



Republic of the Philippines
Sandiganbayan
Quezon City

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff, SB-18-CRM-0153 to 0159

**For: Violation of Sec. 3(e),
RA 3019**

- versus -

SB-18-CRM-0160 to 0165

**For: Falsification of Public
Document**

**JEJOMAR C. BINAY, SR., et al., Present:
Accused.**

**Lagos, J., Chairperson
Mendoza-Arcega, J., and
Corpus-Mañalac, J.**

Promulgated:

August 07, 2018 *Jal*

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RESOLUTION

CORPUS - MAÑALAC, J.:

Submitted for resolution is a *Motion for Reconsideration*¹ collectively filed on July 17, 2018 by accused Ralph E. Liberato, Rodel R. Nayve, Ulysses Orienza, and Gerardo San Gabriel relative to this Court's Resolution dated July 18, 2018.

The Motion

Ralph Encela Liberato

He argued in essence that the Informations against him “*do not charge an offense,*” the allegations therein are grounded on “*hearsay and misapprehension of facts,*” as he did not cause the posting of the Invitation to Bid for Phases 1,2,3,4,5 and 6 of the Makati Science High School Building. As a Supply Officer III, his main task is the posting of procurement of goods

¹ Records, Vol. 3, pp. 102-149

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and he is not involved in civil works, hence, he is not responsible for the posting of Invitation to Bid in PhilGEPS for the Makati Science High School Building. That while he is charged of conspiracy, the Informations for violation of Section 3[e] of RA 3019 and Falsification of Documents “*lack the necessary allegations on how herein movant could have acted in alleged conspiracy.*”

Ulysses Orienza

He reiterated his position that the Informations against him “lack the necessary allegations on how he could have acted in alleged conspiracy” with his co-accused. The allegation “**acting with manifest partiality, evident bad faith, and/or gross inexcusable negligence, did then and there willfully, unlawfully, and criminally give unwarranted benefits, advantage and preference to Hilmarc’s and cause undue injury to the government by awarding Hilmarc’s the contract** are conclusions of law,” which do not constitute an offense, and that the Informations “failed to provide how these acts were committed” by each accused in violation of their Constitutional right to due process. He further averred that the allegation of “circumvention of the provisions of RA 9184” is vague as it did not provide which provision of said law was circumvented. There is allegedly no allegation that would show intent on the part of any of the BAC members to commit a criminal act.

Rodel Rebutillo Nayve

Nayve shared the same arguments posed by co-accused Liberato and Orienza that the Informations for violation of RA 3019, Section 3[e] and Falsification of Documents “lack the necessary allegations on how he could have acted in alleged conspiracy” with his co-accused as the details of the acts he supposedly committed were not specified, in violation of his right to due process. The Informations allegedly failed to show how he could have participated in the alleged scheme, and do not constitute and offense.

Gerardo K. San Gabriel

Similarly, for accused San Gabriel, he argued that - the Informations failed to provide with certainty and accuracy the specific acts of the individual accused in alleged conspiracy with each other to commit the offenses charged; the allegations were mere conclusions of law, sweeping or mere “shot-gun” allegations, with no factual basis, thus, they do not charge an offense.

The Prosecution’s Comment/Opposition

In opposition, the prosecution pointed out both the procedural and substantive infirmities of the motion.

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Allegedly, the motion failed to comply with the procedural requirement of Sections 4 and 5, Rule 15 of the Rules of Court. It alleged that the same was filed on June 27, 2018 but only set for hearing on July 13, 2018, which was more than ten (10) days from its filing as otherwise required by the rules. The prosecution, thus, prayed that the same be considered as a mere scrap of paper, citing the case of *Spouses Rustia v. Rivera*.²

As to the common argument that the allegations of the Informations do not constitute an offense, the prosecution averred that the same is misleading, emphasizing that the sufficiency thereof was already ruled upon by this Court. Opposing the quashal of the *Informations*, the prosecution cited the Supreme Court in various cases holding that “[a] motion to quash is a hypothetical admission of the facts alleged in the Information, hence, the court in resolving the motion cannot consider facts contrary to those alleged in the Information or which do not appear on the face of the Information.”³ That hence, as already ruled upon, the ultimate facts have been sufficiently alleged in the *Informations*. As to the common allegation that accused’s respective participation in the perpetration of the crimes were not particularized, the prosecution cited the case of *Enrile vs. People*,⁴ alleged to have been misapplied by the accused, which rather articulates that “*there is no absolute necessity of reciting its particulars in the Information because conspiracy is not the gravamen of the offense charged.*” It maintained that there is no necessity for a specific recital of the respective acts of the conspirators as conspiracy is not a crime but a mere mode of committing the crime.

The Court’s Ruling

True, more than ten (10) days have lapsed from the filing of the motion to the time it was set for hearing, however, the Court is not inclined to strike down the motion on this score alone. Jurisprudence holds⁵ that “*the test is the presence of opportunity to be heard, as well as to have time to study the motion and meaningfully oppose or controvert the grounds upon which it is based.*” Here, the prosecution was not robbed of the opportunity to be heard, as in fact, it was able to file its Comment/Opposition thereto. Thus, the motion cannot be faulted on said ground.

Revisiting the substantive arguments commonly alleged by accused Liberato, Nayve, Orienza and San Gabriel, however, Court finds no merit thereto.

² G.R. No. 156903, November 24, 2006

³ *People vs. Navarro, et al.*, 75 PHIL 516; *People vs. Cabadid*, 97 PHIL 829; *People vs. Ferrer*, 101 Phil 234; *People vs. Dela Rosa et al.*, L-32112, June 25, 1980

⁴ GR No. 213455, August 11, 2015

⁵ *Preysler, Jr. v. Manila South Coast Development Corporation*, G.R. No. 171872, June 28, 2010, 621 SCRA 636, 643

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The issues advanced are the same as those presented in their respective *Motions to Quash* which were already passed upon and judiciously resolved.

To the extent of being repetitious, the principle relevant to the issue is that an information only needs to state the ultimate facts constituting the offense; the evidentiary and other details (i.e. the facts supporting the ultimate facts) can be proved during trial.⁶ Ultimate facts are the essential and substantial facts which either form the basis of the primary right and duty or which directly make up the wrongful acts or omissions of the defendant, while evidentiary facts are those which tend to prove or establish said ultimate facts.⁷

The Informations were reviewed, and as already found, contain material allegations constituting the elements of the offenses charged. This, the Court had extensively discussed in the assailed Resolution. Again, the veracity of the allegations in the *Informations* are best determined in a full-blown trial, where the accused can dispute the same and uphold their innocence as they claim.

As apparently no new or substantial matters was raised in the motion, the reversal or modification of the assailed Resolution is not warranted.


WHEREFORE, the *Motion for Reconsideration* filed by accused Liberato, Nayve, Orienza, and San Gabriel is DENIED for lack of merit.

The arraignment set on August 17, 2018 at 8:30 in the morning shall proceed as scheduled.

SO ORDERED.


MARYANNE E. CORPUS – MAÑALAC
Associate Justice

WE CONCUR:


RAFAEL R. LAGOS
Chairperson
Associate Justice


MARIA THERESA V.
MENDOZA ARCEGA
Associate Justice

⁶ People v. Romualdez, et al., 581 Phil. 462, 479-480 (2008)

⁷ G.R. No. 143375. July 6, 2001