



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

Seventh Division

MINUTES of the proceedings held on March 14, 2019

Present:

Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA--Chairperson

Justice ZALDY V. TRESPESES-----Member

Justice GEORGINA D. HIDALGO-----Member

The following resolutions were adopted:

***Crim Case No. SB-16-CRM-0582-0583- People vs. Susana Ariola
Salvacion***

This resolves the following:

1. Accused's Motion for Reconsideration of the January 25, 2019 Decision or with Leave of Court for New Trial¹ dated February 6, 2019.
2. Plaintiff People of the Philippines' Opposition to the Motion for Reconsideration dated February 26, 2019.²

HIDALGO, J.

Submitted for resolution is the Motion for Reconsideration or with Leave of Court for New Trial (Motion) filed by accused Susana Ariola Salvacion (accused Salvacion) seeking for the reconsideration of the Decision of this Court dated January 25, 2019, finding her guilty beyond reasonable doubt for violation of Section 3 (e) and Section 3 (h) of Republic Act 3019 and the Opposition thereto filed by the prosecution.

In her motion, accused Salvacion raised the following arguments:

1. This Court gravely erred in the appreciation of facts, and evidence presented by the prosecution, particularly its reliance on the investigation conducted by the Sangguniang Bayan of Lucban [Quezon] and erroneous interpretation and application of the Manual of Operations of Business Affairs Office (BAO) against her.

¹ Record, Vol. 2, pp. 272 to 316

² Record, Vol. 2, pp. 322 to 331

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2. That this Court gravely erred when it admitted [that] there is no need to discuss the evidence adduced by the defense which the Court finds to be weak, more so, that her only admitted pieces of evidence consisting of a letter request and the official receipts of payment are of little help or no help at all. Such admission is highly prejudicial to the substantive right of the accused.

As it is, accused Salvacion argued that, she did not act with manifest partiality, evident bad faith or gross inexcusable negligence in the discharge of her functions. She pointed out that the element of bad faith was not present in this case. Hence, she is entitled to acquittal.

She likewise argued that the Court erred when it gave weight to the result of the investigation conducted by the Sangguniang Bayan of Lucban, [Quezon] (SB of Lucban) because in the first place, the SB of Lucban has no jurisdiction over a purely internal matter of South Luzon State University (SLSU). She insisted that the investigation was based on an unsubstantiated anonymous complaint and was not in aid of legislation but purely a political harrassment initiated by Mayor Villasenor.

In her attempt to reconsider the questioned Decision, accused Salvacion said that this Court erred when it relied on the interpretation and application of **"Item No. 3- Operations of the Manual of Operations"** without taking into consideration the entire context of the Manual of Operations. Since the objective of the SLSU as laid down in said Manual is "to engage in income generating projects to raise revenues for the support of the operation of SLSU," she cannot be held liable because she did not steal money from SLSU and in fact she promoted the income generating capability of SLSU. Further, she relied on the testimony of one Jameel Mykaela O. Bosagas that it was the students of SLSU who chose the COAM's Auditorium as the venue of their review classes since the same is accessible to them and was the result of a consultation and approval of both their parents and faculty members. To bolster her claim, she called to the witness stand one Lorna L. Cano who testified that only a request letter is required for the use of the auditorium.

More, accused Salvacion argued that this Court erred when it did not discuss the evidence adduced by the defense since they are weak. She insisted that this amounts to arbitrariness and therefore, violative of her right to due process and the right to equal protection of the law for she did not only present documentary but also testimonial evidence as well.

Also, she claimed that this Court had lost its cold neutrality by asking so many questions in the nature of cross examination questions during trial and repeatedly issued order to the witness not to testify particularly on

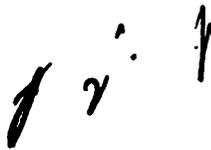


Exhibit "8" (Letter Request) under threat of perjury.

In its **OPPOSITION**, the prosecution maintained that the arguments raised by accused Salvacion are without merit.

In detail, the prosecution argued that no error can be attributed to this Court since it meticulously scrutinized and discussed in detail the testimonial and documentary evidence presented by both parties.

The prosecution insisted that this Court did not just admit an exhibit particularly ***Exhibit "H" (Minutes of Investigation)*** without being properly authenticated. If indeed this Court made an error in admitting the same, the defense should have moved for the reconsideration on its admission or evelate the matter to the "Higher Court."

The prosecution also theorizes that there is a proper procedure and requirements to be complied with before a facility of the SLSU can be utilized. Unfortunately, accused Salvacion failed to present evidence that she is exempted from complying said procedure and requirements. More, the prosecution pointed out that accused Salvacion is entitled to privileges on the utilization of the facility of the SLSU as the dean and faculty member of the latter.

As to the testimonies of the other witnesses mentioned by accused Salvacion in her motion, the prosecution believes that the same were already evaluated by this Court in the assailed decision.

As to the second ground stated by accused Salvacion, the prosecution maintained that, when the Court ruled "there is no need to discuss the evidence adduced by the defense, "it does not mean that the pieces of evidence presented by the defense were not taken into consideration. It emphasized that accused simply failed to rebut the strength of the evidence of the prosecution.

Lastly, as accused Salvacion's allegation that this Court lost its cold neutrality the prosecution opposes, this is an unfair statement. The Court merely performed its duty of not only ascertaining the truth but also protect the interest of the witness.

After this Court heard the allegations of both parties, the Motion and the Opposition thereto were submitted for resolution as per Order of this Court dated February 15, 2019.³

Hence, this resolution.

³ Record, Vol. 2, p. 319

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After a careful study of the arguments raised in the present Motion and in the Opposition and, after re-assessing the record of this case, the Court finds no cogent reason to warrant the reconsideration or setting aside of the assailed Decision dated January 25, 2019.

This Court maintains its findings as stated in the said Decision which were not successfully overcome with justifiable arguments in accused Salvacion's motion for reconsideration. Curtly said, the arguments raised were already passed upon by this Court in the assailed Decision. To be exact, this Court made a thorough discussion on the presence of all the elements constituting the offenses charged against accused Salvacion, which eventually led to the finding of conviction against her.

However, even if this Court will discuss the merits of the arguments raised by accused Salvacion, still the present Motion shall fail.

To start with, accused Salvacion attributes grave abuse of discretion on the part of this Court when it convicted her of the crime charged because of its reliance on the investigation conducted by the Sangguniang Bayan of Lucban [Quezon] and erroneous interpretation and application of the Manual of Operations of Business Affairs Office (BAO). More, she also attributes grave abuse on the part of this Court when it ruled that there is no need to discuss the evidence adduced by the defense [which the Court finds to be weak], more so, that her only admitted pieces of evidence consisting of a letter request and the official receipts of payment are of little help or no help at all. She claims that such posture is highly prejudicial to the substantive right of the accused.

This Court is not persuaded.

Section 1, Rule 37 of the 1997 Revised Rules of Civil Procedure reads:

“Section 1. Grounds of and period for filing motion for new trial or reconsideration. — Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or

(b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the

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result.

Within the same period, the aggrieved party may also move for reconsideration upon the grounds that the **damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law.**" (emphasis ours)

In these cases, the ground used by accused Salvacion in her motion (i.e., grave abuse on the part of this Court) is not among the exclusive grounds enumerated under Section 1, Rule 37 of the 1997 Revised Rules of Civil Procedure to warrant the granting of reconsideration or the granting of the new trial. To the mind of this Court, this ground is an extraneous matter that has no bearing and is irrelevant in the present motion.

Accused Salvacion likewise faulted this Court when it did not discuss the evidence adduced by the defense which the Court finds to be weak.

This Court does not subscribe because the prosecution cannot be allowed to draw strength from the weakness of the defense's evidence for it has the *onus probandi* in establishing the guilt of the accused - *ei incumbit probatio qui dicit, non que negat* - he who asserts, not he who denies, must prove.⁴ Following this jurisprudential rule, since the burden is with the prosecution to show that accused is guilty of the crime charged, the discussion must revolve to that of the evidence of the prosecution. And when it finds the evidence of the prosecution to be strong, it need not discuss in length the evidence of the defense.

Likewise, this Court does not agree also with the argument of accused Salvacion that since no one questioned the legality of SLSU's engaging or allowing its facilities to be used for business activity and that she contributed to the attainment of the goal of SLSU to generate income, she should be spared from having criminal liability.

It must be noted that the Manual of Operation of BAO provides for the procedure on how the auditorium must be used. In our Decision, this Court thoroughly discussed the procedure to be followed, which accused Salvacion fell short to observe. To reiterate, "while at first glance, there is nothing irregular for the use of the said auditorium in view of accused Salvacion's allegation that the use of the same or the other facilities of SLSU is open for all, what makes its use irregular is, the auditorium was used without Nurmed or accused Salvacion first complying with the requirements for its usage provided in the Manual of Operations of BAO⁵."

⁴ Guilbemer Franco vs. People of the Philippines, GR No. 191185, February 1, 2016

⁵ Record, Vol. 2, p. 13, First paragraph of the Decision dated January 25, 2019.

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In the case of *Roberto P. Fuentes vs. People of the Philippines*⁶, the Supreme Court categorically ruled that “gross negligence has been defined as negligence characterized by the **want of even slight care**, acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property.” (emphasis ours)

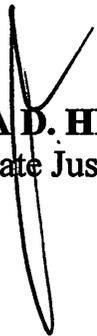
In the present cases, the non-observance of the procedure under the Manual of Operation for the use of the auditorium, constitutes want of [even] slight care which will warrant penalty under RA 3019.

Anent accused Salvacion’s summation that by holding the review classes in the auditorium of SLSU, it provided income for the support of its operation and at the same time, it helped its nursing graduates to prepare for the board examination and subsequently increased its passing percentage to 100%, the Court believes that this has nothing to do with the crime charged and therefore cannot be used to exempt her from criminal liability.

Lastly, a painstaking review of the facts of the case cannot leave an impression that political motivations played a vital role in the filing and/or propelling the present case. This Court cannot see any causal connection or the interplay between charges for violation of Section 3 (e) and 3(h) of RA 3019 and politics. Lightly but, political motivation or harrassment is not the concern of this Court , more specially so when there is no concrete evidence shown, that this is the primordial reason only the charges were filed in the first place, as in these cases.

WHEREFORE, in view of the foregoing, accused Motion for Reconsideration of the Decision dated January 25, 2019 or with Leave of Court for New Trial dated February 6, 2019 is **DENIED** for lack of merit.

SO ORDERED.

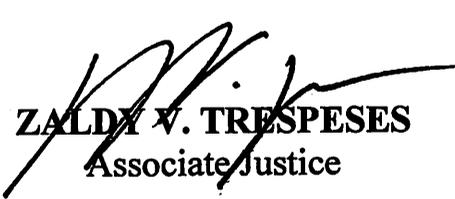

GEORGINA D. HIDALGO
Associate Justice

⁶ GR No. 186421, April 17, 2017

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WE CONCUR:


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice
Chairperson


ZALDY V. TRESPESES
Associate Justice

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