



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

Fifth Division

**PEOPLE OF THE PHILIPPINES,
*Plaintiff,***

– versus –

SB-06-CRM-0469

For: Violation of Sec. 3(e) of
Rep. Act No. 3019

**ELENITA S. BINAY, ET AL.,
*Accused.***

Present:

**LAGOS, J., Chairperson,
MENDOZA-ARCEGA, and
CORPUS-MAÑALAC, JJ.**

Promulgated:

March 12, 2019 *Jed*

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RESOLUTION

LAGOS, J.:

This resolves the *Motion for Leave of Court to File Demurrer to Evidence*, dated February 26, 2019, of accused Elenita S. Binay, and the prosecution's Comment/Opposition, dated March 4, 2019, to the said motion.

After a thorough consideration of the prosecution's evidence, both oral and documentary, which the Court admitted in its Resolution dated February 8, 2019, as well as the stipulations between the parties, the Court is inclined to grant the accused-movant leave to file demurrer to evidence.

M/J

Moreover, it should be remembered that the prosecution moved to discharge accused Ernesto A. Aspillaga to be a state witness, however, this was denied by the Court in its resolution dated August 22, 2018. By filing the aforesaid motion to discharge, the prosecution impliedly admitted that there was an absolute necessity for the testimony of Aspillaga and that there was no other direct evidence available to prove the culpability of accused Binay, except Aspillaga's testimony. Since Aspillaga's testimony as state witness was denied admission, there are doubts as to the sufficiency of evidence with respect to accused Binay's criminal culpability.

WHEREFORE, in light of all the foregoing, the *Motion for Leave of Court to File Demurrer to Evidence* of accused Elenita S. Binay is hereby **GRANTED**. Accused Binay is given a non-extendible period of ten (10) days from notice to file a demurrer to evidence. The prosecution may oppose the same by filing its Comment/Opposition within the same period, from receipt of a copy of accused Binay's demurrer.

SO ORDERED.


RAFAEL R. LAGOS
Chairperson
Associate Justice

WE CONCUR:


**MARIA THERESA V.
MENDOZA-ARCEGA**
Associate Justice


**MARYANN E.
CORPUS-MAÑALAC**
Associate Justice