Republic of the Philippines
SANDIGANBAYAN
Quezon City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

MARJORIE DE VEYRA, et al.
Accused.

Crim. Cases Nos.
SB-16-CRM-0077 to
SB-16-CRM-0084

x - x

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

JEJOMAR C. BINAY, SR., *et al.*
Accused.

Crim Cases Nos.
SB-16-CRM-0439 to
SB-16-CRM-0453

x - x

Present:

CABOTAJE-TANG, A.M.,
P.J./Chairperson
FERNANDEZ, B.R., *J*,
MORENO, R.B., *J.*

Promulgated on:

April 3, 2024

x- -x

x--x

RESOLUTION

FERNANDEZ B. R., *J.*

This resolves the two Motions, one filed by movant-accused Orlando M. Mateo and another by movant-accused Efren M. Canlas, both dated February 13, 2024, both principally seeking a reconsideration of the Resolution of this Court promulgated on February 7, 2024, denying their separate Motions for the production and inspection of documents.

<u>Motion for Reconsideration of movant-accused Orlando M. Mateo dated February 13, 2024</u>

Movant-accused Mateo submits that the assailed Resolution was founded on glaringly erroneous appreciation and understanding of his earlier Manifestation and Motion and its supplement for the production and inspection of documents, and considers this Court's disquisition as unclear and irrelevant.

Claiming not to have been considered by this Court, he then reiterates his position on the following grounds, namely: (1) that, on her own admission, prosecution witness Atty. Henson is in possession of exculpatory evidence gathered during the fact-finding investigation that could spell the innocence of the accused and altogether alter the verdict in this case, hence, the need to be disclosed; (2) that it is the duty of each contending party to lay before the court the facts in issue - fully and fairly; (3) that, pursuant to the purpose of the modes of discovery, directing the production of documents will allow the accused to cross-examine prosecution witness Atty. Henson on all relevant matters relating thereto, thus, would significantly abbreviate the proceedings in these cases; (4) that, by the production or inspection, it could be determined whether there was, indeed, suppression of evidence that could give rise to an adverse inference; (5) that the credibility of prosecution witness Atty. Henson may be tested; and, (6) that the recommendation of the Special Investigating Panel (SIP) was based on the documents gathered during the conduct of their fact-finding

investigation, without the accused being given an opportunity to examine the same.

On the issue that the source documents were not in the official possession, custody, or control of the prosecution and the SIP, movant-accused Mateo maintains that this cannot militate against the grant of the request for production and inspection of documents. What is sought to be produced are not the source documents themselves, rather, those furnished the SIP during its fact-finding investigation.

Movant-accused Mateo further alleges that there is nothing in Sec. 10, Rule 116 of the Rules of Court that excludes the subject public documents from the reach of an order for their production or inspection, save when said documents are privileged in nature. He also considers rather presumptuous for this Court to assume that all documents furnished the SIP are all public documents even before these could be produced or, at the very least, a list or inventory of the same.

He also adds that when Atty. Henson was confronted with copies of public documents and reports presumably furnished by the Commission on Audit (COA), she feigned unfamiliarity, claiming that they contain markings that appear to be absent in the copies that they have been provided or vice versa.

Movant-accused Mateo insists that there is no law or rule prohibiting an accused from drawing facts from the witnesses of the prosecution that could be favorable to his defense or utilizing the latter as his own.

Motion for Reconsideration of movant-accused Efren M. Canlas dated February 13, 2024

Accused-movant Canlas, for his part, asserts that the purpose of Rule 116 of the Rules of Court is to avoid, among others, the suppression of material evidence. He adds that the premise of his Motion is not one of simple accessibility of documents, but of discovery, in the interest of fairness and full disclosure. The mere acquisition of evidence is not the point of his Motion. He insists that what he really wants to discover is whether the Special Investigating Panel (SIP), included in the phrase "other law investigating agencies" as

contemplated by the Rules and as represented by prosecution witness Atty. Henson, has in its possession any piece of evidence that could be favorable to movant-accused Canlas, that the SIP neither disclosed to him nor have submitted for preliminary investigation or this Court for consideration.

He admits that he would have been satisfied with a mere complete list of the documents obtained by the SIP from the COA Fraud Office or the Senate of the Philippines.

Movant-accused Canlas further reiterates that the determination of whether any document was disregarded or suppressed by the SIP in arriving at its conclusion that he should be prosecuted is enough good cause to order the production and inspection of the documents requested. The prevention of suppression of such documents is among the purposes expressly stated in Sec. 10 of Rule 116 for issuing the order for the production of documents.

When given time (Minutes, February 14, 2024), the prosecution filed its Consolidated Opposition dated February 16, 2024.

The prosecution, disavowing the observation of movant-accused Mateo, maintains that the findings of the Court in denying his main Motion are very clear and well appreciated.

It further alleges that the arguments raised by both movants-accused were already posed by them in their main Motions for the production and inspection of documents.

We now rule.

Initially, this Court finds that much of the grounds raised by both movants-accused to support their respective Motions have been considered by this Court in the assailed Resolution of February 7, 2024. It must, however, be underscored that the denial by this Court of the separate Motions of both accused for production and inspection of documents was not based on flimsy reasons.

Reiterating, the use of discovery procedures is directed to the sound discretion of the trial judge (People vs. Webb, G.R. No. 132577, [August 17, 1999], 371 Phil 491-523). The grant or denial of the motion for production or inspection of documents and records is subject to the discretion of the Sandiganbayan as a trial court (Trans Middle East (Phils.)

Equities, Inc. vs. Sandiganbayan (Fifth Division), G.R. Nos. 180350, 205186, 222919 and 223237, [July 6, 2022]).

We are also guided by the recent case of People vs. Ang, (G. R. No. 231854, [October 6, 2020]), where the Hon. Justice Zalameda, in his extensive concurring opinion, discussed the limitations of criminal discovery in the United States, where our own Rules of Court were derived from, to wit- -

> The continuing struggle to establish the limits of discovery in criminal proceedings stems from the need to protect the interests of opposing sides. The primary concern of the prosecution is the enforcement of the law and the conviction of those guilty of committing a crime, while the defendant's concern is to avoid punishment or prove his innocence. The opposing pull of these interests has led to a narrower system of discovery than that provided for in civil cases, as embodied by the limited provisions of discovery in the U. S. Federal Rules of Criminal Procedure wherein only depositions and, discovery (disclosures) and inspection, are specifically outlined.
>
> The current narrow scope of criminal discovery in the U. S. was borne from the prevailing notion that civil and criminal wrongs inherently require different procedural treatment. Initially, the first draft of the Federal Rules of Criminal Procedure in 1941 contemplated the integration of the then-new rules of civil procedure in order to reform criminal procedure. At that time, civil reform had introduced a new robust discovery phase and changed the deep structure of litigation from pleading and trial into pleading, discovery, and trial. **Yet, the attempt to have a unified procedural code was defeated by the recognition that policies animating criminal and civil law were too different to share the same procedural backbone, thereby resulting to a more traditional take on discovery in criminal cases.**
>
> To recall, there are two (2) modes of discovery in the U. S. Federal Rules of Criminal Procedure: (1) Depositions under Rule 15; and (2) Discovery and Inspection under Rule 16.
>
> Under Rule 15, the court may, under exceptional circumstances and in the interest of justice, grant a motion to have a prospective witness be deposed in order to preserve his or her testimony for trial. This includes the taking of depositions outside the United States, without the defendant's presence, after the court makes specific finding.

x---x

> Meanwhile, under Rule 16, a defendant may, under specific conditions, make a request for government disclosure of any of the following: (a) substance of any relevant oral statement made by the defendant, before or after arrest, in response to interrogation; (b) relevant written or recorded statement within the government's custody; (c) prior criminal record that is within the government's possession; (d) any material document or object within the government's possession to be inspected or copied by defendant; (e) any material report of physical or mental examination or any scientific test or experiment within the government's possession; and, (f) a written summary of an expert witness' testimony. If a defendant requires government disclosure and the government complies, then he or she has the reciprocal obligation to permit the government, upon request, to allow such disclosure. Failing to respond to a request for disclosure may result in the exclusion of the requested information from being disclosed during trial. **There are certain materials, however, that are not subject to disclosure, such as reports made in connection with investigating or prosecuting the case, or statements made by prospective witnesses".** *(bold ours)*

Herein, the documents sought to be produced were secured and transmitted by the Commission on Audit (COA) and the Senate Blue Ribbon Committee to the Special Investigating Panel (SIP) for the conduct of its fact-finding investigation. Thus, these documents are not yet subject to disclosure as they are made in connection with a fact-finding investigation.

The argument of the accused-movants that a suppression of evidence is presumed is also misplaced.

In Tanenggee vs. People (G. R. No. 179448, [June 26, 2013], 712 Phil 310-337), the Supreme Court has shed light on the prerogative of the prosecution in choosing its evidence and when this presumption of suppression of evidence is inapplicable - -

> The prosecution has the prerogative to choose the evidence or the witnesses it wishes to present. It has the discretion as to how it should present its case. Moreover, the presumption that suppressed evidence is unfavorable does not apply where the evidence was at the disposal of both the defense and the prosecution.

Again, it must be emphasized that the documents sought to be produced are public documents and are readily available from the originating public offices having official

x---x

possession, custody, or control thereof. Thus, there is no suppression of evidence to speak of.

Since the documents sought to be produced and inspected were obtained while in the fact-finding investigation stage, this investigation is thus still non-adversarial in nature and may not be relied upon to create any rights, substantive or procedural (Sec. 1, Administrative Order No. 1, series of 2020, Office of the Ombudsman).

Thus, there is no substantive ground to amend, alter, revise or even reverse the assailed Resolution of this Court promulgated on February 7, 2024.

WHEREFORE, premises considered, the Motions for Reconsideration respectively filed by movants-accused Orlando Mateo and Efren M. Canlas, both dated February 13, 2024, are hereby **DENIED** for lack of merit.

SO ORDERED.

BERNELITO R. FERNANDEZ
Associate Justice

We concur:

AMPARO M. CABOTAJE-TANG
Presiding Justice/Chairperson

RONALD B. MORENO
Associate Justice