

**REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY**

SPECIAL THIRD DIVISION

**PEOPLE OF THE
PHILIPPINES,**

**THE
Plaintiff,**

**Criminal Case No. SB-12-
CRM-0062**

For: Violation of Section 3(e),
Republic Act (R. A.) No. 3019,
as amended

- versus -

**VICTOR A. MAAMBONG, et
al.**

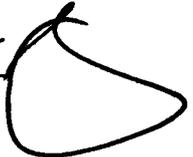
Accused.

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Present:

CABOTAJE-TANG, P.J.,
Chairperson
FERNANDEZ, B. J. and
TRESPESES, Z.,¹ J.

Promulgated:

JUNE 25, 2018 

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RESOLUTION

CABOTAJE-TANG, PJ:

For resolution is the *Motion for Reconsideration (To the Resolution of March 1, 2018)* dated April 3, 2018, filed by accused Teodora Limcangco,² which denied her motion to quash.³

The accused-movant argues that the factual *milieu* in **Soriano vs. People**, a case cited by the Court, is not applicable to her. According to her, the accused in **Soriano** merely advanced a theory without any form of evidence at the onset of the case to support his motion to quash. In this case,

¹ J. Zaldy V. Trespeses is a signatory to the assailed Resolution.

² pp. 95-103, Vol. IV, Record

³ pp. 95-103, Vol. IV, Record



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as well as in the **Dela Rosa** and **Salonga** cases, the evidence established in the course of the trial is purportedly insufficient to convict her of the offense charged. Thus, she contends that **Soriano** cannot be made the basis for denying her motion to quash.⁴ She also argues that the mere fact that she affixed her signature in the Articles of Incorporation of Perdido Lex Foundation does not establish conspiracy. According to her, the prosecution had already rested its case and none of the six (6) witnesses it presented mentioned her name.⁵

The prosecution filed its opposition to the subject motion. It claims that accused Limcangco's arguments are mere reiteration of her arguments in her motion to quash which were judiciously passed upon by the Court. It contends that the Court correctly found that the issues raised by accused Limcangco are matters of defense. It further claims that the evidence show that Limcangco is one of the incorporators of Perdido Lex Foundation; hence, she cannot feign ignorance of the deceit that the foundation and her co-accused committed against the Provincial Government of Cebu and its youth.⁶

The Court finds the subject motion for reconsideration bereft of merit.

First. Section III, paragraph 2 (c) of A.M. No.15-06-10-SC or the Revised Guidelines for Continuous Trial of Criminal Cases provides:

2. Motions

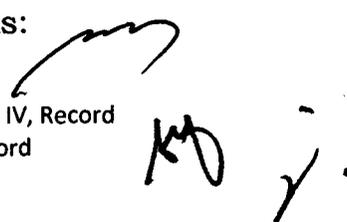
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(c) Meritorious Motions. - Motions that allege plausible grounds supported by relevant documents and/ or competent evidence, except those that are already covered by the Revised Guidelines, are meritorious motions, such as:

⁴ pp. 2-5, Motion for Reconsideration; pp. 96-99, Vol. IV, Record

⁵ p. 5, Motion for Reconsideration; p. 99, Vol. IV, Record

⁶ pp. 139-142, Vol. IV, Record



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... ..

The motion for reconsideration of the resolution of a meritorious motion shall be filed within a non-extendible period of five (5) calendar days from receipt of such resolution, and the adverse party shall be given an equal period of five (5) calendar days from receipt of the motion for reconsideration within which to submit its comment. Thereafter, the motion for reconsideration shall be resolved by the court within a non-extendible period of five (5) calendar days from the expiration of the five (5)-day period to submit the comment.

Accused Limcangco herself admits that she received a copy of the assailed Resolution on March 21, 2018.⁷ Thus, she had until March 26, 2018 within which to file her motion for reconsideration. However, she filed the subject motion for reconsideration only on April 6, 2018. Clearly, the subject motion was filed out of time.

At any rate, even if the subject motion were reasonably filed, the same lacks merit.

Second. An examination of the subject motion for reconsideration shows that accused Limcangco has not raised any cogent reason that would warrant a reversal of this Court's Resolution promulgated on March 1, 2018. She merely questions the Court's non-application of **Dela Rosa** as an exception to the settled jurisprudence that evidence *aliunde* or matters extrinsic from the information are not to be considered in the resolution of a motion to quash.

To be sure, this issue had been duly considered and passed upon by the Court in its assailed Resolution. As ruled by the Court, there is no reason to consider evidence *aliunde* in the resolution of accused Limcangco's motion to quash. Thus, the settled jurisprudence that facts that constitute the

⁷ p. 1, Motion for Reconsideration; p. 95, Vol. IV, Record



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defense of the accused do not constitute proper grounds for a motion to quash the information on the ground that the material averments do not constitute the offense as cited in **Soriano** prevails, to wit:⁸

Indeed, it is jurisprudentially-entrenched that when the accused avails himself or herself of a motion to quash, the accused hypothetically admits the facts alleged in the information. Evidence *aliunde* or matters extrinsic from the information are not to be considered.

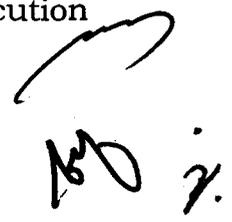
In **Dela Rosa**, the Supreme Court declared that the ruling therein admits of exceptions such as when additional facts not alleged in the Information are admitted by the prosecution or are not denied by it:

As a general proposition, a motion to quash on the ground that the allegations of the information do not constitute the offense charged, or any offense for that matter, should be resolved on the basis alone of said allegations whose truth and veracity are hypothetically admitted. However, as held in the case of *People vs. Navarro*, **additional facts not alleged in the information, but admitted or not denied by the prosecution may be invoked in support of the motion to quash.** Former Chief Justice Moran supports this theory.

... ..

Indeed, where in the hearing on a motion to quash predicated on the ground that the allegations of the information do not charge an offense, facts have been brought out by evidence presented by both parties which destroy the prima facie truth accorded to the allegations of the information on the hypothetical admission thereof, as is implicit in the nature of the ground of the motion to quash, it would be pure technicality for the court to close its eyes to said facts and still give due course to the prosecution

⁸ pp. 5-1, Resolution promulgated on March 1, 2018; pp. 74-79, Vol. IV, Record

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of the case already shown to be weak even to support possible conviction, and hold the accused to what would clearly appear to be a merely vexatious and expensive trial, on her part, and a wasteful expense of precious time on the part of the court, as well as of the prosecution.

In **Dela Rosa**, therein private respondent was accused of violation of Section 3602 of the Tariff and Customs Code for failure to declare the gold bars before the customs authorities thereby avoiding payment of duties and taxes. He filed a motion to quash the Information on the ground that the facts charged in the Information do not constitute an offense which was granted by the trial court. In affirming the trial court's order, the Supreme Court declared:

Indeed, where in the hearing on a motion to quash predicated on the ground that the allegations of the information do not charge an offense, facts have been brought out by evidence presented by both parties which destroy the *prima facie* truth accorded to the allegations of the information on the hypothetical admission thereof, as is implicit in the nature of the ground of the motion to quash, it would be pure technicality for the court to close its eyes to said facts and still give due course to the prosecution of the case already shown to be weak even to support possible conviction, and hold the accused to what would clearly appear to be a merely vexatious and expensive trial, on her part, and a wasteful expense of precious time on the part of the court, as well as of the prosecution.

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Significantly, the facts and admission as brought out through the presentation of evidence by the parties which the respondent court considered in reaching its conclusion that

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the motion to quash may be granted, as was done in its questioned order, could no longer be disputed at this late hour, as the petitioner would try vainly to dispute in the instant petition for certiorari, which petition implies a waiver of the right to question the findings of facts of the respondent court. What are these facts?

(a) That under Executive Order No. 408 (56 O.G. 28, November 1960), international tourism is sought to be encouraged to enhance our prestige abroad and strengthen our economy.

(b) To accomplish this purpose, all government offices and agencies are ordered to suspend their forms which are required of foreign tourists to accomplish upon applying for admission to or upon entering the country, who will then not be required to file a customs declaration form and their luggage shall "be exempt from customs examination if an oral examination proves satisfactory."

(c) In Customs Memorandum Circular No. 130-67 of July 21, 1967 (Annex J to Petition) implementing Executive Order No. 408, the foreign tourist "shall not be subject to customs examination."

(d) The accused had a confirmed booking from Manila (MIA) to Taipeh, Republic of China with scheduled departure the day following her arrival at MIA, as shown by her passport and her air ticket, documents which were not attached to the petition, but should have been, for a fair disclosure to this Court of all pertinent and relevant facts. These documents were supplied in respondents' Answer.

(e) As shown by the stamped notation of the examining immigration inspector on the passport of the accused, the latter was admitted as a tourist under Executive Order No. 408, and pursuant to Memorandum Circular of the



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Commissioner of Immigration on December 28, 1960, 16 accused was admitted under Section 9(b) of the Philippine Immigration Act of 1940, as amended, in relation to Executive Order No. 408, without the need of being required to apply, or to hold a Philippine transit visa, since she was allowed to debark and to re-embark after a stay in the Philippine territory not longer than 72 hours, by virtue of which, accused was exempted from both customs declaration and examination.

From the foregoing facts, the allegations in the Amended Information as to the alleged falsity of the customs declaration, the alleged omission and other supposedly false statements become immaterial for being not required to be made under Executive Order No. 408 and the implementing rules. The declaration, statements and omissions are therefore, mere superfluities insofar as accused is concerned. As adverted to earlier, the "forms" were suspended and need not be accomplished by the said accused. The forms so suspended, would of necessity, include whatever form would be required to be accomplished or to be issued by the Central Bank by way of a license or written permission as mentioned in the "Certification of Declarant," on the reverse side of which is an enumeration where "written permission from proper authority" is required. The enumeration, it may be noted, does not include gold bars.

... ..

That the gold bars were never imported, nor intended to be imported, as the respondent court observed, cannot but meet with Our approval in the light of the undeniable fact that the accused carried them with her in exactly the same way when she debarked from the air carrier, when she was to board the plane that would bring her to her real destination, Taipeh, after spending only a night at the Manila Hilton



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Hotel. There being no importation to speak of, it cannot be said that, as is the essence of the charge against the accused, the latter defrauded the government of the duties and charges due the articles, if imported.

In this case, the Court finds that there is no justifiable reason to consider evidence *aliunde* in the resolution of the subject motion to quash. The accused-movant points to the alleged fact that she had no participation in the accreditation of Perdidio Lex Foundation, Inc. and in the release of the public funds in favor of the said foundation; that there is no conspiracy because her name was never mentioned by the prosecution witnesses; and, that she did not act with bad faith, manifest partiality and/or gross inexcusable negligence. These alleged "facts" which the accused-movant claims are extant in the records actually constitute her defenses.

Facts that constitute the defense of the accused against the charge under the information must be proved by her during 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.

Further, the accused-movant is charged in conspiracy with the other accused. As the prosecution correctly points out, it is not necessary that the accused-movant participated in each and every act which led to the consummation of the crime.

In sum, even on the merits, the motion fails to present any substantial arguments to warrant a reconsideration of the Court's Resolution promulgated on March 1, 2018.

WHEREFORE, the Court **DENIES** accused Teodora Limcangco's *Motion For Reconsideration (To the Resolution of March 1, 2018)* dated April 3, 2018, for being *pro forma* and for lack of merit.

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Resolution

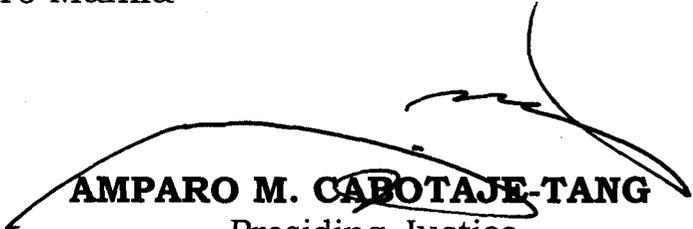
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SO ORDERED.

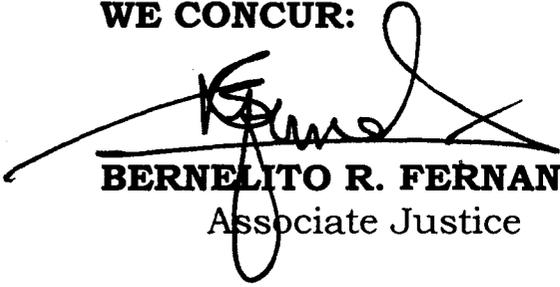
Quezon City, Metro Manila



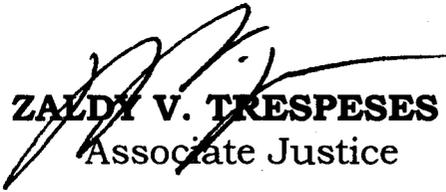
AMPARO M. CABOTAJE-TANG

Presiding Justice
Chairperson

WE CONCUR:



BERNELITO R. FERNANDEZ
Associate Justice



ZALDY V. TRESPESES
Associate Justice