



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
 Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff,

SB-13-CRM-0309 to 0310
 For: Violations of Section 3(e),
 R.A. No. 3019

- versus -

Present:

RAUL RODRIGUEZA LEE, ET AL.
 Accused.

FERNANDEZ, SJ, J.
 Chairperson
FERNANDEZ, BJ,* J. and
VIVERO, J.

Promulgated:

AUG 13 2018

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves the *Motion for Leave to File Demurrer to Evidence*¹ filed by accused Raul Rodriguez Lee, Felicisimo Dolendo Brondial, Florencio Diño, II, and, Manuel Serrano Laurora, received through registered mail by the Court on July 6, 2018; together with the *Comment/Opposition*² filed by the prosecution on July 9, 2018.

Accused Lee, et al., ask this Court to grant them leave of court to file demurrer to evidence on the ground that the prosecution failed to prove the accusations against them with the quantum of evidence required in overcoming the constitutional right of the accused to be presumed innocent.³ Accused Lee, et al., claim:

* Per Administrative Order No. 330-2017 dated September 27, 2018, Special Member in view of the inhibition of J. Karl B. Miranda.

¹ Dated June 22, 2018

² (To Accused Lee, Brondial, Dino and Laurora's Motion for Leave to File Demurrer to Evidence) dated July 6, 2018.

³ Motion for Leave to File Demurrer to Evidence dated June 22, 2018, p. 3.

RESOLUTION

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1. In SB-13-CRM-0310, the evidence show that the transaction between the Provincial Government of Sorsogon and First Education Training Ventures, Inc. (FETVI) was a joint venture agreement. The objective of the joint venture, among others, was revenue sharing among the parties. It is not a procurement transaction on goods or services, which would be governed by the Procurement Act. Thus, generally, bidding is not required.
2. In SB-13-CRM-0309, a perusal of the Inspection and Acceptance Report would show that accused Lee is not a signatory therein, hence, accused Lee could not be held accountable for whatever irregularities, if any, attending the acceptance of the subject computers.⁴

The prosecution argued that the instant *Motion* should be denied on the ground that:

1. The Motion for Leave was filed out of time.
2. The testimonial and documentary evidence presented during the trial are enough to prove the culpability of accused Lee, et al., for two (2) counts of violation of R.A. No. 3019. The prosecution was able to prove all the elements of the crimes charged.⁵

RULING

Timeliness.

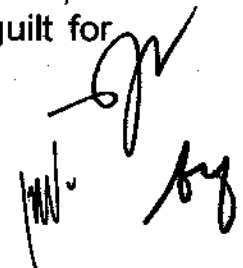
Contrary to the contention of the prosecution, it appears that the *Motion* was filed on time. According to the accused, Atty. Romeo Q. Artazo, Jr. received a copy of the Resolution on the Formal Offer of Evidence on June 18, 2018. The dates stamped on the envelope containing the *Motion for Leave* show that it was mailed on June 25, 2018, in Imus, Cavite and was received by the Quezon City Post Office on June 29, 2018. The registry receipt attached to the *Motion* also shows that the copy was mailed to the prosecution on June 25, 2018.

Merits.

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 support a verdict of guilt for

⁴ Motion for Leave to File Demurrer to Evidence dated June 22, 2018, pp. 2-3.

⁵ Comment/Opposition dated July 6, 2018, pp. 2-4.



RESOLUTION

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violations of Section 3(e), Republic Act No. 3019. The Court hereby **DENIES** the *Motion for Leave to File Demurrer to Evidence* filed by accused Raul Rodriguez Lee, Felicisimo Dolendo Brondial, Florencio Diño, II, and, Manuel Serrano Laurora.

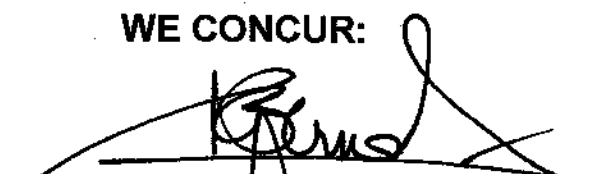
This is without prejudice to the filing by the accused of their *Demurrer to Evidence* without prior leave of court, but subject to the legal consequence provided under *Section 23, Rule 119 of the Revised Rules of Criminal Procedure*, that is, they shall waive their right to present evidence and are 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, by personal filing and service, or through courier, their Manifestation, to inform this Court whether they will file a *Demurrer to Evidence*, without leave of court.

The hearings set for the accused to present their evidence on August 29 and 30, 2018, both at 1:30 in the afternoon, are maintained. The said scheduled dates will be considered automatically cancelled, as to accused Lee, Brondial, Diño, and Laurora, upon receipt by the Court of the *Demurrer to Evidence* of said accused.⁶

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

WE CONCUR:

BERNELITO R. FERNANDEZ
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice

⁶ Pursuant to A.M. No. 15-06-10-SC, Revised Guidelines for Continuous Trial of Criminal Cases