REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CRIM. CASE Nos. SB-18-CRM-0153 to 0159**
	For: Violation of Sec. 3(e), R.A. No. 3019, as amended
-versus-	
	CRIM. CASE Nos. SB-18-CRM-0160 to 0165
JEJOMAR C. BINAY, SR. et al., *Accused.*	*For:* Falsification of Public Document
	Present:
	Lagos, *J.*, Chairperson, **Mendoza-Arcega, *J.*,** and **Corpus-Mañalac, *J.***
	Promulgated:
	August 15, 2018

x----------x

RESOLUTION

MENDOZA-ARCEGA, *J.*:

This resolves the *Motion for Reconsideration*[1] dated June 26, 2018 of the Court's Resolution[2] dated June 18, 2018 filed by accused Giovanni Ilio Condes, Manolito N. Uyaco, Raydes B. Pestaño, Lorenza P. Amores and Nelia A. Barlis (collectively referred to as the "accused-movants") to which the prosecution filed its Comment/Opposition[3].

[1] Records, Volume (Vol.) 3, pp. 283-308; 326-327.
[2] Records, Vol. 2, pp. 426-434.
[3] Supra note 1, pp. 329-339.

It was reiterated by the accused-movants that the Informations filed against them must be quashed as there is no conspiracy among them. The allegation of conspiracy cannot be presumed and it is not supported by any evidence. The Informations failed to specify the overt acts which constitute conspiracy and that their respective participation was not clearly alleged therein. It was insisted by the accused-movants that the averments in the Informations are too general; thus, their constitutional right to be informed of the nature and cause of accusations against them. In gist, the accused-movants seek the quashal of the Informations as the facts charged do not constitute an offense.

For its part, the prosecution countered that the Motion for Reconsideration filed by herein accused-movants is fatally defective for its procedural infirmities for violating Section 5, Rule 14[4] and as such, it is a mere scrap of paper. The subject motion was set for hearing on July 13, 2018, or more than ten (10) days from the time of its filing on June 27, 2018. Thus, the notice of hearing contained in the subject motion is beyond the period prescribed by the rules. As a mere scrap of paper, the Court is not bound to give judicial cognizance. In addition, it was pointed out by the prosecution that the instant motion failed to ascribe an error in the findings of facts and laws of the Court in its assailed resolution.

THE COURT'S RULING

After an exhaustive evaluation of the records, We find the instant motion unmeritorious.

Anent the procedural issue, albeit the present motion failed to comply with Section 5, Rule 15 of the Rules of Court, the same does not automatically render the motion fatally defective.

The said rule indicates that the notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion. In Palileo et al. v. Planters Development Bank,[5] the High Court declared:

---

[4] It should be Section 5, Rule 15 of the Rules of Court which states:

> "Section 5. Notice of hearing. — The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion."

[5] G.R. No. 193650, October 8, 2014.

> "The rule is that the hearing date of a litigated motion should be made not later than ten (10) days from the filing, non-compliance of which renders the motion fatally defective. [The] Rule is settled that a motion in violation thereof is pro forma and a mere scrap of paper. It presents no question which the court could decide [upon]. In fact, the court has NO reason to consider it[;] neither [does] the clerk of court [have] the right to receive the same. Palpably, the motion is nothing but an empty formality deserving no judicial cognizance. Hence, the motion deserves a short shrift and peremptory denial for being procedurally defective."

Nonetheless, the afore-quoted rule is not absolute. A liberal construction of the procedural rules is proper where the lapse in the literal observance of a rule of procedure has not prejudiced the adverse party and has not deprived the court of its authority.[6] Indeed, Section 6, Rule 1 of the Rules of Court provides that the Rules should be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding.[7] Rules of procedure are tools designed to facilitate the attainment of justice, and courts must avoid their strict and rigid application which would result in technicalities that tend to frustrate rather than promote substantial justice.[8]

A perusal of the instant motion reveals that there is substantial compliance with the rules. There is no showing that the State was deprived of its opportunity to be heard despite the defect in the notice of hearing. Apropos is the ruling in the case of Cabrera v. Ng, *viz*:[9]

> "Likewise, in Jehan Shipping Corporation v. National Food Authority,[10] the Court held that despite the lack of notice of hearing in a Motion for Reconsideration, there was substantial compliance with the requirements of due process where the adverse party actually had the opportunity to be heard and had filed pleadings in opposition to the motion.[11] The Court held:
>
> > 'This Court has indeed held time and again, that under Sections 4 and 5 of Rule 15 of the Rules of Court, mandatory is the requirement in a motion, which is rendered defective by failure to comply with the requirement. As a rule, a motion without a notice of hearing is considered pro forma and does not affect the reglementary period for the appeal or the filing of the requisite pleading.

---

[6] Cabrera v. Ng, G.R. No. 201601, March 12, 2014.
[7] Ibid.
[8] Ibid.
[9] Ibid.
[10] Citation omitted.
[11] Supra note 6.

> As an integral component of the procedural due process, the three-day notice required by the Rules is not intended for the benefit of the movant. Rather, the requirement is for the purpose of avoiding surprises that may be sprung upon the adverse party, who must be given time to study and meet the arguments in the motion before a resolution of the court. Principles of natural justice demand that the right of a party should not be affected without giving it an opportunity to be heard.
>
> **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**. x x x[12]"" (Emphasis supplied.)

Having said the foregoing, the notice of hearing of the instant motion substantially complied with Section 5, Rule 15 of the Rules of Court.

With regard to the substantive issues, the same were squarely resolved in Our Resolution[13] dated June 18, 2018. The arguments of the accused-movants are mere repetition of their earlier submission in their respective Motions to Quash[14] dated April 22, 2018. The instant motion for reconsideration must necessarily fail as there are no new and substantial matters raised. It would be a useless ritual for the Court to reiterate itself.[15] Above and beyond, the arguments raised are all evidentiary matters which must be threshed out in a full-blown trial.

It bears noting that the accused-movants asseverated that the disputed Informations failed to specify their acts which constitute conspiracy. They maintained that the allegations of conspiracy are not supported by evidence. Citing Enrile v. People,[16] it is their view that their constitutional right to be informed of the nature and cause of accusations against them is violated.

The theory of the defense does not inspire belief. The accused-movants' reliance in the Enrile case[17] is misplaced for it pertains to the motion for bill of particulars filed by Juan Ponce Enrile and **NOT** to a motion to quash information. In the main, it is no longer necessary to recite each and every act which constitutes conspiracy in the subject Informations since conspiracy is

---

[12] Ibid., citing Preysler, Jr. v. Manila Southcoast Development Corporation, G.R. No. 171872, June 28, 2010, 621 SCRA 636; 642-643.
[13] Supra note 2.
[14] Records, Vol. 1.
[15] Mendoza-Ong v. Sandiganbayan, et al., G.R. Nos. 146368-69, October 18, 2004 citing Ortigas and Company Limited Partnership v. Velasco, G.R. Nos. 109645 & 112564, March 4, 1996, 254 SCRA 234, 242.
[16] 766 SCRA 1 (2015); G.R. No. 213455, August 11, 2015.
[17] Ibid.

not charged as a crime *per se* but as a mode of committing the crime only. The State is correct in its observation that there was an erratic invocation and misapplication of the case law. In the same case of Enrile v. People[18], the Supreme Court expounded:

> "**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.**[19]

Our ruling on this point in *People v. Quitlong*[20] is particularly instructive:

> 'A conspiracy indictment need not, of course, aver all the components of conspiracy or allege all the details thereof, like the part that each of the parties therein have performed, the evidence proving the common design or the facts connecting all the accused with one another in the web of the conspiracy. **Neither is it necessary to describe conspiracy with the same degree of particularity required in describing a substantive offense**. It is enough that the indictment contains a statement of the facts relied upon to be constitutive of the offense in ordinary and concise language, with as much certainty as the nature of the case will admit, in a manner that can enable a person of common understanding to know what is intended, and with such precision that the accused may plead his acquittal or conviction to a subsequent indictment based on the same facts. x x x'"[21] (Emphasis supplied.)

To repeat, the other arguments raised need not be passed upon as the Court already discussed the same in the assailed resolution.

WHEREFORE, premises considered, the *Motion for Reconsideration* dated June 26, 2018 filed by accused Giovanni Ilio Condes, Manolito N. Uyaco, Raydes B. Pestaño, Lorenza P. Amores and Nelia A. Barlis is **DENIED** for utter lack of merit.

---

[18] Ibid.
[19] Ibid., citing Estrada v. Sandiganbayan, 427 Phil. 820, 860 (2002).
[20] 354 Phil. 372 (1998).
[21] Ibid, pp. 388-389.

Accordingly, the Resolution dated June 18, 2018 hereby **STANDS.**

SO ORDERED.

MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

WE CONCUR:

RAFAEL R. LAGOS
Associate Justice
Chairperson

MARYANN E. CORPUS-MAÑALAC
Associate Justice