



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

SB-16-CRM-0639 - 0642

For: Violation of Sections 3(e) and 3(g) of Republic Act (R.A.) No. 3019

-versus-

PRESENT:

**MANUEL R. PANGILINAN,
EFREN F. AZARES,
ALEJANDRINA P. ANCHETA,
SATURNINO N. QUINTAL,
ERMIELINDA T.
FLAMINIANO, and JUANITO
J. MACAPANAS,**

Accused,

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

Promulgated:

NOV 05 2018

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RESOLUTION

MIRANDA, J.:

For resolution are the: 1) Motion for Leave of Court to File Demurrer to Evidence dated August 6, 2018 filed by accused Efren F. Azares (Azares) on the same day; 2) Motion for Leave of Court to File Motion to Dismiss by Way of Demurrer to Evidence dated August 3, 2018 filed by accused Juanito J. Macapanas (Macapanas) and Ermielinda T. Flaminiano (Flaminiano) on August 7, 2018; and 3) Consolidated Opposition (Re: Motions for Leave of Court to File Demurrer to Evidence) dated August 13, 2018 filed by the Prosecution on August 13, 2018.

In his motion for leave of court, accused Azares moves for leave to file demurrer to evidence on the ground that the Prosecution's evidence is weak, unsubstantiated, and insufficient to prove his guilt beyond reasonable doubt for violation of Sections 3(e) and 3(g) of R.A. No. 3019. Accused Azares argues that: 1) the dates of receipt by the Office of the President of Marikina Polytechnic College of the faxed bids of Palabay Enterprises, Inc., R.O. Santos Enterprises, Adriana Printing Co., and IPS Printing Services were fabricated; 2) it is unusual for the bidders to submit their bids through fax and not personally to the Marikina Polytechnic College; 3) the bidding was not rigged because the increase in the budget merely covers the amount of the value added tax; 4) they did not give unwarranted benefits to Gakken Philippines, Inc. because the latter was the exclusive distributor of all Duplo products in the Philippines; and 5) he did not prepare the purchase order for the Duplo Digital Duplicator Model DP 205 which was dated before the price quotation by Gakken Philippines, Inc.

In their motion for leave of court, accused Macapanas and Flaminiano move for leave to file demurrer to evidence on the ground that the Prosecution's evidence is insufficient to prove their guilt beyond reasonable doubt for violation of Sections 3(e) and 3(g) of R.A. No. 3019. Accused Macapanas and Flaminiano argue that: 1) while the documentary evidence of the Prosecution were denominated as "Certified True Copies," State Auditor Margarita E. Labuac (Labuac) testified that some of the documents submitted to their office were only photocopies; 2) the duplicate copies of the Purchase Orders were not accounted for by the Prosecution to justify the presentation of secondary evidence; 3) the fax copies of the Invitations to Bid have no probative value considering that these are only derivative documents of the actual Invitations to Bid; 4) the dates on the Invitations to Bid are not conclusive proof of the supposed late submission of the bids by the participating entities; 5) the Invitations to Bid submitted by R.G. Santos Enterprises and Adriana Printing Co., Inc. show that their bids were submitted within the deadline; 6) Adriana Printing Co., Inc. offered the lowest bid per the Abstract of Bids/Canvass; 7) the documentary evidence were certified as true copies by private complainant Andres S. Morales (Morales) who testified that he was not the official custodian and certifying officer of the documents on file with the Marikina Polytechnic College; and 8) evidence of guilt must be premised on personal, intentional, and deliberate participation of each individual.

On the other hand, the Prosecution contends that: 1) the accused admitted that they are all public officers at the time material to these cases; 2) Prosecution witnesses testified that the accused Bids and Awards Committee (BAC) members conspired to rig the bidding for the printing of Journals,



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purchase of CFI engine with compartment, and purchase of Duplo Digital Duplicators to favor Adriana Printing Company, Evolution-R Enterprises, and Gakken Philippines, Inc., respectively; 3) Adriana Printing Company, Evolution-R Enterprises, and Gakken Philippines, Inc. were given unwarranted benefits, advantage, or preference as a result of the rigged bidding; 4) direct proof of conspiracy is not essential, but may be inferred from the acts of the conspirators; 5) State Auditor Labuac testified that she issued the certified true copies of the Invitations to Bid based on documents in her custody and which were submitted to COA by Marikina Polytechnic College; 6) Andres S. Morales and Nimfa J. Francisco testified that the certified true copies of documents they issued were based on documents in their custody; 7) the exhibits are public documents which enjoy the presumption of regularity, are prima facie evidence of the facts stated therein, and a conclusive presumption of the existence and due execution thereof; and 8) the Prosecution is only required to present the custodian of the said public documents and there is no need to present other witnesses to testify on its contents and due execution.

After a thorough review of the records of these cases and the evidence formally offered by the Prosecution, the Court finds that, if unrebutted, the same is sufficient to support a verdict of guilt for violation of Sections 3(e) and 3(g) of R.A. No. 3019. Accordingly, the Court hereby **DENIES** the Motion for Leave of Court to File Demurrer to Evidence dated August 6, 2018 of accused Azares and the Motion for Leave of Court to File Motion to Dismiss by Way of Demurrer to Evidence dated August 3, 2018 of accused Macapanas and Flaminiano.

This is without prejudice to the filing by the accused of a 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, as amended, that they shall waive their right to present evidence and submit these cases for judgment on the basis of the evidence adduced by the Prosecution.

WHEREFORE, the Motion for Leave of Court to File Demurrer to Evidence dated August 6, 2018 of accused Azares and the Motion for Leave of Court to File Motion to Dismiss by Way of Demurrer to Evidence dated August 3, 2018 of accused Macapanas and Flaminiano are **DENIED**. The accused, through their respective counsel, are given a non-extendible period of five (5) days from receipt of this Resolution within which to file their Demurrer to Evidence without prior leave of court, if they so desire, or file a




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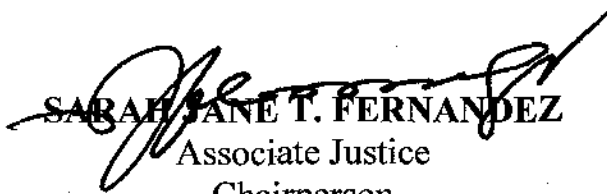
Manifestation informing the Court that they will no longer file a Demurrer to Evidence.

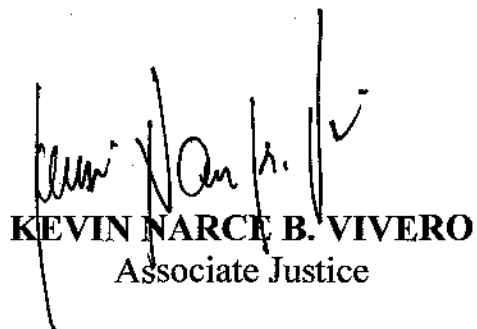
The hearing set for the presentation of evidence for the Defense on November 5, 2018 at 1:30 in the afternoon is maintained. The said scheduled date will be considered automatically cancelled upon receipt by the Court of the Demurrer to Evidence of the accused.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


KEVIN NARCE B. VIVERO
Associate Justice