



Republic of the Philippines
SANDIGANBAYAN
Quezon City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

Crim. Case Nos.
SB-15-CRM-0082 to 83
For: violation of Sec. 3
(e) of R.A. 3019 and
malversation (Art. 217,
RPC) through
Falsification (Art. 171,
RPC)

COL. RENATO P. MIRANDA,
LT. COL. JESON P. CABATBAT,
MAJ. ADELO B. JANDAYAN,
CAPT. FELICISIMO C. MILLADO,
CAPT. EDMUNDO D. YURONG,
Philippine Marine Corps
Fort Bonifacio, Taguig City
Accused.

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Present:

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

Promulgated on:

March 3, 2023
X-----X

D E C I S I O N

FERNANDEZ, B. R., J.

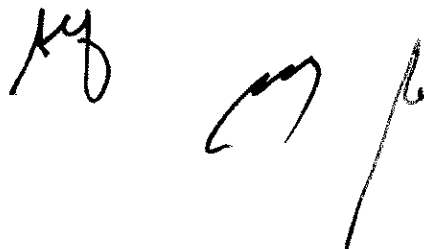
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Accused Lt. Col. Jeson P. Cabatbat, together with Col. Renato P. Miranda; Maj. Adelo B. Jandayan; Capt. Felicisimo C. Millado; and, Capt. Edmundo D. Yurong, all members of the Philippine Marine Corps at Fort Bonifacio, Taguig City, stands charged before this Court for violation of Section 3 (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended (Crim. Case No. SB-15-CRM-0082), and malversation through falsification (Crim. Case No. SB-15-CRM-0083), described in two (2) Amended Informations the accusatory portions of which successively read, as follows - -

Criminal Case No. SB-15-CRM-0082

That in 2000, or thereabout, in Taguig City, Philippines, and within this Honorable Court's jurisdiction, the above-named accused, **COL. RENATO P. MIRANDA**, a high-ranking public officer, being then the Chief of Staff, **LT.COL. JESON P. CABATBAT**, being then the Adjutant, **MAJ. ADELO B. JANDAYAN**, being then the Assistant Chief of Staff for Personnel, **CAPT. FELICISIMO C. MILLADO**, being then the Commanding Officer and Deputized Disbursing Officer; and **CAPT. EDMUNDO D. YURONG**, being then the Supply Officer, all of the Philippine Marine Corps (PMC), while in the performance of their official and administrative functions, taking advantage of their positions and committing the offense in relation to office, all conspiring and confederating with one another, acting with evident bad faith, manifest partiality and/or, gross inexcusable negligence, did then and there willfully, unlawfully, and criminally cause undue injury to the government in the total amount of Thirty-Six Million Seven Hundred Sixty-Eight Thousand Twenty-Eight and 95/100 Pesos (P 36, 768, 028.95) intended for the payment of Combat Clothing Allowance and Individual Equipment Allowance (CCIE) to marine soldiers in active duty during the four quarters of Calendar Year 1999, by signing and/or approving Disbursement Vouchers and nineteen (19) checks; releasing and encashing said checks as cash advances to and received by **MILLADO**; and turning over the proceeds thereof to **JANDAYAN**, with the approval of **MIRANDA**; and thereafter, making it appear in the liquidation payrolls and related documents, certified to and submitted by **JANDAYAN**, **MILLADO**, **CABATBAT** and **YURONG**, that said marine soldiers actually received their CCIE, when in truth and in fact they have not, to the damage and prejudice of the said marine soldiers and the government.

CONTRARY TO LAW.

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Criminal Case No. SB-15-CRM-0083

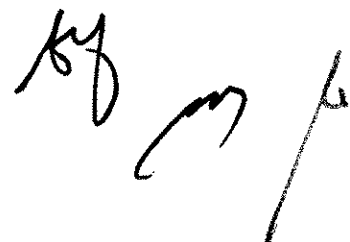
That in 2000, or thereabout, in Taguig City, Philippines, and within this Honorable Court's jurisdiction, the above-named accused **COL. RENATO P. MIRANDA**, a high-ranking public officer, being then the Chief of Staff and **CAPT. FELICISIMO C. MILLADO**, being then the Commanding Officer and Deputized Disbursing Officer, who, by reason of the duties of their office have custody or control of public funds and are accountable for the same, **LT. COL. JESON P. CABATBAT**, being then the Adjutant, **MAJ. ADELO B. JANDAYAN**, being then the Assistant Chief of Staff for Personnel, and **CAPT. EDMUNDO D. YURONG**, being then the Supply Officer, all of the Philippine Marine Corps (PMC), all committing the complex crime herein charge while in the performance of their official and administrative functions, taking advantage of their positions and committing the offense in relation to office, conspiring and confederating with one another, did then and there, willfully, unlawfully and feloniously appropriate, take, misappropriate, or consent or, through abandonment or negligence, permit other persons to take public funds, in the total amount of Thirty-Six Million Seven Hundred Sixty-Eight Thousand Twenty-Eight and 95/100 Pesos (P 36, 768, 028.95) intended for the payment of Combat Clothing Allowance and Individual Equipment Allowance (CCIE) to marine soldiers in active duty during the four quarters Calendar Year 1999, by falsifying or causing to be falsified public documents, namely liquidation payrolls and related documents, by making it appear in the said documents that said marine soldiers actually received their CCIE, when in truth and in fact as the accused knew fully well they have not, to the damage and prejudice of the marine soldiers and the government.

CONTRARY TO LAW.

We remember that these cases were first heard only as against accused Miranda, Jandayan and Millado. These three accused were arraigned and, when assisted by their respective counsels, individually entered not guilty pleas for each of the two cases (Orders, June 7, 2016 and January 12, 2017).

After trial, this Court promulgated its Decision on October 9, 2020, acquitting accused Miranda, Jandayan, and Millado of both charges. The dispositive portion of the said Decision reads, as follows - -

WHEREFORE, premises considered, judgment is hereby rendered in the following manner - -



In **Criminal Case No. SB-15-CRM-0082**, this Court hereby **ACQUITS** accused Col. Renato P. Miranda, Maj. Adelo B. Jandayan and Capt. Felicisimo C. Millado of the crime of violation of Sec. 3 (e) of R. A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended, for failure of the prosecution to prove their guilt beyond a reasonable doubt

In **Criminal Case No. SB-15-CRM-0083**, this Court hereby **ACQUITS** accused Col. Renato P. Miranda, Maj. Adelo B. Jandayan and Capt. Felicisimo C. Millado of the complex crime of malversation through falsification of public documents as described in the Revised Penal Code, as amended, for failure of the prosecution to prove their guilt beyond a reasonable doubt.

Consequently, the Hold Departure Orders issued against the aforementioned accused are hereby ordered **RECALLED** and **SET ASIDE**. The cash bonds secured by them for their provisional liberty are hereby ordered **RELEASED** subject to the usual accounting and auditing procedures.

Send copy of this Decision to the Bureau of Immigration for their appropriate action.

Considering that accused Lt. Col. Jeson P. Cabatbat and Capt. Edmund D. Yurong remain at-large despite the issuance of warrants for their arrest, let the instant cases be sent to **ARCHIVES** subject to revival upon their arrest.

In the meantime, let *alias* warrants for the arrest of accused Cabatbat and accused Yurong be **ISSUED** forthwith.

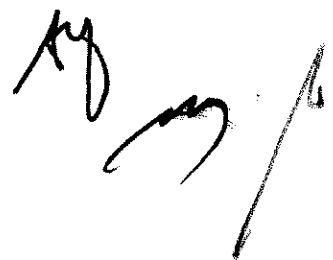
SO ORDERED.

As shown in the foregoing dispositive portion, accused Cabatbat and accused Yurong remained at large.

Accused Cabatbat eventually appeared and when arraigned pleaded not guilty to both charges (Order, August 26, 2022).

During the pre-trial, the parties agreed to stipulate on the following - -

(1) The identity of Jeson Pagaduan Cabatbat ("Cabatbat") as the same person charged in, and arraigned under, the Informations in SB-15-0082 and 0083;



(2) In 2000, or at the time material to the commission of the offenses charged in the instant cases, accused Cabatbat was a public officer, being then the Adjutant of the Philippine Marine Corps (PMC) with the rank of Major;

(3) Accused Cabatbat's function at the time of the complained act was limited to the certification of roster of troops or the active list of all Philippine Marine Corps personnel that will be the basis of payroll for the payment of disbursed checks in year 2000;

(4) Accused Cabatbat, upon instruction of Major Adelo B. Jandayan (who was his immediate superior as the then Assistant Chief of Staff for Personnel of PMC), signed the payrolls certifying the correctness of the same and that the names indicated therein actually rendered service during the period;


(5) As former Adjutant, accused Cabatbat was not in charge of the disbursement and distribution of allowances to the marines after he issued the certification of roster of PMC personnel;

(6) Adoption of the testimonies and/or stipulations and counter-stipulations entered into regarding the testimonies of the following prosecution witnesses previously presented during the trial of the instant cases against then accused Renato P. Miranda, Felicisimo C. Millado and Adelo B. Jandayan- - (a) Josephine S. Vargas, (b) Eleanor Solis Miag-ao; (c) Liza Aryan Ramos; (d) Sonny Rey P. Javien; (e) Florencio B. Manangan; (f) Richard Arceno; (g) Geroncio Bautista; (h) Jeffrey Frederick F. Aizon; (i) Pladio P. Comia; (j) Cyrel P. Flores; (k) Felicito M. Navarro; and (l) Antonio L. Velasco (Pre-Trial Order, April 29, 2022).

In light of the foregoing agreed stipulations, the prosecution no longer presented any witness and adopted the testimonies of its previous witnesses as well as the documentary evidence presented and admitted (Pre-Trial Order, April 29, 2022).

Consequently, the prosecution filed its Formal Offer of Exhibits dated June 10, 2022. After accused Cabatbat responded through his Comments/Objections dated July 13, 2022, this Court ruled to admit prosecution's Exhibits "A" to "V7" and their respective submarkings (Minutes, September 21, 2022).

Subsequently, accused Cabatbat filed his Demurrer to Evidence dated October 6, 2022, principally seeking the



dismissal of the cases against him for insufficiency of evidence.

Accused Cabatbat maintains that there is no single testimony linking to his alleged involvement other than some documents where his signatures appear as the Philippine Marine Corps (PMC) Adjutant.

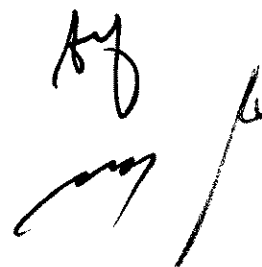
Citing the Decision dated October 9, 2020 pertaining to his co-accused, accused Cabatbat noted that this Court ruled that - - (1) on the charge of Section 3 (e) of R.A. 3019 otherwise known as the Anti-Graft and Corrupt Practices Act, conspiracy was not proven and there was no injury caused to the government by the acts complained of against the accused; (2) on the charge of the complex crime of malversation through falsification of public documents under the Revised Penal Code, there was no evidence presented to show that accused Miranda, Jandayan, and Millado appropriated and converted Combat Clothing and Individual Equipment (CCIE) funds for their own benefit; (3) that the action of accused Jandayan was done in good faith; and, (4) that no direct evidence proffered by the prosecution presented against accused Miranda, Jandayan, and Millado.

Accused Cabatbat emphasized that his acts were limited only to signing and certifying the correctness of the payrolls and the names of the PMC personnel therein that rendered services during the period he certified to.

He adds that as the Adjutant of the PMC, his rank was below the administrative hierarchy of co-accused Jandayan and that he receives direct orders from the latter, who required him to perform and certify what accused Jandayan prepared.

Accused Cabatbat alleges that the problem arose from the distribution of CCIE for PMC field personnel to which he was not a part of, citing the agreed stipulation indicating that he was not a participant in the distribution of the CCIE.

He further cites the agreed stipulations that his only participation in these cases was to prepare the roster of troops which will become the basis for the payroll and not for the distribution of allowances and items for the troops in the field.

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When given time (Minutes, October 7, 2022), the prosecution, in its Comments and Objections dated October 17, 2022, maintains that its evidence as well as the agreed stipulations sufficiently established the commission of the crimes charged against accused Cabatbat.

The prosecution also noted that the PMC disbursed the following amounts for the payment of the subject clothing/equipment allowances for the calendar year 1999, to wit - - P2,145,600.00 (Exh. "B"); P1,622,476.80 (Exh. "K"); P2,145,600.00 (Exh. "T"); P2,262,937.50 (Exh. "CC"); P1,901,340.00 (Exh. "KK"); P1,901,340.00 (Exh. "SS"); P1,030,893.75 (Exh. "AAA"); P1,901,340.00 (Exh. "III"); P1,901,340.00 (Exh. "QQQ"); P2,262,937.50 (Exh. "ZZZ"); P2,145,600.00 (Exh. H⁴); P1,711,206.00 (Exh. "R⁴"); P1,375,302.60 (Exh. "Z⁴"); P3,891,409.20 (Exh. "H⁵"); P1,901,340.00 (Exh. "P⁵"); P1,711,206.00 (Exh. "X⁵"); P1,622,476.80 (Exh. "F⁶"); P1,622, 476.89 (Exh. "O⁶"); and, P1,711,206.80 (Exh. "L⁷").

Further, the prosecution explained that the Disbursement Vouchers (Exhs. "C", "L", "U", "DD", "TT", "BBB", "JJJ", "RRR", "AAAA", "I⁴", "S⁴", "A⁵", "I⁵", "Q⁵", "Y⁵", "G⁵", "D⁷", and "M⁷") were made to appear that the amounts indicated therein for the payment of clothing/equipment allowances had not yet been paid as shown by the records of the PMC and that the expenses/cash advances were necessary and lawful.

Likewise, the payrolls (Exhs. "D", "M", "V", "EE", "MM", "UU", "CCC", "KKK", "SSS", "BBBB", "J⁴", "T⁴", "B⁵", "J⁵", "R⁵", "Z⁵", "H⁶", "E⁷" and "N⁷") show that "no-payment has been made to the individual claimant appearing in this payroll for the period on file by this office / this unit to date", and that the concerned marine enlisted personnel, whose names appeared in the Rosters of Troops (Exhs. "E", "G", "P", "Y", "OO", "WW", "EEE", "NNN", "VVV", "N⁴", "V⁴", "E⁵", "M⁵", "U⁵", "C⁶", "L⁶", "H⁷", and "Q⁷") were entitled to the clothing/equipment allowance for calendar year 1999.

However, the concerned marine enlisted personnel were no longer entitled to the said allowances considering that they were already given clothing allowance in the amount of P200.00/month which was included in their monthly salaries. This was in addition to the checks issued to them upon re-enlistment every three (3) years in the service and that they were already issued equipment, such as combat boots, camouflage uniforms, upper and lower garments,



combat packs, pistol belt, suspensions, magazines, and magazine pouch, and helmet cover, among others.

The prosecution also added that, notwithstanding the foregoing, accused Cabatbat performed overt acts in the furtherance of the conspiracy by certifying that the payrolls were true and correct and that the names included in the Rosters of Troops of the concerned unit rendered service during the period covered (Exhs. "D", "M", "V", "EE", "MM", "UU", "CCC", "KKK", "SSS", "BBBB", "J4", "T4", "B5", "J5", "R5", "Z5", "H6", "E7" and "N7").

Accused Cabatbat further signed the extracts from the Special Orders containing the names of marine enlisted personnel granted individual clothing/equipment allowance effective January 1 to December 31, 1999 (Exhs. "H", "Q", "Z", "HH", "PP", "XX", "FFF", "WWW", "DDDD", "M4", "V4-2", "M6" and "J7"). These payrolls and extract from the Special Orders were part of the liquidation documents in support of the subject transaction.

The prosecution further alleged that the Clothing/Equipment Payrolls (Exhs. "I", "R", "AA", "QQ", "YY", "GGG", "OOO", "XXX", "FFFF", "P4", "W4", "F5", "N5", "V5", "D6", "I6", "I7", and "R7") were falsified by making it appear that the marine enlisted personnel enumerated therein were actually paid and received in "cash" their clothing/ equipment allowances, despite the denials from the alleged recipients (Exhs. "T7" to "T7-128").

It also particularly cited No. 3 (b) of Circular No. 9 of the Ministry of National Defense dated October 24, 1985 (Re: Combat of Enlisted Personnel, Draftees, Trainees and Members of Civilian Home Defense Forces Engaged in Combat Operations and Headquarters Personnel assigned in the Field) which provides that "[c]ombat clothing is designed to be issued in kind x x x". However, supporting documents of the subject transaction show that the concerned marine enlisted personnel were paid in cash.

We now rule.

In *Go-Yu vs. Yu* (G.R. No. 230443, April 3, 2019), the Supreme Court defined the nature of a demurrer to evidence and outlined the duty of the court in resolving the same- -

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A *demurrer to evidence* is defined as 'an objection 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 a case or sustain the issue'. The demurrer challenges the sufficiency of the plaintiff's evidence to sustain a verdict. In passing upon the sufficiency of the evidence raised in a demurrer, the court is merely required to ascertain whether there is sufficient evidence to sustain the indictment or to support a verdict of guilt. Moreover, "[t]he grant or denial of a demurrer to evidence is left to the sound discretion of the trial court, and its ruling on the matter shall not be disturbed in the absence of a grave abuse of such discretion.

Verily, when an accused files a demurrer to evidence, the court must determine whether the evidence presented by the prosecution is sufficient to warrant the conviction of the accused of the crime charged beyond reasonable doubt (Ricketts vs. Sandiganbayan-Fourth Division, G.R. No. 236897 (Notice), November 18, 2021).

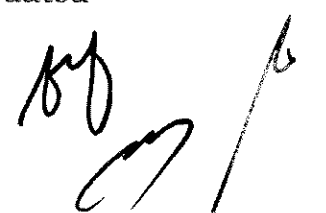
Let us now revisit the facts of the case as narrated in the Decision of October 9, 2020, to wit - -

x x x

The instant cases stem from an Affidavit-Complaint dated 13 January 2006 (Exh. "A, A-1 to A-6") executed by the then Graft Investigation Officer I, Josephine S. Vargas of the Fact-Finding Investigation Bureau of the Office of the Deputy Ombudsman for the Military and Other Law Enforcement Officers (OMB-FFIB-MOLEO) against several officials of the Armed Forces of the Philippines, particularly, the Philippine Marine Corps (PMC), for violation of Sec. 3 (e) of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act, as amended), malversation through falsification of public documents and violation of COA Rules and Regulations.

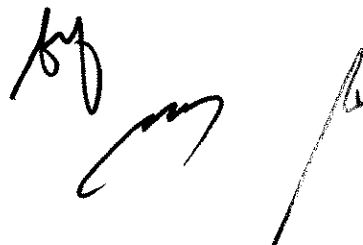
Sometime in April 2000, the PMC released funds amounting to P36,768,028.95 intended for the Combat Clothing and Individual Equipment (CCIE) allowances of the enlisted marine personnel on active duty for the calendar year 1999. The combat clothing allowance was P8,381.75 per person while the individual equipment allowance was P6,337.80 per person, or a total of P14,719.05.

The release of these funds was supported by (1) Disbursement Vouchers (Exhs. "C, L, U, DD, LL, TT, BBB, JJJ, RRR, AAA, IIII, SSSS, A⁵, I⁵, Q⁵, Y⁵, G⁶, and M⁷) dated



March 7, 14, 15, 23, 24 and 25, 2000 (some were undated) duly approved by accused Miranda, Chief of Staff of the Commandant, PMC; (2) undated Payrolls (Exhs. "I, I-1 to I-6, R, EE, II, YY, GGG, OOO, XXX, XXX-1 to XXX-9, FFFF, FFFF-1 to FFFF-6, J⁴, P⁴, W⁴, W⁴-1 to W⁴-6, B⁵, F⁵-1 to F⁵-5, J⁵, V⁵, D⁶, H⁶, I⁶, E⁷, I⁷, N⁷ and R⁷") that were allegedly signed by the recipient enlisted Marine personnel; (3) Special Orders (Exhs. "H, Q, Z, HH, PP, XX, FFF, WWW, WWW-1 to WWW-14, DDDD, DDDD-1 to DDDD-15, M⁴, O⁴, V⁴-2, N⁵, M⁶, P⁶-2, Z⁶, T⁶, Y⁶, and J⁷,") dated 06 March 2000, 04 Feb 2000, 13 May 1999, 19 January 1999 and 1 December 1999, specifying the names of the enlisted Marine personnel, who were granted individual clothing and equipment allowances; (4) Roster of Troops (Exhs. "P, Y, OO, WW, NNN, VVV, VVV-1 to VVV-5, EEEE, EEEE-1 to EEEE-2, E⁵, E⁵-1 to E⁵-3, M⁵, U⁵, C⁶, L⁶, H⁷, and Q⁷") dated 29 December 1999 and 04 February 2000 (most are undated), duly signed by accused Jandayan, Assistant Chief of Staff of Personnel of the PMC, and accused-at large Cabatbat, Adjutant of the PMC; (5) undated Certifications (Exhs. "D, M, V, EE, MM, UU, CCC, KKK, SSS, BBBB, J⁴, T⁴, B⁵, J⁵, R⁵, Z⁵, H⁶, E⁷, and N⁷"), prepared by accused-at large Cabatbat to the effect that the payrolls were true and correct; (6) undated Certifications (Exhs. "D, M, V, EE, MM, UU, CCC, KKK, SSS, BBBB, J⁴, T⁴, B⁵, J⁵, R⁵, Z⁵, H⁶, E⁷, and N⁷") of accused Millado, that no payment was made to the individual claimants appearing in the payroll; (7) the Approval (Exhs. "D, M, V, EE, MM, UU, CCC, KKK, SSS, BBBB, J⁴, T⁴, B⁵, J⁵, R⁵, Z⁵, H⁶, E⁷, and N⁷") of accused Miranda, stating that the funds were payable from the Philippine Navy Appropriation; and, (8) Certifications dated 29 December 2000 (Exh. "F, O, W, FF, NN, VV-1, LLL, TTT, CCCC, K⁴, T⁴-1, C⁵, K⁵, S⁵, A⁶, K⁶, G⁷, and O⁷"), prepared by accused-at large Yurong, Supply Officer, certifying that no available clothing items/equipment were issued to the Marine enlisted personnel whose names appeared on the individual payroll as per records of the PMC for calendar year 1999. A total of nineteen (19) checks were issued in favor of accused Millado for the payment of CCIE allowances.

After copies of the relevant documents were forwarded by the COA, the Fact-Finding Investigation Bureau, Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices (FFIB-OMB-MOLEO) conducted an investigation. It was discovered that the signatures appearing on the liquidation payrolls were disowned by the Marine personnel listed thereon and that they denied authorizing any representative to receive the allowances in their behalf. It was thus revealed that some Marine personnel did not receive the P14,719.05 CCIE allowances supposedly allotted for them.



Initially, the Office of the Ombudsman charged the herein five (5) accused for estafa through falsification of official documents and violation of Section 3 (e) of Republic Act 3019 (Ombudsman MOLEO Resolution, February 27, 2009).

However, in an Amended Order dated October 21, 2014, the Office of the Ombudsman modified its earlier Resolution and instead filed against the same five (5) accused with the complex crime of malversation through falsification and for violation of Sec. 3 (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended.

Thereafter, the prosecution filed a Motion dated 18 March 2016 seeking to admit the Amended Informations, attached thereto, to include the respective ranks of each accused. This Court granted the same and admitted the Amended Informations (Order, April 25, 2016).

Hence, these cases.

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With the foregoing factual background, We now considered the two cases *in seriatim*.

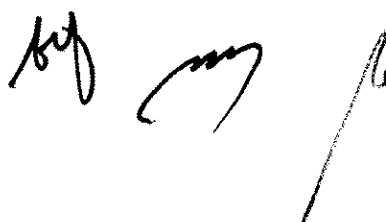
In **Criminal Case No. SB-15-CRM-0082**, accused Cabatbat is charged for violation of Sec. 3 (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended.

It provides - -

Section 3. *Corrupt practices of public officers.* In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.



In order to convict the accused for violation of Section 3 (e) of R.A. 3019, the following elements must be proven beyond reasonable doubt- - (1) the accused must be a public officer discharging administrative, judicial, or official functions; (2) he must have acted with manifest partiality, or evident bad faith, or gross inexcusable negligence; and (3) his action caused undue injury to any party, including the Government, or gave any private party unwarranted benefits, advantage, or preference in the discharge of his functions (Martel vs. People, G.R. No. 224720-23, February 02, 2021).


It was established that accused Cabatbat was a public officer, being then an Adjutant of the Philippine Marine Corps (PMC) at the time material to these cases.

With regard to the second and third elements, the prohibited act of either causing undue injury or giving unwarranted benefits, advantage, or preference may be committed in three (3) ways, to wit - -

There is "manifest partiality" when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. "Evident bad faith" connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. "Evident bad faith" contemplates a state of mind affirmatively operating with furtive design or with some motive of self-interest or ill will or for ulterior purposes. "Gross inexcusable negligence" refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected (Martel vs. People, *ibid.*)

As described in the Information, the accused are alleged to be in conspiracy with each other for acting with evident bad faith, manifest partiality, and/or gross negligence, by signing and/or approving the Disbursement Vouchers (DVs) (Exhs. "C, L, U, DD, LL, TT, BBB, JJJ, RRR, AAA, IIII, SSSS, A⁵, I⁵, Q⁵, Y⁵, G⁶, D⁷, and M⁷), the nineteen (19) checks (Exhs. "B, K, T, CC, KK, SS, AAA, III, QQQ, ZZZ, H⁴, R⁴, Z⁴, H⁵, P⁵, X⁵, F⁶, O⁶, and L⁷"), and releasing and encashing the said checks as cash advances to be received by accused Millado, who turned over the proceeds thereof to accused Jandayan.

These same DVs and checks are said to be with the approval of accused Miranda and was made to appear by



accused Jandayan, Millado, Cabatbat and Yurong in the liquidation payrolls and related documents that the Marine soldiers actually received their respective CCIE allowances, when in fact, they did not.

Briefly, the Affidavit-Complaint dated January 13, 2006 of Graft Investigation Officer I Josephine Vargas showed the following acts pertaining to each accused, as follows - -

Adelo B. Jandayan - signed the Disbursement Vouchers certifying that said expenses were necessary, lawful and incurred under his direct supervision.

Renato Miranda - approved the Disbursement Vouchers for the release of the fund.

Felicisimo Millado - signed all the checks and payrolls as well as the Disbursement Vouchers.

Jeson Cabatbat - signed the payrolls certifying the correctness of the same and that the names indicated therein actually rendered service during the period (*bold ours*)

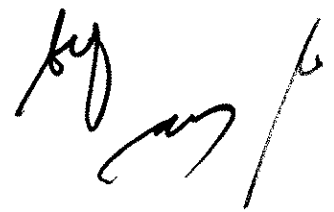
Edmund Yurong - signed the Individual Clothing Record certifying that he is responsible for the entry and computation of the record.

With the foregoing, the core issue to determine the guilt of the accused Cabatbat is whether he participated in a conspiracy together with his co-accused to commit a violation of Section 3 (e) of R. A. No. 3019.

We refer anew to the Decision promulgated on October 9, 2020 where this Court discussed the individual participation of each accused and whether each act contributed to a criminal conspiracy, as follows - -

For accused Miranda, a close perusal of the subject Disbursement Vouchers (DVs) (Exhs. "C, L, U, DD, LL, TT, BBB, JJJ, RRR, AAA, IIII, SSSS, A⁵, I⁵, Q⁵, Y⁵, G⁶, and M⁷ ") signed by him, will only show his approval thereof based on the certifications made by the respective officers in charge of the funds. His mere signing alone cannot impute any criminal liability on his part. It must be noted that Chief Accountant Carolyn Bantolo did not call the attention of accused Miranda relative to any irregularity when he (accused Miranda) signed the subject DVs.

Even Liza A. Ramos, the Accounting Clerk, on cross-examination, affirmed that she found no problems or irregularities when she processed and verified the

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supporting documents of the subject DVs. Add to this, when the same DVs were brought to the office of accused Miranda for his signature, he noted the same to be in order and regular on their faces, prompting him to affix his signature.

When the subject DVs were thereafter brought to the Office of the Comptroller that handles the liquidation and safe-keeping of the funds, accused Miranda, as the Chief of Staff of the Marine Commandant, no longer played any part.

Accused Jandayan is being faulted for signing the Roster of Troops (Exh. "P, Y, OO, WW, NNN, VVV, VVV-1 to VVV-5, EEEE, EEEE-1 to EEEE-2, E⁵, E⁵-1 to E⁵-3, M⁵, U⁵, C⁶, L⁶, H⁷, and Q⁷") as well as the subject DVs, certifying thereto that the expenses were necessary, lawful and incurred under his direct supervision.

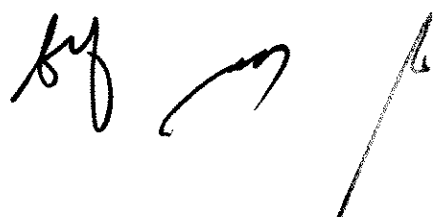
We fail to see how this act could fall within the ambit of Section 3 (e). There is nothing in evidence that could clearly establish that the preparation of the Roster of Troops, the signing of the subject DVs and the Fund Entrusted to Agent/Office (Exhs. "1-Millado" to "19-Millado") by accused Jandayan could contribute to the alleged conspiracy.

There is weight in the position of accused Jandayan that he cannot automatically be a co-conspirator by his act of signing the aforementioned documents as an incident to his legally mandated function of Assistant Chief of Staff of Personnel or MC1 and the appointed Chairman of the CCIE Committee.

Relative to accused Millado, while admitting having encashed the subject 19 checks (Exhs. "B, K, T, CC, KK, SS, AAA, III, QQQ, ZZZ, H⁴, R⁴, Z⁴, H⁵, P⁵, X⁵, F⁶, O⁶, and L⁷"), the cash proceeds thereof were officially turned over to accused Jandayan and Lt. Col. Gioksan Dammang, as shown by the nineteen (19) documents entitled "Funds Entrusted to Agent Officer/Teller" (Exhs. "1"- "19"-Millado), upon the *imprimatur* of Gen. Percival Subala and accused Miranda themselves.

No evidence was put forward showing that conspiracy existed when accused Millado transferred the cash proceeds to accused Jandayan, as the CCIE Committee Chair, and to Lt. Col. Dammang, as the Supply Officer of the CCIE Committee, since both were authorized to receive the cash by reason of their respective designations.

Upon receipt of the cash proceeds by the two (2) authorized officers, accused Millado no longer had the duty or even an obligation, to know how the funds were to be utilized or distributed after the turnover.



Some note was also given to the fact that during the processing of the subject DVs, the payrolls (Exhs. "41" – "59") submitted as part of the supporting documents were still unsigned. This effectively signifies that the enlisted men listed in the same payroll have not yet received their 1999 CCIE allowances.

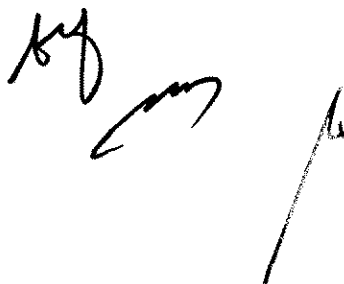
Although accused Millado admits having signed Certifications (Exh. "D, M, V, EE, MM, UU, CCC, KKK, SSS, BBBB, J⁴, T⁴, B⁵, J⁵, R⁵, Z⁵, H⁶, E⁷, and N⁷"), stating that the payrolls in support of each of the nineteen (19) DVs indicate that no payment was made to the individual claimant, he explained that these same Certifications were issued to confirm the statement and to state that these refer to the CCIE allowances and not to the P200 clothing allowance given to every Marine personnel in their pay slips.

Despite the admissions of accused Millado that he indeed signed the subject DVs, payrolls and the checks, this cannot sufficiently support an allegation of conspiracy.

Absent any other competent evidence that will show or even infer conspiracy in the commission of the crime charged, the presumption of regularity in the discharge of the official duties and functions of the accused applies.

Specific to accused Cabatbat, who was then the Adjutant of the PMC, this Court cannot find any evidence that he acted in conspiracy with his co-accused when he certified that the payrolls were true and correct and that the names included in the roster of troops of the concerned unit have rendered service during the period covered, and by signing the extracts from the Special Orders containing the names of marine enlisted personnel who received individual clothing/equipment allowance effective January 1 to December 31, 1999.

Although the documents presented by the prosecution (Exhs. "A", "A-7", D, and "H", "M" and "Q", "V" and "Z", "EE", and "HH", "MM" and "PP", "UU" and "XX", "CCC" and "FFF", "KKK", "SSS", and "WWW", "B⁴", and "D⁴", "J⁴", and "M⁴", "T⁴" and "V⁴-2", "B⁵", "J⁵", "R⁵", "Z⁵", "H⁶", and "E⁷" and "T⁷", "N") showed that accused Cabatbat signed the roster of troops based on the list of existing troops in the records of the Philippine Marines Corps (PMC), his certification only indicated that the same rosters of troops are correct to the best of his knowledge and cannot admit of proof that he participated in the alleged anomalies in the distribution of the allowances.

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The rosters of troops attested to and signed by accused Cabatbat was part of his duty as Adjutant, upon orders of his administrative superior, accused Jandayan, to prepare them.


There can thus be no manifest partiality in the acts of performing the assigned task of certifying the correctness of roster of troops as distinguished from certifying the fact of non-receipt of benefits. Accused Cabatbat never issued the latter certification and therefore had not committed manifest partiality or evident bad faith in the performance of his assigned task.

This Court also notes that, during the pre-trial, the prosecution agreed to stipulate and admitted that the act of accused Cabatbat was only limited to the certification of the roster of troops that served as the basis of payroll payment of disbursed checks in the year 2000.

As raised by Cabatbat, the alleged anomalies took place in the distribution of benefits. However, the evidence presented by the prosecution failed to establish that accused Cabatbat took part or had direct participation in the distribution of the CCIE benefits.

The evidence offered by the prosecution failed to establish conspiracy among Cabatbat and his co-accused. It was also not established that he gave any private party any unwarranted benefits, advantage or preference in the discharge of his official functions. Neither did his act of certifying to the correctness of the roster of troops result in damage to the government.

It bears stressing that conspiracy requires the same degree of proof required to establish the crime beyond reasonable doubt. Thus, mere presence at the scene of the crime at the time of its commission without proof of cooperation or agreement to cooperate is not enough to constitute one a party to a conspiracy. X x x It is necessary that a conspirator should have performed some overt act as a direct or indirect contribution to the execution of the crime committed. The overt act may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co-conspirators by being present at the commission of the crime or by exerting moral ascendancy over the other co-conspirators. Hence, the mere presence of an accused at the discussion of a conspiracy, even approval



of it, without any active participation in the same, is not enough for purposes of conviction (Rimando y Fernando vs. People, G.R. No. 229701, November 29, 2017).

In the instant case, this Court finds the alleged participation of accused Cabatbat in the crime charged to be not adequately proven with moral certainty. There were no overt acts attributed to him adequate enough to hold him equally guilty of the crime proved.

We thus reiterate our finding in our Decision promulgated on October 9, 2020 that there was no injury caused to the government, to wit -

Due consideration was made on the trail of events leading to the utilization and the eventual liquidation of the CCIE allowances, particularly on the testimonies of T/SGt. Romeo L. Ganituen, that the CCIE funds for calendar year 1999 for the Philippine Marine Corps were used to purchase CCIE supplies and of Lt. Col. Ramon Estrada, that he conducted a re-audit of the P43.5 million CCIE funds, where there was a finding that it was Lt. Col. Dammang who disbursed and liquidated the said amount.

We recall the cross-examination testimony of T/SGt. Romeo Ganituen, the Warehouse Chief of the CCIE of the PMC (p. 23, TSN, October 29, 2018), where he confirmed that the CCIE stored in his bodega came from the P43.5 million fund, to wit -

Q: How did you know about Php 43.5 Million fund or why do you know that there is such amount being used to buy the Combat Clothing?

A: *Dahil sir sa mga deliveries na dumating sa akin sa bodega.*

Q: You made mention of deliveries, on the basis of the deliveries, Mr. Witness, how were you able to know about that Php 43.5 Million?

A: Everytime *kasi na may deliveries intended para sa Forty Three Million (Php 43.5 M) ay pinapatawag po ako ni Major Yurong, 'yung Supply Officer at the same time 'yung Commanding Officer ng Supply Company, pag mayroong acceptance intended for deliveries, sir.*"

Furthermore and as could be gleaned from the Investigation Report dated 24 December 2000 (Exh. "5-



Jandayan") of Col. Ramon Estrada, the then Warehouse Chief for CCIE of the Supply Company of the Philippine Marine Corps, the CCIE fund amounting to P43.5 million was utilized to purchase items for the Marine personnel from various suppliers.

As stated in the same Investigation Report, the delay in rendering the supposed re-audit and investigation report on the three (3) separate funds subject of the investigation (P43.5 million, 226 candidate soldier and 106 candidate soldier) was due to the improper recording of accounts subject of the specific projects.

It was also discovered that - - *Col. Dammang did not classified (sic) or recorded (sic) those items that belongs (sic) only to 226 soldier to that of P43.5M CCIE.* Moreover, it was revealed in his Report that - - *There is no question of the delivery receipt issued for there are also properly classified (sic).* It is only the amount of items that incurred an underpayment.

Thus, there could be no injury to the government since the CCIE funds were appropriated according to its purpose, which is to purchase clothing and equipment items, hence, not intended to be given in cash.

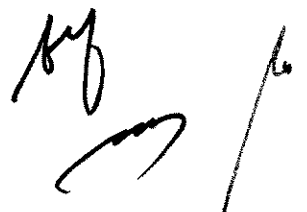
Following the same facts and identical evidence proffered by the prosecution, We restate that there could be no injury to the government since the CCIE funds were appropriated according to its purpose, which is to purchase clothing and equipment items, hence, not intended to be given in cash.

In **Criminal Case No. SB-15-CRM-0083**, accused Cabatbat is also charged with the crime of malversation of public funds through falsification.

Article 217 of the Revised Penal Code, describes this crime, as follows - -

Article 217. Malversation of public funds or property. Presumption of malversation. - Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds, or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property, shall suffer:

The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer,



shall be *prima facie* evidence that he has put such missing funds or property to personal uses.

On the other hand, falsification by a public officer is punished under Article 171 of the same Code, to wit - -

Article 171. *Falsification by public officer, employee or notary or ecclesiastic minister.* - The penalty of *prision mayor* and a fine not to exceed 5,000 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:

1. Counterfeiting or imitating any handwriting, signature or rubric;
2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;
3. Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;
4. Making untruthful statements in a narration of facts;
5. Altering true dates;
6. Making any alteration or intercalation in a genuine document which changes its meaning;
7. Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a copy a statement contrary to, or different from, that of the genuine original; or
8. Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.

The elements of malversation are- - (1) that the offender is a public officer; (2) that he or she had custody or control of funds or property by reason of the duties of his or her office; (3) that those funds or property were funds or property for which he or she was accountable; and, (4) that he or she appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them (Corpuz vs. People, G.R. No. 241383, June 8, 2020).

In our Decision promulgated on October 9, 2020, we ruled - -

Herein, We find no evidence to show that accused Miranda, accused Jandayan and accused Millado misappropriated or converted the CCIE fund for their own benefit. The prosecution failed to prove with moral certainty that the accused acted in concert to achieve a common criminal objective.



As emphasized by accused Miranda, the subject Disbursement Vouchers (DVs) passed through the various relevant PMC offices as part of its disbursement system, before the same even reached the Office of the Chief of Staff. It would be difficult for accused Miranda to conduct a thorough verification from every office involved in this process before he affixes his signature.

Moreover, We find that the transfer of funds to accused Jandayan and Dammang by accused Millado was made in good faith as the process was shown to be the normal practice in the PMC at that time.

When the transfer was made to Dammang, accountability of the funds was also transferred because the he was then the Assistant Chief of Staff for Comptrollership whose duty was to facilitate the disbursement and/or utilization of the funds until it reaches the Marine personnel.

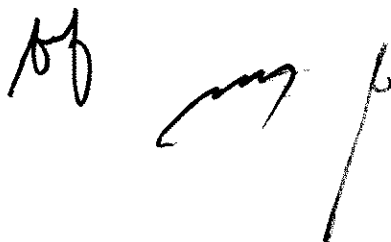
Furthermore, there was no direct evidence proffered by the prosecution that the accused committed any of the acts of falsification under Article 171 of the Revised Penal Code, as amended. The prosecution merely inferred that conspiracy existed because somebody may have committed falsification of documents along the way.

To Our minds, additional and substantial evidence other than the mere signing or approval of the Disbursement Vouchers and the Roster of Troops by the accused must be presented to justifiably sustain a finding of conspiracy.

Other than the absence of substantive evidence, this Court found an evidentiary gap between the time Dammang received the cash proceeds and the time the Marine soldiers were interviewed.

Although it may be true that the Investigation Report dated 24 December 2000 (Exh. "5-Jandayan") of prosecution witness Estrada found that Dammang co-mingled CCIE funds with other funds, no other evidence was presented to further corroborate this. Besides, Dammang was neither charged nor even called to testify.

At the other end of this evidentiary gap, the interviewed Marine soldiers denied as theirs the signatures appearing on documents they were confronted with. We are, however, quick to note that the source of these documents presented the soldiers were either not explained or of doubtful existence.

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Finally, We are reminded that throughout the whole fabric of criminal jurisprudence, there is perhaps no thread more pervasively interwoven than the basic precept that no man may be subjected to the odium of punishment unless and until his culpability for an act which society fitly condemns shall have been established beyond reasonable doubt. Apropos of this criterion, it is by now an axiom in criminal law that "when the law expressly mentions the conditions or facts upon which a person may be punished, these facts must be shown to have existed, beyond peradventure of doubt, before the courts will be justified in depriving men of their liberty" (U.S. vs. Boquilon, 10 Phil. 4, 7; U.S. vs. Capa, *et al.*, 19 Phil. 125, 129). Such a heavy burden is cast upon the People and, in the discharge thereof, it is called upon to "rely on the strength of its own evidence and not on the weakness of the proof of the defense" (People vs. Baldudeza, CA-G.R. No. 19814-R, November 7, 1958). Prime objective, then, in this – as it is in any criminal prosecution – is to determine whether or not the People has discharged its bounden duty.

Likewise, it is a cardinal rule in our criminal justice system that to deprive a person of his precious life or liberty, the evidence against him must stand the crucible test of reasonable doubt to overthrow the constitutionally guaranteed presumption of innocence he has in his favor. This proof beyond reasonable doubt is the degree of proof that, after investigation of the whole record, produces moral certainty in an unprejudiced mind of the accused's culpability (People vs. Lagnas, *et al.*, 222 SCRA 745, 752); People vs. Bacus, 204 SCRA 81 (1991)).

In these cases, the prosecution was unable to meet this mandated burden.

We thus apply the same ruling and rationale in the instant case. Still, this Court finds no evidence to show that accused Cabatbat, together with his former co-accused, Miranda, Jandayan and Millado, misappropriated or converted the CCIE fund for their own benefit. The prosecution failed to prove with moral certainty that the accused acted in concert to achieve a common criminal objective.

Furthermore, there was no direct evidence proffered by the prosecution that accused Cabatbat committed any of the acts of falsification under Article 171 of the Revised Penal Code, as amended.

This Court maintains that additional and substantial evidence other than the mere signing or approval of the



Disbursement Vouchers and the Roster of Troops by Cabatbat's co-accused (or, in this case, the certification of the Roster of Troops by accused Cabatbat) must be presented to justifiably sustain a finding of conspiracy.

WHEREFORE, premises considered, the Demurrer to Evidence filed by accused Jeson P. Cabatbat dated October 6, 2022 is hereby **GRANTED**.

Consequently, **Criminal Cases Nos. SB-15-CRM-0082 and SB-15-CRM-0083** are hereby ordered **DISMISSED** in so far as accused Cabatbat is concerned.

The Hold Departure Order issued against accused Cabatbat is hereby ordered **RECALLED** and **SET ASIDE**. The cash bond secured by him for his provisional liberty is hereby ordered **RELEASED** subject to the usual accounting and auditing procedures.

Send copy of this Decision to the Bureau of Immigration for its appropriate action.

Considering that accused Capt. Edmund D. Yurong remains at-large despite the issuance of a warrant for his arrest, let the instant cases be sent to **ARCHIVES** subject to revival upon his arrest.

In the meantime, let an *alias* warrant for the arrest of accused Yurong be **ISSUED** forthwith.

SO ORDERED.



BERNELITO R. FERNANDEZ
Associate Justice

We concur:



AMPARO M. CABOTAJE-TANG
Presiding Justice/Chairperson



RONALD B. MORENO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

AMPARO M. CABOTAJE-TANG

Chairperson, Third Division

Presiding Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

AMPARO M. CABOTAJE-TANG

Presiding Justice

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