



Republic of the Philippines  
**Sandiganbayan**  
 Quezon City  
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**SEVENTH DIVISION**

*MINUTES of the proceedings held on 11 April 2019.*

*Present:*

*Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA----- Chairperson*  
*Justice ZALDY V. TRESPESES----- Member*  
*Justice GEORGINA D. HIDALGO----- Member*

*The following resolution was adopted:*

***Crim. Case No. SB-16-CRM-0841 to 0848 - People vs. JORGE V. SEGOVIA, et al.***

This resolves the following:

1. The prosecution's "MOTION FOR RECONSIDERATION GRANTING ACCUSED'S MOTION FOR LEAVE TO FILE DEMURRER TO EVIDENCE" dated March 15, 2019;<sup>1</sup>
2. Accused Jorge Segovia, Aurelio Baladad, Joselito Reyes, Cristobal Zaragoza, Marion Balonglong, Allan Nobleza and Jovily Cabading's "OPPOSITION (Re: Motion for reconsideration dated 15 March 2019)" dated March 27, 2019.<sup>2</sup>

**TRESPESES, J.**

This resolves the Motion for Reconsideration filed by the prosecution of the Resolution dated 05 March 2019 (granting accused's motion for leave to file demurrer to evidence), and the Opposition thereto filed by accused Jorge V. Segovia, Aurelio B. Baladad, Joselito M. Reyes, Cristobal N. Zaragosa, Marion D. Balonglong, Allan C. Nobleza and Jovily Cabading.

The prosecution alleges that it has established all the elements of violation of Sec. 4 (b) of RA No. 7438 beyond reasonable doubt, as such, there is no basis to entertain accused's motion for leave to file demurrer to evidence. Reiterating its comment to the motion for leave, the prosecution asserts that it comprehensively countered accused's arguments.

<sup>1</sup> Record, Vol. 7, pp. 367-375.

<sup>2</sup> Id. at 433-439.

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The prosecution also argues that there is no such requirement in Sec. 4 (b) of the existence of a lawyer-client relationship as condition *sine qua non* for violation thereof. It claims that its failure to establish a matter that is irrelevant to the charge does not amount to its failure to establish accused's guilt beyond reasonable doubt. It further argues that it has established through the testimony of Atty. Ephraim Cortes, Roneo Clamor and other witnesses that lawyers went to Camp Capinpin but they were not allowed to go inside. Accused, on the other hand, failed to lay the basis for its arguments that the counsel referred to in Sec. 4 (b) must be the "counsel of choice."

Accused responded by way of Opposition. They aver that they have already filed a Demurrer to Evidence. Thus, should the motion for reconsideration be granted, it would result in accused being declared as having waived their right to present their evidence notwithstanding their strict compliance with Sec. 23 of Rule 119 of the Rules of Court.

Accused also argue that the grounds cited in the motion for reconsideration pertains to the merits of the Demurrer to Evidence. Therefore, they should be raised in the Comment or Opposition to the Demurrer to Evidence.

Finally, accused counter that the information and the joint stipulation of facts, which was adopted in the pre-trial, specifically state the offense charged as accused's act of preventing the private complainants' "counsel of choice" from conferring with them. The information states "to confer with competent and independent counsel of [his/her] choice in violation of [Private Complainant's] rights as a person arrested, detained, or under custodial investigation." Whereas the issue determined during the pre-trial as adopted from the parties' Joint Stipulation of Facts provides "(w)hether the accused are guilty beyond reasonable doubt of obstructing, preventing, or prohibiting Private Complainants' lawyer of choice from conferring with Private Complainants in violation of Sec. 4 (b) of Republic Act No. 7438." Therefore, the prosecution cannot insist that the lawyers obstructed, prevented or prohibited from conferring with private complainants can pertain to any member of the bar.

### RULING

We deny the prosecution's motion for lack of merit.

A demurrer to evidence is an objection or exception by one of the parties in an action at law, to the effect that the evidence which his adversary produced is insufficient in point of law (whether true or not) to make out his case or sustain the issue.<sup>3</sup>

<sup>3</sup> *Asistio y Consino v. People*, G.R. No. 200465, 20 April 2015.

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Sec. 23, Rule 119 of the Rules of Criminal Procedure<sup>4</sup> provides that the demurrer to evidence must be with prior leave of court otherwise, accused waives his right to present evidence and submits the case for judgment on the basis of the evidence of the prosecution. It bears stressing that the purpose for obtaining leave of court is to determine whether or not the defendant in a criminal case has filed the demurrer merely to stall the proceedings.<sup>5</sup>

In passing upon the issues raised in the motion for leave, the court determines whether the demurrer is dilatory. However, after a re-evaluation, the court maintains that the arguments raised by accused appears to be substantial and not to delay the proceedings. Hence, leave having been granted, the court is now bound to evaluate whether the evidence presented by the prosecution is sufficient enough to warrant conviction of accused.

Considering that accused have already filed their Demurrer on 22 March 2019,<sup>6</sup> and it appearing that the other arguments raised by the prosecution pertain to the demurrer to evidence, the Court deems it proper to discuss the merits in the resolution of the Demurrer to Evidence.

**WHEREFORE**, the Motion for Reconsideration of the Resolution dated 05 March 2019 filed by the prosecution is **DENIED**. The prosecution is given anew a **non-extendible period of ten (10) days** from receipt of this Resolution within which to file its comment to accused's Demurrer to Evidence.

**SO ORDERED.**

Quezon City, Philippines.

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<sup>4</sup> **Sec. 23. Demurrer to evidence.** – After the prosecution rests its case, the court may dismiss the action<sup>8</sup> on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) upon demurrer to evidence filed by the accused with or without leave of court.

If the court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his defense. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution.

The motion for leave of court to file demurrer to evidence shall specifically state its grounds and shall be filed within a non-extendible period of five (5) days after the prosecution rests its case. The prosecution may oppose the motion within a non-extendible period of five (5) days from its receipt.

If leave of court is granted, the accused shall file the demurrer to evidence within a non-extendible period of ten (10) days from notice. The prosecution may oppose the demurrer to evidence within a similar period from its receipt.

The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment.

<sup>5</sup> *People v. Crespo y Cruz*, 586 Phil. 542-573 (2008).

<sup>6</sup> Record, Vol. 7, pp. 376-428.

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**ZALDY V. TRESPESES**  
*Associate Justice*

WE CONCUR:

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

  
**GEORGINA D. HIDALGO**  
*Associate Justice*