



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-17-CRM-1490**
Plaintiff, For: Violation of Sec. 3(e)
of Republic Act No. 3019

Present

- versus -

**ELEANDRO JESUS F.
MADRONA, ET AL.,**

Accused.

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

Promulgated:

OCT 16 2019

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves the *Motion for Leave to File Demurrer to Evidence*¹ filed by accused Eleandro Jesus F. Madrona, Oscar P. Galos and Geishler F. Fadri, and the prosecution's *Opposition (Re: Motion for Leave to File Demurrer to Evidence)*.²

In their Motion, accused Madrona, Galos and Fadri pray that this Court grant them leave to file their demurrer to evidence; and that their demurrer to evidence be granted, and the present case be dismissed. In essence, they argue:

1. Some of the requirements that were allegedly not complied with were not in Republic Act No. 9184 (R.A. No. 9184) and its Implementing Rules and Regulations Part A (IRR-A) at the time of the subject transaction. Said requirements were added in the

¹ Dated June 28, 2019; Record, Vol. 4, pp. 272-346

² Dated July 8, 2019; Record, Vol. 4, pp. 348-353

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IRRs which became effective after the time of the subject transaction.

2. Feshan was the sole and exclusive distributor of Bio Nature Liquid Organic Fertilizer.
3. The prosecution failed to show that there were suitable substitutes for said foliar fertilizer.
4. The prosecution failed to prove conspiracy among the accused.

In its *Opposition*, the prosecution counters:

1. The prosecution proved the essential elements of violation of Sec. 3(e) of R.A. No. 3019.
2. The parties stipulated that accused Madrona, Galos and Fadri were all public officers at the time material to the allegations in the Information.
3. The accused acted with manifest partiality, evident bad faith or gross inexcusable negligence when they procured 3,333 bottles of Bio Nature liquid fertilizer from Feshan through the alternative method of procurement of direct contracting without sufficient justification.
4. By dispensing with the mandatory public bidding and resorting to direct contracting without sufficient justification, the government was deprived of the opportunity to get the most advantageous offer/price, and unwarranted benefits or privilege were granted to private parties.
5. Direct proof is not essential in showing conspiracy among the accused. The same may be inferred from the acts of the conspirators in the commission of the offense. It is sufficient to show that the acts of the conspirators were connected and cooperative in accomplishing the unlawful object.

THE COURT'S RULING

In *Bernardo v. Court of Appeals*,³ the Supreme Court held that the power to grant leave to the accused to file a demurrer is addressed to the sound discretion of the trial court, for the purpose of determining whether the accused will file the demurrer merely to stall the proceedings.

³ G.R. No. 119010, September 5, 1997



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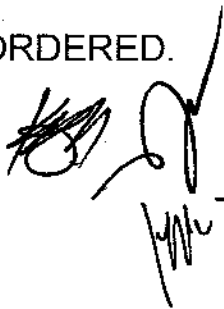
After an examination of the prosecution's evidence and the arguments in accused Madrona, Galos and Fadri's Motion, this Court rules that said arguments are not inconsistent with the material facts proved by the prosecution's evidence, *i.e.*, the resort to the alternative method of procurement of direct contracting without sufficient justification. Thus, granting them leave to file their demurrer to evidence on such grounds will accomplish nothing but delay in the proceedings.

WHEREFORE, accused Madrona, Galos and Fadri's *Motion for Leave to File Demurrer to Evidence* is hereby DENIED for lack of merit.

As provided in Sec. 23, Rule 119⁴ of the Rules of Court, they may adduce evidence in their defense, or in the alternative, they may file a demurrer to evidence without leave of court.

Accused Madrona, Galos and Fadri are given five (5) days from receipt of this Resolution to file their manifestation, by personal service or through courier, to inform this Court whether they are submitting their demurrer to evidence without leave of court. The hearing dates previously set for the presentation of the defense evidence are maintained. The scheduled hearings will be considered canceled upon receipt by this Court of said accused' manifestation that they intend to submit their demurrer to evidence without leave of court.

SO ORDERED.



⁴ Sec. 23. *Demurrer to evidence.* – After the prosecution rests 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.


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 of the prosecution. x x x

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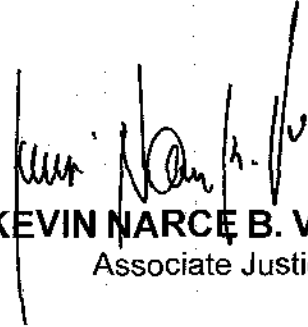
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SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL E. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice