



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, SJ, J., *Chairperson*
MIRANDA, J., &
MUSNGI, J.¹

Promulgated:

DEC 01 2017 *[Signature]*

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RESOLUTION

MIRANDA, J.:

This resolves: 1) Accused Roselyn S. Murillo-Mamon's Motion for Reconsideration (Of the Resolution dated October 30, 2017) dated November 7, 2017; and 2) The Prosecution's Comment/Opposition (In re: Accused Roselyn Murillo-Mamon's Motion for Reconsideration) dated November 16, 2017.

In her motion for reconsideration, the accused alleges that: 1) The facts charged in the information do not constitute an offense; 2) The information did not state that there was an actual desistance by Police Officer 3 Flavio A. Enriquez, Jr. (Enriquez); 3) She was illegally arrested; 4) Her Omnibus Motion included a motion to quash information which is a meritorious motion; and 5) The case should be dismissed on account of the admissions of PO3 Enriquez during his cross-examination at the Regional

¹ J. Musngi participated in the assailed Resolution (Per Administrative Order No. 124-2017 dated April 4, 2017; Revised Internal Rules of the Sandiganbayan, Rule IX, Sec. 2[a]).

[Handwritten signatures]

Trial Court of Quezon City (RTC Quezon City), Branch 98, on October 23, 2017.

In its comment/opposition, the Prosecution, through the Office of the Special Prosecutor (OSP), contends that: 1) The issues on sufficiency of the information and the alleged illegal arrest have already been exhaustively discussed and scrutinized by the Court; 2) The accused failed to raise new matters to warrant the reconsideration of the assailed resolution; 3) The Transcripts of Stenographic Notes (TSNs) containing the alleged admissions of PO3 Enriquez were not certified by the appropriate officer of the court and not binding on the Court; and 5) The alleged admission of PO3 Enriquez are matters of defense that may be passed upon and threshed out in a full-blown trial on the merits.

After a restudy of the grounds raised in the motion for reconsideration, the Court finds no valid reason to reconsider its Resolution dated October 30, 2017 denying the omnibus motion to quash information and motion for judicial determination of probable cause of the accused. The issues and arguments raised by the accused in her motion for reconsideration are a mere rehash and a repetition of the same issues and arguments raised in her Omnibus Motion to Quash Information and Motion for Judicial Determination of Probable Cause (with Prayer to Dismiss the Case Outright) dated May 25, 2017. These issues and arguments have already been considered and passed upon by the Court in the assailed Resolution dated October 30, 2017. There being no new matters or issues raised to warrant a reversal thereof, the motion for reconsideration of the accused must be **denied**.

To reiterate, the accused hypothetically admitted the facts alleged in the information when she filed a motion to quash.² The question that must be answered is whether such allegations are sufficient to establish the elements of the crime charged without considering matters *aliunde*.³

In this case, the information is sufficient and complete because all the required facts pursuant to Section 6, Rule 110 of the Rules of Court and the elements of Violation of Section 3(e) of R.A. No. 3019, as amended, are accurately and clearly alleged therein.

The court may consider facts or circumstances extraneous to the information or complaint if admitted by the Prosecution or not denied by it.

² *People v. De la Rosa*, L-34112, June 25, 1980.

³ *People v. Sandiganbayan*, G.R. No. 160619, June 25, 1980.



This rule does not apply if the Prosecution opposed the motion to quash, as in this case.⁴

The allegation of the accused that she was illegally arrested is without merit. The accused was arrested through an entrapment operation which is sanctioned by the law.⁵ The Court, thus, acquired jurisdiction over the person of the accused.⁶ Bare denials by the accused cannot overcome the presumption of regularity in the arresting officers' performance of official functions.⁷ 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.⁸

With regard to the TSNs containing the alleged admissions of PO3 Enriquez, the Court cannot take cognizance thereof at this time. The TSNs are merely transcripts of the proceedings of a case pending before the RTC Quezon City. While the TSNs are public documents,⁹ the RTC Quezon City has neither decided the case nor made any finding of relevance and materiality on the alleged admissions of PO3 Enriquez. The probative value¹⁰ of the alleged admissions of PO3 Enriquez in the TSNs, if any, is still to be determined by the RTC Quezon City when the case is decided on the merits. Again, findings by the RTC Quezon City, if any, is not even binding upon this Court as it has to make its own determination of the relevance and materiality of the alleged admissions of PO3 Enriquez at the proper time in case he testifies before the Court or the TSNs are offered in evidence.

The alleged admissions of PO3 Enriquez in the TSNs are also matters *aliunde* which cannot be considered in resolving a motion to quash.¹¹ The alleged admissions of PO3 Enriquez, including other matters raised by the accused in her motion for reconsideration, are matters of defense which are best threshed out during a full-blown trial on the merits. Thus, the Court cannot consider the alleged admissions of PO3 Enriquez before the RTC Quezon City at this time.

⁴ *Torres v. Garchitorena*, G.R. No. 153666, December 27, 2002.

⁵ *People v. Legaspi*, G.R. No. 173485, November 23, 2011.

⁶ *Miranda v. Tuliao*, G.R. No. 158763, March 31, 2006.

⁷ *People v. Pacis*, G.R. No. 146309, July 18, 2002.

⁸ *People v. Boholst*, G.R. No. 73008, July 23, 1987.

⁹ *Republic v. Marcos-Manotoc*, G.R. No. 171701, February 8, 2012.

¹⁰ Probative value refers to the question of whether the admitted evidence proves an issue. A particular item of evidence may be admissible, but its evidentiary weight depends on judicial evaluation within the guidelines provided by the rules of evidence (*Lepanto Consolidated Mining Company v. Dumapis*, G.R. No. 163210, August 13, 2008).

¹¹ *People v. Sandiganbayan*, G.R. No. 160619, June 25, 1980.



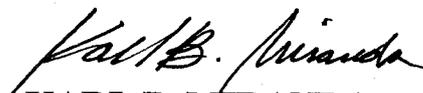
It must be emphasized that the innocence or guilt of the accused for violation of Section 3(e) of R.A. No. 3019, as charged in the information, is subject to the evidence to be presented by the parties in the trial of the case.

Anent the claim of the accused that the omnibus motion is a meritorious motion as it includes a motion to quash, the Court agrees that a motion to quash on the ground that the facts charged do not constitute an offense is indeed a meritorious motion. The portion of the omnibus motion that seeks a judicial determination of probable cause is prohibited under the Revised Guidelines for Continuous Trial of Criminal Cases, which took effect on September 1, 2017.

In any case, an executive determination of probable cause is one made during preliminary investigation. It is a function that properly pertains to the public prosecutor who is given a broad discretion to determine whether probable cause exists and to charge those whom he believes to have committed the crime as defined by law and thus should be held for trial. The Court can only determine probable cause for the purpose of issuing a warrant of arrest against the accused.¹² The Court already did this when it issued a warrant of arrest against the accused on May 25, 2017.

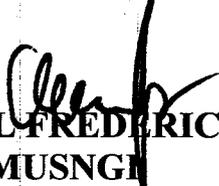
WHEREFORE, the Motion for Reconsideration dated November 7, 2017 of accused Roselyn S. Murillo-Mamon is **DENIED**. The Resolution of the Court promulgated on October 30, 2017 is **AFFIRMED**.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


MICHAEL FREDERICK L. MUSNGI
Associate Justice

¹² *Leviste v. Alameda*, G.R. No. 182677, August 2, 2010, 626 SCRA 575.