



REPUBLIC OF THE PHILIPPINES  
Sandiganbayan  
Quezon City

**SIXTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff,

**SB-16-CRM-0455**

For: Violation of Section 5(d) of  
P.D. No. 449 (Cockfighting Law of  
1974), as amended

- versus -

**AGUSTIN ERNESTO G. BASCON,**  
Accused.

Present:

**FERNANDEZ, SJ, J.**  
Chairperson  
**MIRANDA, J.** and  
**MUSNGI, J.\***

Promulgated:

**APR 18 2018**

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**RESOLUTION**

**FERNANDEZ, SJ, J.**

This resolves the *Motion for Leave to File Attached Demurrer to Evidence*<sup>1</sup> filed by accused Agustin Ernesto G. Bascon on April 3, 2018, together with the *Comment/Opposition (Re: Motions for Leave of Court to File Attached Demurrer to Evidence)*<sup>2</sup> filed by the prosecution on April 10, 2018.

Accused Bascon contends that the prosecution failed to adduce sufficient evidence to prove his guilt beyond reasonable doubt; the prosecution failed to present the material witnesses to prove their case.<sup>3</sup>

\* Per Administrative Order No. 057-2018 dated January 29, 2018, Special Member in view of the vacancy in the Sixth Division. The *Motion* was submitted for resolution upon receipt by the Court of the prosecution's *Comment/Opposition (Re: Motions for Leave of Court to File Attached Demurrer to Evidence)* on April 10, 2018.

<sup>1</sup> Dated April 2, 2018.

<sup>2</sup> Dated April 5, 2018.

<sup>3</sup> Motion for Leave to File Attached Demurrer to Evidence dated April 2, 2018, p. 2.

**RESOLUTION**

*People vs. Bascon*

*Criminal Case No. SB-16-CRM-0455*

Page 2 of 2

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The prosecution, on the other hand, argues that it was able to prove the existence of all the elements of the crime of violation of Section 5(d) of P.D. No. 449, as amended.<sup>4</sup>

After a careful study of the documentary and testimonial evidence submitted by the prosecution, the Court finds that, if unrebutted, the same is sufficient to convict the accused. The Court hereby **DENIES** the *Motion for Leave to File Attached Demurrer to Evidence* filed by accused Bascon.

This is without prejudice to the filing by the accused of a *Demurrer to Evidence* without prior leave of court, but subject to the legal consequence provided under *Section 23, Rule 119 of the Revised Rules of Criminal Procedure*, that is, he shall waive his right to present evidence and is submitting this case for judgment on the basis of the evidence adduced by the prosecution.

The accused is given a period of five (5) days from receipt of this Resolution within which to file his *Manifestation*, by personal filing and service or through courier, to inform this Court whether he will file a *Demurrer to Evidence*, without leave of court.

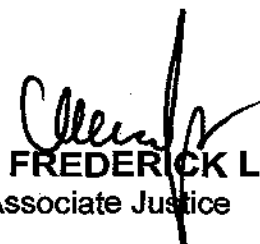
The hearings for the accused to present his evidence tentatively set on May 28 and 29, and, June 13 and 14, 2018, all at 1:30 in the afternoon, are maintained. The said scheduled dates will be considered automatically cancelled upon receipt by the Court of the *Demurrer to Evidence* of the accused.<sup>5</sup>

**SO ORDERED.**

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**WE CONCUR:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**MICHAEL FREDERICK L. MUSNGI**  
Associate Justice

<sup>4</sup> Comment/Opposition (Re: Motions for Leave of Court to File Attached Demurrer to Evidence) dated April 5, 2018, p. 1.

<sup>5</sup> Pursuant to A.M. No. 15-06-10-SC, Revised Guidelines for Continuous Trial of Criminal Cases