



Republic of the Philippines

*SANDIGANBAYAN*

Quezon City

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff,*

- *versus* -

**SB-18-CRM-0009**

*For: Violation of Section 3(f),  
RA 3019, as amended*

**MARIO S. AGUSTIN, OFELIA  
C. CRUZ, ROSALINDA M.  
MARCOS, MA. ISABEL O.  
AVENDAÑO, ANICIA  
CONCEPCION-MARQUEZ and  
MARLON F. SORIANO**

*Accused.*

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*Present:*

**CABOTAJE-TANG, A., PJ**  
*Chairperson*  
**FERNANDEZ, B., J**  
**FERNANDEZ, S.J.\*, J**

**Promulgated on:**

JUNE 18, 2018

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**R E S O L U T I O N**

**FERNANDEZ, B. J.;**

For resolution is the Motion dated February 28, 2018 filed, through counsel, by one of the accused, Anicia Concepcion-Marquez, seeking to quash the Information filed against her and her co-accused for violation of Section 3(f) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, the accusatory portion of which reads as follows - -

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That on 20 August 2014, or sometime prior or subsequent thereto, in the Municipality of Pandi, Province of Bulacan, Philippines, and within the jurisdiction of the Honorable Court, accused **MARIO S. AGUSTIN, OFELIA C. CRUZ, ROSALINDA M. MARCOS, MA. ISABEL O. AVENDAÑO, ANICIA CONCEPCION-MARQUEZ** and **MARLON F. SORIANO**, all high-ranking public officers, being the Chairman, Vice-Chairman, Secretary and Members, respectively, of the Board of Directors of Pandi Water District, Bulacan, a government-owned and controlled corporation, while in the performance of their administrative and/or official function and committing the crime in relation to their office, taking advantage of their official positions, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and criminally neglect or refuse to act, without sufficient justification and after the lapse of a reasonable time after due demand or request was made upon them by Elvira Socorro B. Santos from 29 March 2011 to 20 August 2014, for the payment of her back wages pursuant to the Civil Service Commission Decision dated 6 October 2011, thereby discriminating against Elvira Socorro B. Santos.

**CONTRARY TO LAW.**

In her Motion, accused-movant Marquez alleges that the facts charged do not constitute an offense and that it contains an averment which, if true, would constitute a legal excuse or justification. She also claims that the allegations in the Information cannot be used to indict her as conspiracy is never presumed and must be established by positive and conclusive evidence.

Elaborating, accused-movant Marquez insists that the allegations in the Information cannot pertain to her as she only started participating as a member of the Pandi Water District (PWD) Board on April 7, 2014, while private complainant Elvira Socorro B. Santos was reinstated on April 28, 2014. The backwages of private complainant Santos could not yet be paid at that time because PWD was in financial distress and incurring losses.



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Further, accused-movant claims that she was not yet a member of the PWD Board when private complainant was terminated as General Manager, hence, she bears no grudge against the private complainant, thereby negating any criminal intent on her part.

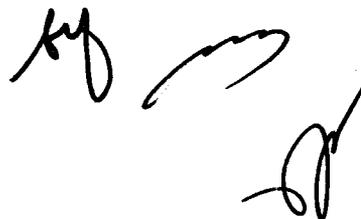
Accused-movant Marquez also contends that the demand of the private complainant for backwages did not remain unacted by the PWD Board. In fact, Resolution No. 45 dated December 2014 was passed by the PWD Board, approving the payment of backwages of the private complainant and appropriating funds for the purpose from the 2015 budget. The accused-movant adds that the private complainant began receiving her backwages in January 2015.

The accused-movant further avers that it would be highly speculative for the private complainant to assume that the PWD Board acted on her request for payment of backwages only after she filed criminal and administrative complaints before the Office of the Ombudsman. The accused-movant was unaware of any complaint filed against her until she received a Summons from the Office of the Ombudsman on March 2, 2015, after the PWD Board had already passed the Resolution approving the payment of the backwages of the private complainant.

In its Opposition dated March 12, 2018, the prosecution posits that the claims and defenses of the accused-movant are evidentiary in nature, best passed upon in a full-blown trial, where her witnesses can be subjected to cross-examination and her documentary evidence evaluated on its probative value.

The prosecution further argues that the delay of eight (8) months from the date when the private complainant was reinstated to her position still constituted undue delay, in light of the Decision of the Civil Service Commission which attained finality after the Court of Appeals dismissed on January 28, 2013 the Petition of the PWD without further appeal. The reinstatement of the private complainant to her position as General Manager with payment of backwages should have already been processed by then.

The Motion is bereft of merit.

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It has been a consistent jurisprudential guide that the fundamental test in considering a motion to quash is whether the facts alleged, if hypothetically admitted, will establish the essential elements of the offense as defined in the law (Cruz, Jr. vs. CA, G.R. No. 83754, February 18, 1991).

This was further elucidated in *People vs. Sandiganbayan, et al.* (G.R. No. 160619, September 9, 2015), where we were taught that the question that must be answered is whether such allegations are sufficient to establish the elements of the crime charged without considering matters *aliunde*. Clearly, this Court cannot go beyond the very text of the Information in resolving the subject Motion to Quash.

Nevertheless, we took note of Section 3(f) of R. A. No. 3019. It provides - - (f) Neglecting or refusing, after due demand or request, without sufficient justification, to act within a reasonable time on any matter pending before him for the purpose of obtaining directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage, or for the purpose of favoring his own interest or giving undue advantage in favor of or discriminating against any other interested party.

Guided by the foregoing, a perusal of the allegations in the Information will reveal that the elements of Section 3(f) have been met. Thus, the averments found in the Information, if hypothetically admitted, charge a specific offense and provide how the offense was committed.

Neither does this Court see any allegation in the Information which may be considered as a legal excuse or justification.

The presentation of voluminous documents by the accused-movant to prove the then financial incapacity of the PWD Board and her insistent positions that she lacks criminal intent and no delay occurred, remain defenses best raised and ventilated during the trial on the merits.

Anent the absence-of-conspiracy posture of the accused-movant, jurisprudence is abounding with pronouncements that conspiracy is never presumed. Like the physical acts constituting the crime itself, the elements of conspiracy must be proven beyond reasonable doubt. (Tan

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vs. People, G.R. No. 218902, October 17, 2016). Therefore, the presence or absence of conspiracy is also a matter of evidence which this Court may only pass upon after a discerning appreciation of all the evidence submitted before it. If, at all, any pronouncement made at this stage is, at most, premature.

**WHEREFORE**, premises considered, the Motion to Quash dated February 28, 2018 of accused-movant Anicia Concepcion-Marquez is hereby **DENIED** for lack of merit.

**SO ORDERED.**

  
**BERNELITO R. FERNANDEZ**  
*Associate Justice*

We concur:

  
**AMPARO M. GABOTAJE-TANG**  
*Presiding Justice*  
Chairperson

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