



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on August 10, 2018.

Present:

JUSTICE MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson
JUSTICE ZALDY V. TRESPESES ----- Associate Justice
JUSTICE GEORGINA D. HIDALGO ----- Associate Justice

The following resolution was adopted:

Criminal Case No. SB-14-CRM-0433 -

PEOPLE v. JESUS ORLANDO M. QUIÑONES

This resolves the following:

1. Accused Jesus Orlando M. Quiñones' "**MOTION FOR LEAVE TO FILE DEMURRER TO EVIDENCE**" dated July 13, 2018;¹ and
2. The Prosecution's "**COMMENT/OPPOSITION**" dated August 1, 2018.²

GOMEZ-ESTOESTA, J.:

The grounds relied upon by accused Jesus Orlando M. Quiñones in asking for leave to file demurrer to evidence are:

1. The testimony of Atty. Santiago Ortega Jr., upon which the Prosecution's case rests, is highly incredible and beyond human experience;
2. The testimonies of Atty. Ortega and Mr. Norberto Nuñez, as alleged eyewitnesses, directly contradict each other;
3. The testimony of Arbiter Jose C. Del Valle Jr. duly supports accused's position that this trumped-up charge was only an afterthought

¹ Records, Volume 4, pp. 50-52

² Id., pp. 56-61

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and leverage against accused's Direct Assault charge against Atty. Santiago and Mr. Nuñez;

4. Since the accused already rendered an adverse decision against the private complainant more than a month prior to the alleged incident, accused has no longer any control over his decision since this may only be reversed on appeal by the NLRC commission proper per Section 1, Rule VI of the NLRC Rules;

5. The actions of the accused immediately after the 10 November 2008 incident, as compared to the defeaning inaction of the private complainant after 10 November 2008, would lead a reasonable mind to conclude that private complainant's claim was a mere afterthought to parry the direct assault charge against him; and

6. Section 7(d) of R.A. 6713 is inapplicable since private complainant has no pending "transaction" or case which the accused can act on since the accused had already rendered an adverse decision against the private complainant more than a month prior to the alleged incident.

In its *Comment/Opposition*, the Prosecution carp that such grounds fail to pass the test of specificity required under Section 23, Rule 119 of the Revised Rules on Criminal Procedure. Instead, they are mere attempts to preempt this Court's appreciation of the evidence presented. Such grounds should even be taken as an admission that the prosecution has presented sufficient evidence to prove the charge in the Information. The Prosecution then averred that it has satisfied the elements of the offense charged with the testimonies of prosecution witnesses Atty. Santiago Ortega, Jr. and Mr. Norberto Nuñez who positively pointed to the accused as having solicited and demanded from the former the amount of Two Million Pesos (P2,000,000.00) in exchange for the accused's intervention or services in securing a reversal of his own Decision before the NLRC, which act was intimately connected with his official functions as labor arbiter.

The *Motion* fails. No leave can be granted for the accused to demur to the evidence.

As correctly asseverated by the Prosecution, the grounds presented by the accused border on the eventual assessment and evaluation this Court is yet to make on the probative value that should be weighed on the testimonies given by the witnesses for the prosecution. Whether the testimony of Atty. Santiago Ortega, Jr. is incredible, contradictory or tested beyond the standard of human experience, as compared with the testimony of security officer Norberto Nuñez, already calls for the ultimate analysis this Court has to make in arriving at a judgment.

This cannot be done as the accused is yet to introduce evidence in his behalf to refute that which was presented against him. The Court's own assessment of the evidence only comes when trial has been terminated.

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The nature of a demurrer to evidence has to be understood in this context, to wit:

As held in *Dans Jr. v. People*:³

A demurrer tests the sufficiency or insufficiency solely of the prosecution evidence and the trial court's resolution in connection therewith should be strictly limited to that. This is unmistakably deducible from Section 15, Rule 119 of the Revised Rules of Criminal Procedure, which states that a demurrer is filed and resolved when it is only the prosecution that has rested its case. Thus:

Section 15. Demurrer to evidence. — After the prosecution has rested its case, the court may dismiss the case on the ground of insufficiency of evidence; (1) on its own initiative after giving the prosecution an opportunity to be heard; or (2) on motion of the accused filed with prior leave of court.

If the court denies the motion for dismissal, the accused may adduce evidence in his defense. When the accused files such motion to dismiss without express leave of court, he waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution. [Emphasis supplied]

And as echoed in *Rivera v. People*:⁴

A demurrer to evidence is defined as "*an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue.*" The party demurring challenges the sufficiency of the whole evidence to sustain a verdict. In passing upon the sufficiency of the evidence raised in a demurrer, the court is merely required to ascertain whether there is competent or sufficient proof to sustain the indictment or to support a verdict of guilt.

It is the *insufficiency of the prosecution evidence*, therefore, which should have been raised by the accused to effectively grant him the leave he desires. None of the grounds presented in the *Motion*, however, touched base on the sufficiency of prosecution evidence.

As it stands, prosecution evidence has presented, through the testimonies mainly introduced by Atty. Santiago Ortega Jr. and security officer Norberto Nuñez, that accused may have solicited and demanded the amount of Two Million Pesos ((P2,000,000.00) in exchange for his intervention in securing a reversal of his own decision before the NLRC.

It is this evidence which accused should now refute through the presentation of his own evidence.

³ G.R. No. 127073, January 29, 1998

⁴ G.R. No. 163996, June 9, 2005

Meantime, accused may have alluded to the non-applicability of Section 7(d) of R.A. 6713 on ground that "*private complainant has no pending transaction or case which the accused can act on*" for the charge to be sustained.

This is taking the provision out of its own context.

Republic Act No. 6713, Section 7, Paragraph (d) expressly prohibits public officials and employees from soliciting or accepting "*directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the function of their office.*"

The word "transaction" has not been qualified as "*pending.*" A close examination of the provision only expressed it as "*any transaction which may be affected by the function of their office.*"

In *Prieto v. Cariaga*⁵ it has been emphasized that "*the Code forbids public officials or employees from directly or indirectly having any financial or material interest in any transaction requiring the approval of their office, or soliciting or accepting, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.*"⁶

Hence, even if the acts complained of were not connected to the respondent's duties, a violation of the norm of public accountability could still be found.⁷

Since the prohibition under Section 7(d) of R.A. No. 6713 is *malum prohibitum*,⁸ as correctly argued by the Prosecution, this Court can only surmise that the sufficiency of Prosecution evidence has not been broken to allow the accused to file leave to demur to the evidence.

WHEREFORE, the *Motion for Leave to File Demurrer to Evidence* filed by accused Jesus Orlando M. Quinoñes is **DENIED**.

Let the presentation of defense evidence **PROCEED**, as scheduled, on *August 29 and 30, 2018, both at 8:30 in the morning.*

⁵ A.M. No. P-94-1061, March 13, 1995

⁶ Emphasis supplied

⁷ *Prak v. Anacan*, A.M. No. P-03-1738, July 12, 2004

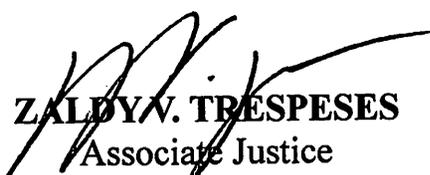
⁸ Vide: *Comment/Opposition*, p. 3

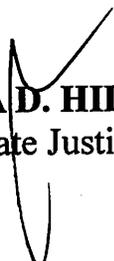
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SO ORDERED.


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice, Chairperson

WE CONCUR:


ZALDY V. TRESPESES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice