



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on April 11, 2019.

Present:

JUSTICE MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson
JUSTICE ZALDY V. TRESPESES ----- Member
JUSTICE GINA D. HIDALGO ----- Member

The following resolution was adopted:

Criminal Case No. SB-16-CRM-0318 to 0321 -

**PEOPLE v. P/S SUPT. ELIZABETH ACEVEDO MILANES
P/SUPT. DIGNA OLIVARES-AMBAS
EDGAR D. INDIONGCO**

This resolves the following:

1. Accused Elizabeth A. Milanés' "**MOTION FOR RECONSIDERATION**" dated March 25, 2019;¹
2. The Prosecution's "**COMMENT/OPPOSITION** (Re: Accused Milanés' Motion for Reconsideration)" dated April 4, 2019;²
3. Accused Digna Olivares-Ambas' "**MOTION FOR RECONSIDERATION**" dated March 25, 2019;³ and
4. The Prosecution's "**COMMENT/OPPOSITION** (Re: Accused Ambás' Motion for Reconsideration)" dated April 8, 2019.⁴

¹ Records, Volume 3 , pp. 158-166

² Id., pp. 170-172

³ Id., pp. 173-182

⁴ Id., pp. 184-186

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GOMEZ-ESTOESTA, J.:

The denial of accused's *Motion for Leave to File Demurrer to Evidence* spawned the filing of the present *Motions for Reconsideration* which alleged, as follows:

1. For accused P/S Supt. **Elizabeth A. Milanes**, asseverations were made that a discussion of the insufficiency of prosecution evidence cannot be disentangled from an appreciation of the probative value of the weight of the evidence presented; hence, the admission of prosecution evidence by itself should allow her to examine whether or not the her criminal liability to the charge has been proven or not. Accused Milanes thus proceeded to decipher each evidence, reiterated as follows:

a. Exhibits "C-3," "C-4," "C-6-e," and "C-12" never mentioned the name of accused Milanes nor her participation to the charge. Even complainant P/Supt. Manuel M. Lukban Jr. admitted during the taking of his testimony that accused Milanes' name was never mentioned in his complaint or in the complaint executed by the trainees;

b. Exhibit "C-16" may have mentioned the name of accused Milanes but it was only confined to the fact of her presence during the "*proseso sa medical*." No particular act detailing her manifest partiality, bad faith or gross inexcusable negligence was shown. If at all, her participation was limited to assisting the applicants on what to do on the day of the medical examination. Even the witnesses admitted that accused Milanes never gave them an instruction to collect payments from them or that the collected payments were given to her;

c. Exhibits "C-4" to "C-4-n," "C-5," "C-6" to "C-6-d," "C-7" to "C-11-b," and "C-13" to "C-15-a" were mere photocopies of medical certificates which did not likewise show the particular act of accused Milanes as alleged in the Information as their admission were merely considered "*as part of the investigation conducted*." Being mere photocopies, such documentary exhibits cannot inevitably lead to a verdict of guilt as their admission was not for the purpose of proving the very contents of these documents or of the facts alleged therein but only "*as part of the investigation conducted*;"

d. Exhibits "C-6-e" and "C-12" never mentioned the name of accused Milanes at all nor pointed to her participation in the charge since the same were merely admitted "*as part of the testimony of Lukban or as part of the investigation conducted*;" and that

e. Exhibits "E," "F," and "H" did not likewise prove that accused Milanes had knowledge of or was involved in the commission of the charges.

Accused Milanes went further to state that she cannot remain implicated in the charges by reason of her position as head of RHS3 as this would then be resting her verdict on the basis of mere presumptions and assumptions. The Certification (Exhibit "H") stating that E. Indiongco Laboratory occupied a 10 square meter space inside RHS3 without paying

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rent was not presented by the record custodian thereof or of one who had personal knowledge of such fact. More, the supposed irregularity in the procurement process in the “*collection of specimen by Indiongco Lab*” was never testified to by any of the witnesses presented by the Prosecution.

2. For accused **P/Supt Digna Olivares-Ambas**, the same argument was raised that the evidence presented by the Prosecution “*do not prove the guilt of accused Ambas beyond reasonable doubt.*”⁵ Even primary witness P/Supt. Manuel M. Lukban Jr. had no personal knowledge of the charges, having merely relied on the interviews and fact-finding report made by his investigators, as quoted in relevant portions of his testimony during cross examination. No evidence was likewise presented to prove that accused Ambas disqualified the PNP applicants based on the results of their medical examinations since it was not her function to admit them in the first place, this being relegated to the Regional Recruitment Board. The prosecution was thus not able to prove that:

- (a) there were on-the-job training nursing students in RHS3;
- (b) that they conducted medical examinations on the PNP;
- (c) that the medical results were not given to the applicants; and that
- (d) because of these medical results, the PNP applicants were disqualified.

As to the alleged operation of E. Indiongco Laboratory inside RHS3, accused Ambas claim that no evidence was presented that it was her who allowed the operation of said entity inside RHS3.

In countermanding both *Motions*, the Prosecution maintained that the grounds stated therein dwell on an appreciation of the probative value of the testimonial and documentary evidence presented. This cannot yet be done as it is only a test of sufficiency of prosecution evidence that should be appreciated at this stage.

A re-evaluation of the grounds contended in the *Motions* only affirm that the same should be denied.

In *People v. Go*,⁶ the Supreme Court, through Justice Del Castillo, issued an earnest instruction that:

The power of courts to grant demurrer in criminal cases should be exercised with **great caution**, because not only the rights of the accused - but those of the offended party and the public interest as well - are involved. Once granted, the accused is acquitted and the offended party may be left with no recourse. Thus, in the resolution of demurrers, judges must act with utmost

⁵ Motion for Reconsideration filed by P/Supt. Ambas, p. 3

⁶ G.R. No. 191015, August 6, 2014

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circumspection and must engage in intelligent deliberation and reflection, drawing on their experience, the law and jurisprudence, and delicately evaluating the evidence on hand.

Under this bidding, the ongoing trial against the accused should only proceed as prosecution evidence was found **sufficient** to sustain the charges against them.

First. An assessment of the evidence cannot extend to an appreciation of “*proof beyond reasonable doubt*” which is the yardstick in determining the guilt or innocence of the accused at a time when the charges are finally submitted for judgment. What suffices at the moment is the test on “*sufficiency of evidence*” but which both accused belabor as “*proof beyond reasonable doubt.*”

Sufficient evidence for purposes of frustrating a demurrer thereto is such evidence in character, weight or amount as will legally justify the judicial or official action demanded according to the circumstances. To be considered sufficient therefore, the evidence must prove: (a) the commission of the crime, and (b) the precise degree of participation therein by the accused.” Thus, when the accused files a demurrer, **the court must evaluate whether the prosecution evidence is sufficient enough** to warrant the conviction of the accused beyond reasonable doubt.⁷

In resolving the motion for leave to file demurrer to evidence, therefore, the appreciation of the evidence is centered on the evidence alone presented by the Prosecution and whether it is *sufficient enough* to warrant the conviction of the accused beyond reasonable doubt. This should be differentiated with a finding whether the evidence presented is already one of *proof beyond reasonable doubt.*

As already dovetailed in this Court’s Resolution dated March 4, 2019, sufficient evidence was found, as tested in the documentary exhibits enumerated therein, after their identification by witnesses for the prosecution.⁸

⁷ *People v. Go, supra*

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Elements	Evidence Presented by the Prosecution as applicable to all charges
1. The accused must be a public officer discharging administrative, judicial or official functions;	That accused Amba and Milanes are public officers at the time material to the cases is a fact stipulated per Pre-Trial Order. Accused Indiongeo may be a private person but he is charged as having conspired with accused Amba and Milanes in committing the offenses subject of the Informations
2. Accused must have acted with manifest partiality, evident bad faith or gross inexcusable negligence; and	Exhibits “A,” “B,” “C” and its attachments, and “C-20” “C-2” and “C-3” “C-4,” “C-6-e,” “C-12,” “C-16,” “C-16-a,” “C-16-b,” “C-16-c,” “C-16-d,” “C-16-e,” “C-16-f,” “C-16-g,” and “C-16-h”
3. Accused’s action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.	“C-4 to C-4-n,” “C-5,” “C-6 to C-6-d,” “C-6-e” and “C-7 to C-11-b,” “C-12” and “C-13” to “C-15-a,” “E,” “F,” and “H”

J. J.

Since it is merely the issue on admissibility of these documentary exhibits that was settled as pertinent to prosecution's formal offer of documentary exhibits, it is their **admission** as such that was measured in making a primary determination whether the elements of the crimes as charged in the Informations existed. The appreciation of their *sufficiency* as evidence to prove the charges, however, is not the same appreciation belabored in determining their *probative worth* as evidence.

Here, the argument of accused Amba on what the prosecution "*was not able to prove*" is not yet ripe for determination at this time since this would call for an assessment of the evidence under the yardstick of "*proof beyond reasonable doubt.*" As already alluded to, this is premature at this instance.

Second. In testing the sufficiency of evidence, a determination of the precise degree of participation of the accused will reveal that the four (4) charges are intertwined under a theory of conspiracy such that the individual acts of the accused are necessarily overtaken by their common design as a whole.

Hence, it is simply not enough that the sworn statement of a prosecution witness failed to mention the name of accused Milanes when it is not her individual liability that is at the core of the issue. Rather, her criminal liability, if any is found, is hinged on conspiracy.

Conspiracy, once proven, has the effect of attaching liability to all of the accused, regardless of their degree of participation, thus:

Once an express or implied conspiracy is proved, **all of the conspirators are liable as co-principals regardless of the extent and character of their respective active participation in the commission of the crime** or crimes perpetrated in furtherance of the conspiracy because in contemplation of law the act of one is the act of all. The foregoing rule is anchored on the sound principle that "when two or more persons unite to accomplish a criminal object, whether through the physical volition of one, or all, proceeding severally or collectively, each individual whose evil will actively contributes to the wrong-doing is in law responsible for the whole, the same as though performed by himself alone." Although it is axiomatic that no one is liable for acts other than his own, "when two or more persons agree or conspire to commit a crime, each is responsible for all the acts of the others, done in furtherance of the agreement or conspiracy." The imposition of collective liability upon the conspirators is clearly explained in one case where this Court held that . . . it is impossible to graduate the separate liability of each (conspirator) without taking into consideration the close and inseparable relation of each of them with the criminal act, for the commission of which they all acted by common agreement . . . The crime must therefore in view of the solidarity of the act and intent which existed between the . . . accused, be regarded as the act of the band or party created by them, and they are all equally responsible. xxx.⁹

⁹ People v. Feliciano, Jr., et al., G.R. No. 196735, May 5, 2014

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The Court, however, cannot yet speculate on the existence of the conspiracy itself because it would call for a determination of the probative value of the evidence as a whole. This only follows from the axiomatic doctrine that conspiracy must be proved as convincingly as the criminal act itself.¹⁰

Thus, for accused Milanes to only cater to her *individual participation* to the charges to allow her to demur to the evidence appears as myopic. It is the charge of conspiracy that she should look after, premised on the allegation that she was head of RHS3 at the time material to the charges. Whether this was loosely based on mere presumption or speculation, the Court is not ready to adduce such. Fact is, it remains as a factual allegation which may or may not have a bearing on the criminal liability of accused Milanes.

On the basis of prosecution evidence presented as a whole, however, accused Milanes cannot extricate herself from the charges on the basis of what she tags as her non-participation to the charges. This only limits her participation to her individual acts which is contrary to the charge of conspiracy. It is best, therefore, that she presents evidence to refute such.

The questioned Resolution dated March 4, 2019 is thus maintained.

WHEREFORE, the (i) *Motion for Reconsideration* filed by accused P/S Supt. Elizabeth A. Milanes and the (ii) *Motion for Reconsideration* filed by accused P/Supt. Digna Olivares-Ambas, are both **DENIED**.

To reiterate, without prejudice to the submission of the sequential order in the presentation of defense evidence, the following accused are directed to present evidence in the order as they appear in the Information:

1. P/S Supt. Elizabeth A. Milanes;
2. P/Supt. Digna Olivares-Ambas; and
3. Edgar D. Indiongco.

Accused P/S Supt. Elizabeth A. Milanes is thus directed to present her evidence first on *April 22, 2019 at 8:30 in the morning*¹¹ before the Fourth Division Courtroom.

SO ORDERED.

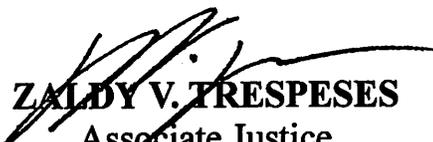

MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice, Chairperson

¹⁰ *People v. Jesalva*, G.R. No. 227306, June 19, 2017

¹¹ Per Minute Resolution dated March 4, 2019

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WE CONCUR:


ZALDY V. TRESPESES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice

