



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

Seventh Division

MINUTES of the proceedings held on May 17, 2019.

Present:

<i>Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA--</i>	<i>Chairperson</i>
<i>Justice ZALDY V. TRESPESES -----</i>	<i>Member</i>
<i>Justice GEORGINA D. HIDALGO-----</i>	<i>Member</i>

The following resolution was adopted:

Crim. Case Nos. SB-17-CRM-1809 to 1810 – People of the Philippines vs. Constantino Huit Cordial, Jr., et al.

This resolves the following:

1. Accused Constantino Huit Cordial, Jr.'s "MOTION FOR RECONSIDERATION (Re: Resolution dated 04 April 2019)" dated April 15, 2019;¹ and
2. The prosecution's "COMMENT/OBJECTION" dated April 24, 2019.²

HIDALGO, J.:

This resolves the *Motion for Reconsideration* filed by accused Constantino H. Cordial, Jr. (accused), questioning this Court's Resolution³ dated April 4, 2019 denying the accused's *Motion for Leave to File Demurrer to Evidence* dated February 4, 2019. The dispositive portion thereof reads:

WHEREFORE and in view of the foregoing, the respective Motions for Leave to File Demurrer to Evidence filed by accused Cordial, Jr. and accused Belleza are DENIED FOR LACK OF MERIT. The Ex-Parte Motion for Leave to File Demurrer of accused Irene Breis is likewise DENIED FOR LACK OF MERIT. Consequently, the hearing set on April 29 & 30, 2019 at 8:30 o'clock in the morning for the initial presentation of defense evidence shall proceed.

¹ Record, Vol. 2, pp. 290-300.

² Id. at 303.

³ Id. at 278-286.

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SO ORDERED.⁴

Aggrieved, accused Cordial, Jr. asks this Court to review its disposition and insists that the said *Motion for Leave to File Demurrer to Evidence* should be granted on the following grounds:

- I. The prosecution failed to prove all the elements of Falsification of Official Document under Article 171 of the Revised Penal Code.
- II. The prosecution miserably failed to rebut the constitutional presumption of innocence of accused Cordial and to discharge the burden to prove his guilt beyond reasonable doubt.
- III. The documentary and testimonial evidence adduced by the prosecution failed to prove that accused Cordial conspired with the other accused in the commission of the Falsification of Official Documents.⁵

In an Order⁶ dated April 22, 2019, this Court directed the prosecution to comment on the motion within five (5) days.

Opposing the *Motion for Reconsideration*, the prosecution filed its *Comment/Objection*,⁷ arguing that no new issues were raised therein and that the arguments presented are a mere rehash of what have been said and reiterated in the pleadings, all of which have already been considered and resolved by this Court in the questioned Resolution.⁸

The Court's Ruling

This Court resolves to DENY the instant Motion.

As correctly pointed out by the prosecution, the grounds presented by the defense in the instant *Motion for Reconsideration* are a mere reiteration of the points raised in its *Motion for Leave to File Demurrer to Evidence*. For reference, the gist of said arguments as enumerated by the defense in the earlier Motion is quoted hereunder:

- I. The prosecution failed to prove all the elements of Falsification of Official Document under Article 171 of the Revised Penal Code.
- II. The prosecution miserably failed to rebut the constitutional presumption of innocence of accused Cordial and to discharge the burden to prove his guilt beyond reasonable doubt.

⁴ Id. at 285.

⁵ Id. at 291.

⁶ Id. at 303.

⁷ Id. at 304.

⁸ Id.

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III. The documentary and testimonial evidence adduced by the prosecution failed to prove that accused Cordial conspired with the other accused in the commission of the Falsification of Official Documents.

IV. Accused Cordial could not be held liable for the crime of falsification considering that his function in signing the resolutions was only ministerial.⁹

In the present *Motion for Reconsideration*, the defense argues that:

I. The prosecution failed to prove all the elements of Falsification of Official Document under Article 171 of the Revised Penal Code.

II. The prosecution miserably failed to rebut the constitutional presumption of innocence of accused Cordial and to discharge the burden to prove his guilt beyond reasonable doubt.

III. The documentary and testimonial evidence adduced by the prosecution failed to prove that accused Cordial conspired with the other accused in the commission of the Falsification of Official Documents.¹⁰

A simple comparison of the two Motions would readily reveal that, indeed, the defense only resorted to repeating the same arguments from its earlier Motion and adopting such in the instant Motion for Reconsideration, hoping to obtain a more favorable ruling from this Court. Moreover, a reading of the said Motions would reveal that the defense failed to present a new argument to support its position that he be allowed to file a Demurrer to Evidence. Thus, on the ground that the accused's arguments are a mere rehash of his arguments in the Motion for Leave to File Demurrer to Evidence, which this Court has more than sufficiently resolved in a Resolution dated April 4, 2019, it has no other recourse but to deny the present Motion for Reconsideration filed by accused Cordial, Jr.

However, in the interest of justice and to simply refresh the defense on the concept of a demurrer to evidence and why its *Motion* would not prosper, allow this Court to indulge the accused in reviewing once again the arguments presented.

Rule 119 Section 23 of the Revised Rules of Criminal Procedure states:

Section 23. Demurrer to evidence.- After the prosecution rests

⁹ Id. at 243.

¹⁰ Id. at 291.

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its case, the court may dismiss the action 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.

In *People v. De Borja*,¹¹ the Supreme Court elucidated on the function of a demurrer to evidence in this wise:

A demurrer to evidence is a motion to dismiss on the ground of insufficiency of evidence. It is a remedy available to the defendant, to the effect that the evidence produced by the plaintiff is insufficient in point of law, whether true or not, to make out a case or sustain an issue. The question in a demurrer to evidence is whether the plaintiff, by his evidence in chief, had been able to establish a *prima facie* case.

x x x The office of a demurrer to evidence to expeditiously terminate the case *without the need* of the defendant's evidence. Hence, what is crucial is the determination as to whether the plaintiff's evidence entitles it to the relief sought.¹² (emphasis in original)

Thus, in resolving a demurrer, the Court has to determine whether the prosecution's evidence, *prima facie*, meets the elements of the crime charged without considering the defenses of the accused.

In this case, accused Cordial, Jr. was charged with violation of Article 171 (2) of the Revised Penal Code (Falsification of Official Document) in conspiracy with the other accused. Said provision reads:

Art. 171. Falsification by public officer, employee or notary or ecclesiastic minister. — The penalty of prision mayor and a fine not to exceed P5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

x x x x

2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;

x x x x

Thus, the elements of the crime of Falsification of Official Document in the instant case, are as follows:

1. The offender is a public officer or employee or a notary public;

¹¹ G.R. No. 187448, January 9, 2017.
¹² *People vs. De Borja*, G.R. No. 187448, January 9, 2017.

2. The offender takes advantage of his official position; and

3. He or she falsifies a document by committing any of the acts mentioned in Article 171 of the Revised Penal Code,¹³ specifically, by causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate.

As to the specific acts allegedly undertaken by Cordial, Jr. in violation of Article 171, reference is made to the accusatory portion of the Information, which reads:

That on or about March 24, 2014, in the Municipality of Caramoan, Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, accused **CONSTANTINO HUIT CORDIAL, JR.**, Municipal Mayor, **IRENE RANARA BREIS**, Vice Mayor, and **DANILO OBIAS BELLEZA**, Sangguniang Bayan Secretary, all public officials, all of the Municipality of Caramoan, Camarines Sur, taking advantage of their official positions and committing the offense in relation to their office, in connivance and conspiracy with each other, did then and there, willfully, unlawfully, and feloniously falsify Resolution No. 48-A entitled "*Resolution Earnestly Requesting Honorable DILG Secretary Mar A. Roxas of the Department of Interior and Local Government for the Immediate Removal of the Task Force Sagip Kalikasan in the Entire Municipality of Caramoan, Camarines Sur,*" an official document, by causing it to appear that Councilors Eduardo B. Bonita, Lydia C. Obias and Francis R. Benemerito participated and attended in the deliberations of the said resolution on March 24, 2014, and that it was unanimously approved by all the members of the Sangguniang Bayan of Caramoan, when in truth and in fact, as the accused well knew, that Councilors Bonita, Obias and Benemerito did not so participate nor attend during its deliberation and neither was it unanimously approved by all the members of the Sangguniang Bayan of Caramoan, to the damage and prejudice of the public interest.

CONTRARY TO LAW.¹⁴

Verily, the prosecution forwards the theory that by conspiring with his co-accused, Cordial, Jr. participated in the falsification of Resolution No. 48-A. Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.¹⁵ It is present when one concurs with the criminal design of another, as shown by an overt act leading to the crime committed and it may be deduced from the mode and manner of the commission of the crime.¹⁶ Thus, the prosecution

¹³ *Garong vs. People*, G.R. No. 172539, November 16, 2016.

¹⁴ Record, Vol. 2, pp. 242-243.

¹⁵ *Zoleta vs. Sandiganbayan*, G.R. No. 185224, July 29, 2015.

¹⁶ Id.

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suggests that Cordial had a hand in the crime and intentionally signed the falsified Resolutions, knowing that the subject Resolution is flawed as it contained false information.

In the assailed Resolution dated April 4, 2019, this Court held that the evidence presented by the prosecution, specifically the testimonies of witnesses Eduardo B. Bonita, Jeman S. Ramirez, and Camilo R. Alvarez, to the effect that the subject Resolutions, signed by Cordial, Jr. as Mayor, were non-existent and that these were not turned over to the Sangguniang Bayan Secretary, were consistent and sufficient to support the indictment.¹⁷

In seeking to convince this Court to reverse its ruling denying his *Motion for Leave to File Demurrer to Evidence*, accused Cordial insists that, contrary to this Court's initial findings, the prosecution "miserably failed to overcome the Constitutional presumption of innocence x x x and to discharge the burden to prove his guilt beyond reasonable doubt."¹⁸

Assessing the evidence thus far presented by the prosecution, this Court is not persuaded by accused Cordial's assertion. For emphasis, in resolving a Motion for Leave to File Demurrer to Evidence, the Court is not yet dealing with the strength of each individual piece of the prosecution evidence nor is it expected to make an in-depth and qualitative determination of whether it was indeed the accused who committed the crime charged, taking into consideration the allegations of the defense as to what really transpired. Rather, this Court is only called upon to make a perfunctory assessment of the **evidence submitted by the prosecution only**, as opposed to a detailed scrutiny of the merits of the case. Thus, whether or not the prosecution was indeed able to overcome the constitutional presumption of innocence with the requisite quantum of evidence in criminal proceedings, that is, proof of guilt beyond reasonable doubt, is not yet in issue at this point.

Needless to state, Cordial, Jr.'s resort to arguing his version of the facts pertaining to his signature on the disputed Resolution to convince this Court that the prosecution failed to prove his guilt, or more correctly, to present a *prima facie* case against him, is not for this Court to appreciate at this time. It is well to point out that in his *Motion for Reconsideration*, Cordial argued that:

b) As to the **SECOND** element, as to [the] allegation that [he] took advantage of his official position in the commission of the alleged crime, the prosecution again miserably failed to prove such fact.

i. *First*, the actual presence of the accused Cordial in the Sanggunian meeting when the alleged forgery happened was not

¹⁷ Record, Vol. 2, p. 283.

¹⁸ Id. at 292.

proved and no evidence was presented to prove it.

ii. *Second*, the passing of Sangguniang Bayan Resolutions is not included in his functions as a Municipal Mayor. Here, accused Cordial is a Municipal Mayor and since it is the Sangguniang Bayan Members who pass the Resolutions/Ordinances of a municipality, it is not required for a Resolution to be transmitted to the Mayor for it to be validly passed. This is because under Article 108 of the Implementing Rules and Procedure (IRR) of the Local Government Code, only ordinances are required to be presented to [the] local chief executive for approval.¹⁹

Furthermore, accused Cordial, Jr. maintained that the prosecution failed to prove that he attended the Sanggunian Proceedings²⁰ and that he himself committed the forgery²¹ or that he conspired with his co-accused in the commission of the crime.²²

To the mind of this Court, these grounds and arguments presented by the accused are evidentiary in nature, which are best threshed out in a full blown trial. To be more specific, his absence in the Sanggunian meeting where the disputed Resolution was discussed, the circumstances under which he affixed his signature in the forged resolution, and his alleged lack of knowledge as to the falsity of the information in the Resolution are in fact defenses which should be taken up during his turn to present evidence. Right now, his signature on the falsified Resolution is highly suspect and shows, *prima facie*, that he had a hand in the issuance of Resolution 48-A, whether by direct participation, through a conspiracy, via approval of the resulting falsified document, or in some other capacity, giving this Court reason to believe that the case should not be so prematurely dismissed, but instead, has to run its course.

WHEREFORE, premises considered, the Motion for Reconsideration is **DENIED**. Consequently, the initial presentation of defense evidence scheduled on **June 10, 2019 at 8:30 in the morning** shall proceed.

SO ORDERED.


GEORGINA D. HIDALGO
Associate Justice

¹⁹ Id. at 293-294.

²⁰ Id. at 294.

²¹ Id. at 295.

²² Id. at 297.

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WE CONCUR:


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


ZALDY V. TRESPESES
Associate Justice

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