



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-14-CRM-0362**
Plaintiff, For: Violation of Section 8(c)
in relation to Section 11
of R.A. 8041

SB-14-CRM-0363
For: Grave Coercion

Present

- versus -

TOMAS P. BONGALONTA,
ET AL.,

Accused.

FERNANDEZ, SJ, J.,
Chairperson
MIRANDA, J. and
VIVERO, J.

Promulgated:

AUG 07 2019 

X-----X

RESOLUTION

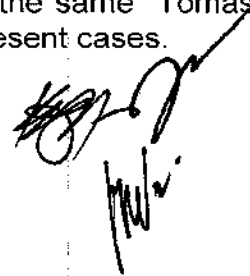
FERNANDEZ, SJ, J.

In its *Motion for Leave of Court for the Formal Amendment of the Informations to Conform to the Evidence*,¹ the prosecution prays for leave of court to amend the Information in the present cases. It argues:

1. In both Informations, the name of accused Tomas P. Bongalonta, Jr. was indicated as "TOMAS P. BONGALONTA."
2. In his *Judicial Affidavit* dated May 31, 2019,² accused Bongalonta stated his name as "TOMAS P. BONGALONTA, JR.," and expressly confirmed that he is the same "Tomas P. Bongalonta," one of the accused in the present cases.

¹ Dated July 8, 2019; Record, Vol. 3, pp. 225-232

² Record, Vol. 3, pp. 166-185



RESOLUTION

People vs. Bongalonta, et al.
SB-14-CRM-0362 and 0363

Page 2 of 5

X-----X

3. Sec. 5, Rule 10 of the Rules of Court allows the amendment of the pleadings as may be necessary to cause them to conform to the evidence, upon motion of any party at any time, even after judgment.
4. Sec. 14, Rule 110 of the Rules of Court provides that after plea and during trial, formal amendment of the Information may be made with leave of court and when it can be done without causing prejudice to the rights of the accused.
5. In *People v. Padica*,³ the Supreme Court held that the insertion of the real name of the accused is merely a formal amendment since it did not deprive the accused of a fair opportunity to present his evidence.
6. The amendment of the Informations by inserting the suffix "Jr." in accused Bongalonta's name to reflect his full name is merely a formal amendment.
7. Accused Bongalonta never assailed his identity as the person charged in the Informations. Moreover, he expressly admitted that he is the same "Tomas P. Bongalonta" charged in the Informations. The formal amendment of the Informations will not cause prejudice to his rights.

During the hearing on July 19, 2019, the accused orally argued that formal amendment of the Informations is no longer appropriate because the defense had already rested its case.⁴

THE COURT'S RULING

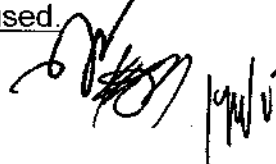
The prosecution's Motion is impressed with merit, and should be granted.

Sec. 14, Rule 110 of the Rules of Court provides for the amendment or substitution of an Information. To wit:

Sec. 14. Amendment or substitution. – A complaint or information may be amended, in form or in substance, without leave of court, at any time before the accused enters his plea. After the plea and during the trial, a formal amendment may only be made with leave of court and when it can be done without causing prejudice to the rights of the accused.

³ G.R. No. 102645, April 7, 1993

⁴ Order dated July 19, 2019



RESOLUTION

People vs. Bongalonta, et al.
SB-14-CRM-0362 and 0363

Page 3 of 5

X-----X

x x x

(underscoring supplied)

There is no doubt that the insertion in the information of an accused' real name is a mere formal amendment. The ruling in *People v. Padica*,⁵ cited by the prosecution, is on point. To wit:

The subsequent amendment to insert in the information Leon Marajas, Jr.'s real name involved merely a matter of form as it did not, in any way, deprive appellant of a fair opportunity to present his case. Moreover, the amendment neither affected nor altered the nature of the offense charged since the basic theory of the prosecution was not changed nor did it introduce new and material facts. Such an amendment is explicitly allowed under the second paragraph of Section 7,⁶ in relation to Section 14, Rule 110 of the Rules of Court, the pertinent portion of which provides that x x x. At any rate, whatever irregularity may have attended the inclusion of appellant's name as an accused in the amended information has been waived by his subsequent appearance and entry of plea at his arraignment under said amendatory information.

(underscoring supplied)

The accused' contention that the formal amendment is no longer appropriate because the defense had already rested its case is untenable. Sec. 11, Rule 119 of the Rules of Court, which provides for the order of trial, reads:

Sec. 11. Order of trial. – The trial shall proceed in the following order:

- (a) The prosecution shall present evidence to prove the charge and, in the proper case, the civil liability.
- (b) The accused may present evidence to prove his defense and damages, if any, arising, from the issuance of a provisional remedy in the case.
- (c) The prosecution and the defense may, in that order, present rebuttal and sur-rebuttal evidence unless the court, in

⁵ *Supra.* Note 3

⁶ **Sec. 7. Name of the accused.** – The complaint or information must state the name and surname of the accused or any appellation or nickname by which he has been or is known. If his name cannot be ascertained, he must be described under a fictitious name with a statement that his true name is unknown.

If the true name of the accused is thereafter disclosed by him or appears in some other manner to the court, such true name shall be inserted in the complaint or information and record.

RESOLUTION⁶

People vs. Bongalonta, et al.
SB-14-CRM-0362 and 0363

Page 4 of 5

X-----X

furtherance of justice, permits them to present additional evidence bearing upon the main issue.

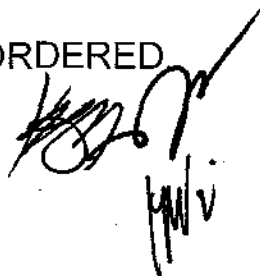
- (d) Upon admission of evidence of the parties, the case shall be deemed submitted for decision unless the court directs them to argue orally or to submit written memoranda.
- (e) When the accused admits the act or omission charged in the complaint or information but interposes a lawful defense, the order of trial may be modified.

Clearly, the trial does not necessarily end when the defense rests its case. The prosecution may still present rebuttal evidence, and thereafter, the defense may present sur-rebuttal evidence. The parties may even be allowed to present additional evidence bearing upon the main issue when warranted.

It appearing that the amendment of the Informations by inserting the suffix "Jr." in the accused' name will not alter the prosecution's basic theory, and further considering that in the Pre-Trial Order,⁷ the parties stipulated as to the identity of the accused, and that accused Bongalonta made an express admission that he is the accused indicated in the Informations,⁸ no prejudice to the rights of accused Bongalonta will be caused by such amendment.

WHEREFORE, the prosecution's Motion is hereby GRANTED. Let the Information in SB-14-CRM-0362 and 0363 be amended by inserting the suffix "Jr." in the name of accused Bongalonta. His name in the Informations should now read "Tomas P. Bongalonta, Jr."

SO ORDERED



⁷ Dated June 19, 2017, p. 1

⁸ Record, Vol. 3, p. 167

RESOLUTION

People vs. Bongalonta, et al.
SB-14-CRM-0362 and 0363

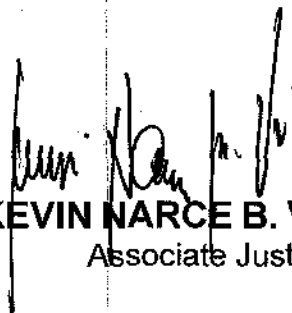
Page 5 of 5

X-----X


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice