



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

Fifth Division

PEOPLE OF THE PHILIPPINES, SB-18-CRM-0153
Plaintiff,

– versus –

For: Violation of sec. 3(e) of
Rep. Act No. 3019

**JEJOMAR C. BINAY SR., ET
AL.,**

Accused.

X-----X

PEOPLE OF THE PHILIPPINES, SB-18-CRM-0157 and 0158
Plaintiff,

– versus –

For: Violations of sec. 3(e) of
Rep. Act No. 3019

**JEJOMAR ERWIN S. BINAY
JR., ET AL.,**

Accused.

Present:
LAGOS, J., Chairperson,
MENDOZA-ARCEGA, and
CORPUS-MAÑALAC, JJ.

Promulgated:

July 30, 2018 *Jel*

X-----X

RESOLUTION

LAGOS, J.:

Accused Cecilio P. Lim III's moved for reconsideration¹ of the Court's resolution dated 18 June 2018, where his motion to quash was denied. The prosecution filed its opposition thereto.²

¹ In a motion dated 26 June 2018, filed jointly with accused Amores, Barlis, Condes, Uyaco, Pestaño, Liberato, Orienza, Nayve, and San Gabriel. This resolution pertains only to accused Lim's motion.

² In a written opposition dated 17 July 2018.

[Handwritten signature]

The accused-movant prays for reconsideration and argues that the Informations have failed to show, demonstrate, or prove any act by which he participated in the scheme described. He claims that the Informations lacked factual circumstances on the individual participation of the accused.

The prosecution assails the motion as infirm for having been set for hearing more than ten (10) days from its filing date. It points out that the motion has not identified any error in the questioned resolution.

Anent the arguments of the accused, the prosecution maintain that the Informations sufficiently detail the elements of the offense charged. It also argues that there is no need to particularize the allegation of conspiracy. It then notes that the accused-movant is not charged with a violation of section 3(a) of Rep. Act No. 3019.

DISCUSSION and RULING

The motion is devoid of merit.

Even if the Court were to excuse the defect in the setting of the hearing on the motion,³ the same must still be denied.

The arguments raised by the accused-movant have been passed upon and discussed in the questioned resolution. He has not raised any new arguments or presented a reason for the reversal of the questioned resolution.

The Court had discussed the sufficiency of the allegation of conspiracy as a mode of commission of the crime. Contrary to the accused-movant's claim, such conspiracy was not only explicitly stated but the conspiratorial acts of the accused were detailed. The Court explained:

"It should be noted that an Information only has to allege ultimate facts. A detailed listing of the documents pertains to evidentiary facts, which should be provided during the trial of these cases.

There is therefore no basis for the accused-movant's claim that there is a lack of specificity of the alleged overt acts.

In alleging conspiracy as a mode of commission of an offense, the Supreme Court clearly explained:

³ Failing to set the hearing within ten (10) days from filing per Rule 15, sec. 5, as pointed out by the prosecution.

"We point out that conspiracy in the present case is not charged as a crime by itself but only as the mode of committing the crime. Thus, there is no absolute necessity of reciting its particulars in the Information because conspiracy is not the gravamen of the offense charged.

It is enough to allege conspiracy as a mode in the commission of an offense in either of the following manner: (1) by use of the word "conspire," or its derivatives or synonyms, such as confederate, connive, collude; or (2) by allegations of basic facts constituting the conspiracy in a manner that a person of common understanding would know what is intended, and with such precision as the nature of the crime charged will admit, to enable the accused to competently enter a plea to a subsequent indictment based on the same facts."

The Informations categorically allege conspiracy, and the same is alleged in definite terms. Conspiracy is not merely generally alleged, but supporting allegations are made. The text of the Informations satisfy the manner by which a conspiracy should be alleged in an information. The Informations sufficiently allege the conspiratorial scheme by detailing the acts of each of the accused."⁴

A perusal of the Informations in these cases readily show that they allege acts committed by the accused-movant, which acts he is alleged to have performed irregularly. Thus, at this stage, any claim of good faith or regularity of performance cannot be considered, as such are matters to be determined in the trial of these cases.

In the questioned resolution, the Court discussed every element of the offense charged as alleged in the Informations and how each will be established if the allegations were hypothetically admitted. There is no reason to depart from this finding.

The Court once again notes that the accused-movant is not being charged with a violation of section 3(a) of Rep. Act No. 3019. His reiterated argument on the insufficiency to charge such offense is evidently misplaced.

In this motion, the accused-movant still failed to show any infirmity on the face of the Informations. Thus, the denial of his motion to quash remains.

WHEREFORE, accused Cecilio P. Lim III's motion for reconsideration is hereby **DENIED**.

SO ORDERED.

⁴ Resolution dated 18 June 2018, pp. 6-7. Records, pp. 422-423.


RAFAEL R. LAGOS
Chairperson
Associate Justice

WE CONCUR:


**MARIA THERESA V.
MENDOZA-ARCEGA**
Associate Justice


**MARYANN E.
CORPUS-MAÑALAC**
Associate Justice