



REPUBLIC OF THE PHILIPPINES  
Sandiganbayan  
Quezon City

**SIXTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff,

**SB-16-CRM-0769**

For: Violation of Section 3(e), R.A.  
No. 3019

- versus -

Present:

**BENJAMIN S. ABALOS, SR.**  
Accused.

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

Promulgated:

**OCT 08 2018**

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**RESOLUTION**

**FERNANDEZ, SJ, J.**

This resolves the *Motion for Reconsideration*<sup>1</sup> filed on September 18, 2018 by accused Benjamin S. Abalos, Sr., together with the *Comment/Opposition*<sup>2</sup> filed by the prosecution.

Accused Abalos asks this Court to reconsider its Resolution dated September 11, 2018, denying his *Motion for Leave to File Demurrer to Evidence*, on the following grounds:

- a. The filing of a demurrer to evidence is not intended to stall the proceedings; and,
- b. The prosecution's documentary and testimonial evidence is insufficient to "support a verdict of guilt."<sup>3</sup>

<sup>1</sup> (of the Resolution dated 11 September 2018) dated September 18, 2018.

<sup>2</sup> (Re: Motion for Reconsideration on the Resolution dated 11 September 2018) dated September 21, 2018 and filed on September 24, 2018.

<sup>3</sup> Motion for Reconsideration dated September 18, 2018, p. 2.

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Accused Abalos further claims that, if granted leave of court to file demurrer to evidence, he would expound on the following matters:

- a. Accused Abalos did not act with manifest partiality, evident bad faith, or gross inexcusable negligence in relation to the procurement of the two (2) Toyota Revo from Toyota Pasong Tamo, Inc.
- b. Accused Abalos did not give Toyota Pasong Tamo, Inc. any unwarranted benefit, advantage or preference in the discharge of his functions.
- c. The allegation in the Information that the procurement of the two (2) Toyota Revo was done "in violation of the Government Procurement Reform Act (R.A. No. 9184)" is irrelevant to the issue of whether accused Abalos violated Section 3(e) of R.A. No. 3019.
- d. Conflating the offenses under Section 3(e) of R.A. No. 3019 and R.A. No. 9184 violates accused Abalos' right to due process.
- e. The Commission on Audit did not issue any Audit Observation Memorandum with respect to the procurement of the two (2) Toyota Revo, indicating that there was no irregularity in their purchase.
- f. Mr. Eduardo M. Mejos signed the same documents that accused Abalos signed. In fact, accused Abalos signed off on the relevant documents only after they were endorsed to him by, among others, Mr. Mejos. But the Ombudsman absolved only Mr. Mejos. Accused Abalos, who merely relied on the certifications and endorsements of Mr. Mejos should be similarly absolved of criminal liability.<sup>4</sup>

The prosecution claims that the instant *Motion for Reconsideration* failed to raise matters which would warrant the reversal of the assailed resolution. The prosecution argues:

- a. There was no pronouncement that the filing of Motion for Leave is dilatory.
- b. The grounds relied upon by accused Abalos, *i.e.*, accused Abalos did not act with manifest partiality, bad faith, or gross inexcusable negligence in the purchase of two (2) Toyota Revo; accused Abalos did not give TPTI any unwarranted benefit, advantage, or preference in the discharge of his functions; the COA did not issue any AOM with respect to the

<sup>4</sup> Motion for Reconsideration dated September 18, 2018, pp. 9-11.

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procurement of the subject vehicles; Mr. Eduardo M. Mejos signed the same documents that accused Abalos signed, and, since the latter was absolved by the Office of the Ombudsman, accused Abalos should also be absolved from criminal liability, in his *Motion* are matters of evidence.

- c. The alleged violation of the right of accused Abalos to due process resulting from the conflating of offenses under Section 3(e), R.A. No. 3019 and R.A. No. 9184 is not a proper subject of a Demurrer to Evidence.<sup>5</sup>

## RULING

The Court **DENIES** the *Motion for Reconsideration (of the Resolution dated 11 September 2018)* filed by accused Benjamin S. Abalos, Sr..

The said *Motion for Reconsideration* is a mere rehash of accused Abalos' arguments in his *Motion for Leave to File Demurrer to Evidence* which were passed upon by the Court in its assailed Resolution. The Court sees no need to address each of the arguments on the merits of the Motion for Leave. The Court will proceed to address accused Abalos' argument that the *Motion for Leave* was not intended to stall the proceedings.

The Court does not find that accused Abalos filed the *Motion for Leave for the purpose of stalling* the proceedings. Nonetheless, this Court, after reviewing the *Motion for Leave* as well as the prosecution's testimonial and documentary evidence, confirms that, if unrebutted, the same is sufficient to convict accused Abalos of violation of Section 3(e), R.A. No. 3019. Allowing accused Abalos to file his Demurrer to Evidence will only delay the proceedings.

Nonetheless, accused Abalos has the right to file a *Demurrer to Evidence* without leave of court, but subject to the legal consequence provided under *Section 23, Rule 119 of the Revised Rules of Criminal Procedure*, that is, he shall waive his right to present evidence and is 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 his Manifestation to inform this

<sup>5</sup> Comment/Opposition dated September 21 2018, pp. 2-4.

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Court whether he will file a *Demurrer to Evidence*, without leave of court.

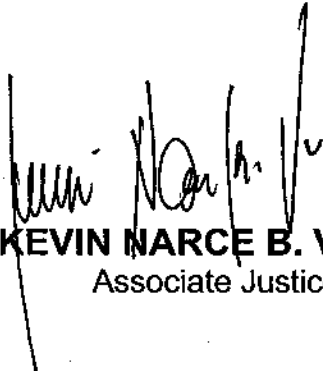
The hearings set for accused Abalos to present his evidence on November 22 and 29, 2018, both at 1:30 in the afternoon, are maintained. The said scheduled dates will be considered automatically cancelled upon receipt by the Court of his *Demurrer to Evidence*.<sup>6</sup>

**SO ORDERED.**

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**WE CONCUR:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**KEVIN NARCE B. VIVERO**  
Associate Justice

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