



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

SB-CRM-17-0978

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

-versus-

PRESENT:

ROSELYN S. MAMON and SURIAN SAIDDI,

MURILLO-PHERHAM

Accused,

FERNANDEZ, S.J., J.,¹ Chairperson
MIRANDA, J., &
MUSNGI, J.²

Promulgated:

OCT 30 2017

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RESOLUTION

MIRANDA, J.:

This resolves: 1) Accused Pherham S. Saiddi's (Saiddi) Omnibus Motion dated May 24, 2017; 2) Accused Roselyn S. Murillo-Mamon's (Murillo-Mamon) Omnibus Motion to Quash Information and Motion for Judicial Determination of Probable Cause (with Prayer to Dismiss the Case Outright) dated May 25, 2017; 3) The Prosecution's Comment/Opposition (In re: Motion to Quash dated May 8, 2017) dated June 8, 2017; 4) Accused Murillo-Mamon's Manifestation dated June 19, 2017; 5) Accused Saiddi's Ex-Parte Motion to Admit Attached Reply and Reply both dated June 21, 2017; and 6) The Prosecution's Comment/Opposition (In re: Omnibus Motion to Quash Information and Motion for Judicial Determination of

¹ J. Ponferrada, Chairperson of the 6th Division when the present incident was submitted for resolution, retired on September 13, 2017. J. Fernandez, SJ will participate in the resolution of the present incident in view of her assumption as Chairperson of the 6th Division on the same date. (As per Administrative Order (A.O.) No. 314-2017 dated September 13, 2017, Re: 1) Letter of the Sandiganbayan, Rule VII, Section 2)

Probable Cause with Prayer to Dismiss the Case Outright) dated June 23, 2017.

In his omnibus motion, Saiddi alleges that there is no probable cause to hold him liable for violation of Section 3 (e) of R.A. No. 3019, and that the facts charged in the information do not constitute the offense.

In her omnibus motion to quash information and motion for judicial determination of probable cause, Murillo-Mamon argues that the facts charged in the information do not constitute an offense, and that she and Saiddi were illegally arrested. In her manifestation, Murillo-Mamon prayed that the list of documentary evidence enumerated therein be made part of her omnibus motion.

In the Prosecution's comments/oppositions, the Office of the Special Prosecutor (OSP) contends that: 1) The Court has already determined the existence of probable cause; 2) The information is sufficient and complies with Section 6, Rule 110 of the Rules of Court; 3) The facts of the case constitute an offense as the essential elements of Section 3 (e) of R.A. No. 3019 are present; 4) The matters raised by Saiddi and Murillo-Mamon are matters of defense; and 5) The allegation of illegal arrest is not a ground for the quashal of the information.

In his reply, Saiddi asserts that: 1) There is no actual injury to the government and/or private party; 2) The finding of probable cause for the purpose of issuing a warrant of arrest applies only to Murillo-Mamon because he posted bail before the warrant of arrest was issued against him; and 3) There is no conspiracy and unwarranted benefit in this case.

The Court will first rule on the motion to admit reply filed by Saiddi. The Order dated June 1, 2017 states that the Prosecution was given fifteen (15) days to submit its comment and/or opposition to the omnibus motion of Saiddi, and that thereafter, the matter shall be deemed submitted for resolution. Since the Order dated June 1, 2017 did not expressly prohibit the filing of a reply, the Court will admit the reply filed by Saiddi in the interest of justice.

On the substantive issues, the Court, after a thorough review of the case, holds that the motions filed by Saiddi and Murillo-Mamon are without merit.

The information filed against the accused reads:

That during the period from May 2013 to August 2013, or sometime prior or subsequent thereto, in Zamboanga City, Philippines, and within the jurisdiction of this Honorable Court, accused **ROSELYN S. MURILLO-MAMON**, a high-ranking public officer, being the Deputy City Prosecutor of Zamboanga City, and the handling prosecutor in Criminal Case No. 26697, a Frustrated Murder case pending before the Regional Trial Court, Branch 14, Zamboanga City, in such capacity and taking advantage of her official position, committing the crime in relation to her office, conspiring and confederating with **IPHERHAM SURIAN SAIDDI**, the defense counsel of Phon Mohammad and Dadoh Mansul in the above-mentioned case, acting with evident bad faith, manifest partiality and/or gross inexcusable negligence, did then and there willfully, unlawfully and criminally offer and give Police Officer III Flavio A. Enriquez, Jr. (Enriquez), the complainant in Criminal Case No. 26697, the amount of **Two Hundred Thousand Pesos (PhP200,000.00)**, in exchange for his desistance from pursuing the case against Phon Mohammad and Dadoh Mansul and implicating them in the crime, thereby giving Phon and Dadoh unwarranted benefits, advantage, and preference, and subverting the ends of justice.

CONTRARY TO LAW.

By filing a motion to quash, Saiddi and Murillo-Mamon hypothetically admit the facts alleged in the information which clearly show or constitute a violation of Section 3 (e) of R.A. No. 3019, as amended.

A motion to quash is a hypothetical admission of the facts alleged in the information. Hence, the court in resolving the 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.³ *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 not 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 prior grounds for a motion to quash the information.⁴

For a complaint or information to be sufficient, it must state the name of the accused, designation of the offense given by the statute, acts or omission complained of as constituting the offense, name of the offended party, approximate time of commission of the offense, and place where the offense was committed. What controls is the description of the crime charged and the particular facts recited therein. The acts or omission complained of must be sufficiently alleged to enable a person of common understanding to know the offense charged, and to enable the court to pronounce a proper judgment. No information for a crime will be sufficient if it does not accurately and clearly allege the elements of the crime charged.⁵

The elements of violation of Section 3 (e) of R.A. No. 3019 are: 1) The offender is a public officer; 2) The act was done in the discharge of the public officer's official, administrative, or judicial functions; 3) The act was done through manifest partiality, evident bad faith, or gross inexcusable negligence; and 4) The public officer caused any undue injury to any party, including the Government, or gave any unwarranted benefits, advantage or preference.⁶

A reading of the information shows the following facts: 1) Name of the accused – Roselyn S. Murillo-Mamon, in conspiracy with Pherham Surian Saiddi; 2) Designation of the offense – violation of Section 3 (e) of R.A. No. 3019, as amended; 3) Name of the offended party - Police Officer (PO) III Flavio A. Enriquez, Jr. (Enriquez, Jr.); 4) Approximate time of commission of the offense – during the period May 2013 to August 2013, or sometime prior or subsequent thereto; 5) Place of commission – Zamboanga City, Philippines; and 6) Acts or commission complained of – Murillo-Mamon, the Deputy City Prosecutor of Zamboanga City and handling prosecutor of a Frustrated Murder case, conspiring with Saiddi, taking advantage of her official position and committing the crime in relation to her office, acting with evident bad faith, manifest partiality and/or gross inexcusable negligence, offered and gave PO III Enriquez, Jr. Two Hundred

Thousand Pesos (PhP200,000.00), in exchange for his desistance from pursuing the case.

The information is sufficient and complete because all the required facts are stated therein. The facts clearly constitute the offense of violation of Section 3 (e) of R.A. No. 3019. The elements of the offense are accurately and clearly alleged in the information.

Murillo-Mamon argues that she was illegally arrested because it was done through an entrapment operation. The said argument is without merit because it is not a ground for the quashal of the information. Section 3, Rule 117 of the Rules of Court enumerates the grounds to quash the information: 1) The facts charged do not constitute an offense; 2) The court trying the case has no jurisdiction over the offense charged; 3) The court trying the case has no jurisdiction over the person of the accused; 4) The officer who filed the information had no authority to do so; 5) It does not conform substantially to the prescribed form; 6) More than one (1) offense is charged; 7) The criminal action or liability has been extinguished; 8) It contains averments, which if true, would constitute a legal excuse or justification; and 9) The accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent.

Even if the issue of illegal arrest is equated with the ground that the Court has not yet acquired jurisdiction over the person of the accused pursuant to Section 3 (c), Rule 117 of the Rules of Court, the quashal of the information based on the said ground must still be denied.

In *Miranda v Tuliao*,⁷ the Supreme Court held that jurisdiction over the person of the accused is acquired upon arrest or voluntary appearance. As a general rule, one who seeks affirmative relief is deemed to have submitted to the jurisdiction of the Court. An exception to the rule is when the accused invokes the special jurisdiction of the court by impugning such jurisdiction over his or her person. One of the ways by which the accused may impugn the Court's jurisdiction over his or her person is by filing a motion to quash on the said ground.

Entrapment is the employment of such ways and means for the purpose of trapping or capturing a lawbreaker in the execution of their

criminal plan.⁸ There is entrapment when law officers employ ruses and schemes to ensure the apprehension of the criminal while in the actual commission of the crime.⁹

Entrapment is sanctioned by the law as a legitimate method of apprehending criminals.¹⁰ Bare denials by the accused cannot overcome the presumption of regularity in the arresting officers' performance of official functions.¹¹ Credence is given to the narration of an incident by prosecution witnesses who are officers of the law and presumed to have performed their duties in a regular manner in the absence of evidence to the contrary.¹²

Prior to her posting of bail in this case, Murillo-Mamon was arrested through an entrapment operation. Since entrapment is legally recognized, Murillo-Mamon appears to have been lawfully arrested. Thus, the Court has acquired jurisdiction over her person.

The motion for the judicial determination of probable cause has become moot. The Court had already determined probable cause for the purpose of issuing a warrant of arrest against accused Saiddi and Murillo-Mamon in its minute proceedings held on May 25, 2017. The fact that Saiddi posted bail before the warrant of arrest was issued against him does not change the Court's finding of probable cause against both of them.

Notably, under the Revised Guidelines for Continuous Trial of Criminal Cases, which took effect on September 1, 2017, a motion for judicial determination of probable cause is a prohibited motion that shall be denied outright before the scheduled arraignment without need of comment and/or opposition.

It must be emphasized, however, that the innocence or guilt of the accused for violation of Section 3 (e) of R.A. No. 3019, as charged in the information, is subject to the evidence to be presented by the parties in the trial of the case.

WHEREFORE, the Omnibus Motion dated May 24, 2017 of accused Pherham S. Saiddi, and the Omnibus Motion to Quash Information and

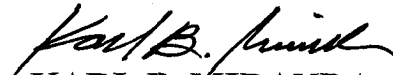
⁸ *People v. Pacis*, G.R. No. 146309, July 18, 2002; *People v. Bartolome*, G.R. No. 191726, February 6, 2013, citing *People v. Bayani*, G.R. No. 179150, June 17, 2008.

⁹ *People v. Periodica*, G.R. No. 73006, September 29, 1989, citing *Araneta v. Court of Appeals*, G.R. No. L-46638, July 9, 1986.

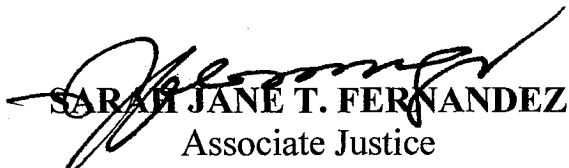
¹⁰ *People v. Lopez*, G.R. No. 173495, November 23, 2011.

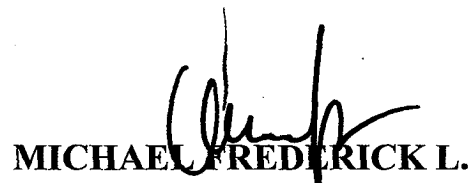
Motion for Judicial Determination of Probable Cause (with Prayer to Dismiss the Case Outright) dated May 25, 2017 of accused Roselyn S. Murillo-Mamon are **DENIED**. The arraignment of both accused shall proceed as scheduled.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


**MICHAEL FREDERICK L.
MUSNGI**
Associate Justice