* dated August 4, 2017; and 2) the Prosecution's Comment/Opposition dated August 14, 2017.

In his motion, accused Vitangcol invokes his constitutional right to the compulsory process of securing the production of evidence in his behalf. Accused Vitangcol seeks the issuance of a subpoena *duces tecum* to the director of the National Bureau of Investigation (NBI) directing him or any authorized representative to produce and bring to this Court the Final Report/Memorandum dated February 3, 2014 prepared by Agent Jose S. Gabriel, Jr. and Special Investigator James P. Calleja. Accused Vitangcol

¹ Special Member of the 6th Division as per A.O. No. 124-2017 dated April 4, 2017.

claims that the said final report/memorandum contains evidence material and relevant to prove his innocence in these cases.

In its comment/opposition, the Prosecution, through the Office of the Special Prosecutor, claims that the Final Report/Memorandum dated February 3, 2014 is a confidential information and the NBI and/or the Department of Justice (DOJ) should be given an opportunity to comment on the motion of the accused.


In *Chan v. Chan*,² the Supreme Court ruled that a request for a subpoena *duces tecum* during pre-trial is premature. The Supreme Court said that the movant will have to wait for the trial to begin before making a request for the issuance of a subpoena *duces tecum* covering the documents or records requested.

Since these cases are still in the pre-trial stage, the Court denies the Motion for Issuance of Subpoena *Duces Tecum* for being premature.

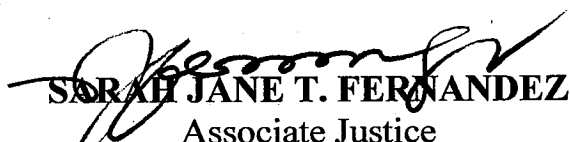
The objection to the admission of a documentary evidence, such as the final report/memorandum, is made after its offer.³ Thus, it is only when the final report/memorandum is produced for examination at the trial and offered by accused Vitangcol, if he desires, that the Prosecution may opt to object to its disclosure and admission in evidence on the ground of its alleged confidentiality.

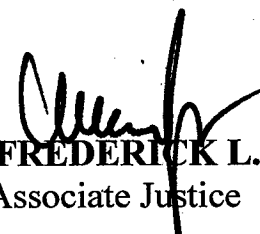
WHEREFORE, the Motion for Issuance of Subpoena *Duces Tecum* dated August 4, 2017 of accused Al Sanchez Vitangcol III is **DENIED**.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


MICHAEL FREDERICK L. MUSNGI
Associate Justice

² G. R. No. 179786, July 24, 2013.

³ See Section 36, Rule 132 of the Rules of Court.