



**REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY**

SPECIAL THIRD DIVISION

**PEOPLE OF
PHILIPPINES,**

OF

THE

Plaintiff,

-versus -

**JEJOMAR ERWIN S. BINAY,
JR., et al.**

Accused.

**Criminal Cases Nos. SB-16-
CRM-0439 and 0442**

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

**Criminal Cases Nos. SB-16-
CRM-0443**

*For: Malversation of Public
Funds*

Present:

**CABOTAJE-TANG, PJ
FERNANDEZ, B., J. and
TRESPESES, Z.,¹ J.**

*Promulgated
JULY 6, 2018*

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RESOLUTION

CABOTAJE-TANG, P.J.:

For resolution is accused Jejomar Erwin S. Binay, Jr.'s (1) *Motion To Admit Attached Supplement to Motions for Reconsideration With Additional Ground to Quash Informations;* and (2) *Supplement to Motions for Reconsideration With*

¹ J. Zaldy V. Trespeses is a signatory to the Resolution promulgated on February 22, 2018.

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Additional Ground to Quash Informations, both dated May 10, 2018.²

Accused Binay, Jr. prays for the quashal of the *Informations* in Criminal Cases Nos. SB-16-CRM-0439, 0442, 0080 and 0084 on the ground that the said *Informations* charge more than one (1) offense.³ According to accused Binay, Jr., the said ground became apparent only after he was indicted in Criminal Cases Nos. SB-18-CRM-0153, 0157 to 0159, 0163 to 0165 in the Fifth Division of the Court. Thus, he is filing the subject motion as a supplement to the motions for reconsideration of the Court's Resolution promulgated on February 22, 2018 and March 12, 2018, which denied his motions to quash *Informations*.⁴

In claiming that the *Informations* in Criminal Cases Nos. SB-16-CRM-0439, 0442, 0080 and 0084 should be quashed on the ground that they charge more than one (1) offense placing him under double jeopardy, accused Binay, Jr. argues as follows:⁵

7. With all due respect, it is undeniable that the very same acts charged as constituting Violation of Sec. 3(e) RA3019 under SB-16-CRM-0439 are also charged as Malversation of Public funds under SB-16-CRM-0043.

...

8. With all due respect, it is undeniable that the same acts constituting Violation of Sec 3(e) RA3019 under SB-16-CRM-0442 are also charged as Falsification of Public Document under SB-16-CRM-0451 to 0453.

...

9. With all due respect, it is undeniable that the same acts constituting Violation of Sec 3(e) RA3019 under SB-16-CRM-0080 are also charged as Falsification of Public Document under SB-16-CRM-0077 to 0079.

...

² pp. 263-288, Vol. IV, Record

³ p. 18, Supplement to Motions; p. 284, Vol. IV, Record

⁴ pp. 1-2, Motion to Admit, pp. 263-265, Vol. IV, Record; pp. 1-2, Supplement to the Motions; pp.267-268, Vol. IV, Record

⁵ pp. 4-18, 20-21, Supplement to Motion; pp. 270-284, 286-287, Vol. IV, Record

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10. With all due respect, it is undeniable that the same acts constituting Violation of Sec 3(e) RA3019 under SB-16-CRM-0084 are also charged as Falsification of Public Document under SB-16-CRM-0081 to 0083.

... ..

17.1 In the herein case, it is confessed in the criminal *Information* in SB-16-CRM-0439 that its essential elements of graft as laid out in its paragraphs (a) to (c), are exactly the same acts constituting the offense of Malversation charged under SB-16-CRM-0443 enumerated also as paragraphs (a) to (c).

17.2 In the case of the *Information* in SB-16-CRM-0442, its essential element of graft as laid out in its paragraph (b) (2) on the falsification of the Balita newspaper, is exactly the same act constituting the offenses of Falsification of the Balita newspaper and its Affidavit of publication that are charged under SB-16-CRM-0451 and 0452, respectively. Likewise, the essential element of graft in paragraph (c) of the *Information* in SB-16-CRM-0442 regarding the falsification of the BAC Resolution, is exactly the same act of falsification of BAC Resolution constituting the offense of Falsification charged under SB-16-CRM-0453.

17.3 In the case of the *Information* in SB-16-CRM-0080, its essential element of graft as laid out in its paragraph (b) (2) on the falsification of the Balita newspaper, is exactly the same act constituting the offenses of Falsification of the Balita newspaper and its affidavit of publication that are charged under SB-16-CRM-0077 and 0078, respectively. Likewise, the essential element of graft in paragraph (c) of the *Information* in SB-16-CRM-0080 regarding the falsification of the BAC Resolution, is exactly the same act of falsification of BAC Resolution constituting the offense of Falsification charged under SB-16-CRM-0453.

17.4 In the case of the *Information* in SB-16-CRM-0084, its essential element of graft as laid out in its paragraph (b) (2) on the falsification of the Balita newspaper, is exactly the same act constituting the offenses of Falsification of the Metro Profile newspaper and its Affidavit of Publication that are charged under SB-16-CRM-0081 and 0082, respectively. Likewise, the essential element of graft in paragraph (c) of the

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Information in SB-16-CRM-0084 regarding the falsification of the BAC Resolution, is exactly the same act of falsification of BAC Resolution constituting the offense of Falsification charged under SB-16-CRM-0083.

The prosecution filed its opposition to the subject motion. According to the prosecution, the subject motion is belatedly filed and that accused Binay, Jr. failed to justify why the alleged ground for the quashal of the *Informations* was omitted in his previous motion. The prosecution points out that the cases pending in the Fifth Division of the Court are independent, distinct and separate because they pertain to the Science High School Building Project; hence, accused Binay, Jr. cannot claim that the "additional ground" for the quashal of the *Informations* in these cases became apparent only after he was indicted before the Fifth Division of the Court. To the prosecution, the subject motion is "just another attempt to prevent accused Binay, Jr.'s inevitable and impending arraignment."⁶

In the interest of substantial justice, the Court admits the attached Supplement to Motions for Reconsideration. However, after an examination of the arguments raised by accused Binay, Jr., the Court finds the supplement to motions for reconsideration with additional ground to quash *Informations* devoid of merit.

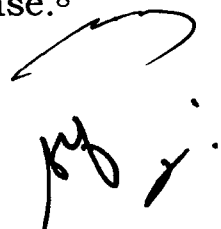
As a general rule, a complaint or *Information* must charge only one offense, otherwise, the same is defective. The *rationale* behind this rule prohibiting duplicitous complaints or *Informations* is to give the accused the necessary knowledge of the charge against him and enable him to sufficiently prepare for his defense. The State should not heap upon the accused two (2) or more charges which might confuse him in his defense. Non-compliance with this rule is a ground for quashing the duplicitous complaint or *Information* under Rule 117 of the Rules on Criminal Procedure.⁷

There is duplicity (or multiplicity) of charges when a single *Information* charges more than one (1) offense.⁸

⁶ pp. 289-292, Vol. IV, Record

⁷ *People vs. Court of Appeals*, 751 SCRA 675 (2015)

⁸ *Loney vs. People*, 482 SCRA 194 (2006)



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In this case, there is no duplicity of charges. Each *Information* for violation of Section 3(e) of R.A. No. 3019, (SB-16-CRM-0439, 0442, 0080 and 0084), for malversation of public funds (SB-16-CRM-0443) and for falsification of public document (SB-16-CRM-0451 to 0453 and 0077 to 0079), clearly charges only one (1) offense.

In fact, a careful reading of accused Binay, Jr.'s argument reveals that what he is actually questioning is that the allegations in the *Information* for violation of Section 3(e) of R.A. No. 3019 (SB-16-CRM-0439) and in the *Information* for malversation of public funds (SB-16-CRM-0443) arose from the same act; the allegations in the *Information* for violation of Section 3(e) of R.A. No. 3019 (SB-16-CRM-0442) and in the *Informations* for falsification of a public document (SB-16-CRM-0451 to 0453) also arose from the same act; the allegations in the *Information* for violation of Section 3(e) of R.A. No. 3019 (SB-16-CRM-0080) and in the *Informations* for falsification of a public document (SB-16-CRM-0077 to 0079) arose from the same act; and, the allegations in the *Information* for violation of Section 3(e) of R.A. No. 3019 (SB-16-CRM-0084) and the *Informations* for falsification of a public document (SB-16-CRM-0081 to 0083) also arose from the same act.

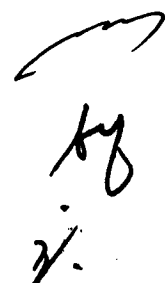
However, jurisprudence teems with pronouncements that a single act or incident might offend two (2) or more entirely distinct and unrelated provisions of law, thus, justifying the filing of several charges against the accused.⁹

In **Loney v. People**,¹⁰ the Supreme Court, upheld the filing of multiple charges against the accused upon the following ratiocination:

As early as the start of the last century, this Court had ruled that single act or incident might offend against two or more entirely distinct and unrelated provisions of law thus justifying the prosecution of the accused for more than one offense. The only limit to this rule is the Constitutional prohibition that no person shall be twice put in jeopardy of punishment for "the same offense." In

⁹ **Soriano vs. People**, 591 SCRA 244 (2009)

¹⁰ *supra* note 7

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People v. Doriquez, we held that two (or more) offenses arising from the same act are not "the same" —

. . . if one provision [of law] requires proof of an additional fact or element which the other does not, Phrased otherwise, where two different laws (or articles of the same code) define two crimes, prior jeopardy as to one of them is no obstacle to a prosecution of the other, although both offenses arise from the same facts, if each crime involves some important act which is not an essential element of the other.

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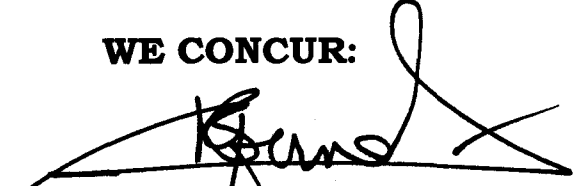
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Consequently, the filing of the multiple charges against petitioners, although based on the same incident, is consistent with settled doctrine.

WHEREFORE, the Court **DENIES** accused Jejomar Erwin S. Binay, Jr.'s *Supplement to Motions for Reconsideration With Additional Ground to Quash Information* dated May 10, 2018, for lack of merit.

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