



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

**ELEANDRO JESUS F.
MADRONA, GEISHLER F.
FADIRI, and OSCAR P.
GALOS,**

Plaintiff;

SB-19-SCA-0003

For: Petition for Indirect Contempt

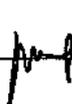
-versus-

LYNDON M. MOLINO,
Accused,

PRESENT:

FERNANDEZ, SJ, J., *Chairperson*
MIRANDA, &
VIVERO, JJ.

Promulgated:

January 22, 2021 

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RESOLUTION

MIRANDA, J.:

Before this Court is a verified Petition for Indirect Contempt dated April 15, 2019 filed by petitioners Eleandro Jesus F. Madrona (Madrona), Geishler F. Fadiri (Fadiri), and Oscar P. Galos (Galos) against respondent Lyndon M. Molino (Molino).





FACTS

Petitioners Madrona, Fadiri, and Galos are charged with violation of Section 3 (e) of Republic Act No. 3019, also known as the "Anti -Graft and Corrupt Practices Act" in SB-17-CRM-1490 pending before the Sixth Division of this Court. The said criminal case involves the alleged graft and corruption in the procurement of Bio Nature liquid fertilizer by the Provincial Government of Romblon through the alternative mode of direct contracting and without the required public bidding.¹ Respondent Molino, on the other hand, is the private complainant in the said criminal case.

In this petition, Madrona, Fadiri, and Galos pray that respondent Molino be cited in contempt of court in view of his social media posts pertaining to the disposition of the Sixth Division of this Court in SB-17-CRM-1490. The said social media posts were made in this manner:

First, on February 20, 2019 at or about 7:48 in the morning, respondent Molino shared an article entitled, "*Ex Sorsogon Gov. Raul Lee Convicted Over Fertilizer Fund Scam*" to a public group in Facebook named "Romblon Community". Respondent Molino captioned the said article with the following statements:

Parehong supplier (FreshansPhils), parehong brand (Bio-Nature), parehong presyo (P1,500 per bottle), at pareho ding diskarte (walang competitive public bidding) ang nangyari sa Romblon na nauwi sa kasong People of the Philippines vs. Eleandro Jesus Madrona et.al. (SB-17-CRM-1490) na dinidinig ngayon sa Sandiganbayan 6th division. Looking forward to take the witness stand on February 28.

Second, on February 28, 2019 at or about 6:31 in the morning, respondent Molino posted the following statements on the pages of the same group in Facebook:

HEARING mamaya ng kasong graft and corruption ni Budoy sa Sandiganbayan 6th Division. May dalawa pang COA lawyers ang



¹ See Information dated February 9, 2016 in SB-17-CRM-1490.



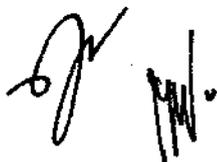
nakatak dang tumestigo. Last witness ang inyong abang lingkod.

Sana'y mapabilis at matapos na ang pagdinig sa panig ng prosecution upang marinig na ang panig ng depensa. At nang sagayon ay madesisyunan na ang kaunaunahang kaso sa kasaysayan ng Romblon na kung saan ay nasasakdal ang dating Gobernador at congressman nito, For graft and corruption.

Doon sa mga trolls na naghahanap ng pantabla laban sa akin, ito lang ang payo ko: galingan nyo pa ang pagimbento ng fake issues at intriga dahil sayang lang ang bayad sa inyong diosaniyo. Sa tagal ng panahon at sa dami ng na-convicted sa Korte at nakasuhan ko sa Ombudsman, hindi mag aatubili ang mga iyan na rumesbak kung may mahanap na katiting na ebidensya na ako'y nagnakaw sa kabang-yaman ng bayan. Subalit bigo silang lahat. Sapagkat hindi ako magnanakaw at hindi ako naging corrupt sa aking paninilbihan.

Uulitin ko. Hearing mamaya ng kasong graft and corruption ni Budoy. Kitakits nalang sa mga gustong pumunta. Maaga aga satanan. Sulong Romblon.

In his Comment and Opposition dated July 19, 2019, respondent Molino claims that the questioned Facebook posts were not contemptuous. He argues that: 1) the statements in his Facebook posts are considered fair comments concerning matters of public interest; 2) he never stated in his posts that "accused Madrona is sure to be convicted" by the Sixth Division of the Sandiganbayan; 3) the questioned Facebook posts were mere statements of facts, and not intended to influence the decision of the Court; and 4) the filing of the instant charge was maliciously motivated as it was even headlined in the local news in Romblon.



Considering the submission by the respondent of his comment and opposition and finding the same sufficient in resolving the petition,² the Court no longer issued a show cause order. The petition was, thereafter, submitted for resolution.

DISCUSSION AND RULING

In *Castillejos Consumers Association, Inc. v. Dominguez*,³ the Supreme Court defined “contempt of court” as follows:

Contempt of court has been defined as a willful disregard or disobedience of a public authority. In its broad sense, contempt is a disregard of, or disobedience to, the rules or orders of a legislative or judicial body or an interruption of its proceedings by disorderly behavior or insolent language in its presence or so near thereto as to disturb its proceedings or to impair the respect due to such a body. In its restricted and more usual sense, contempt comprehends a despising of the authority, justice, or dignity of a court.

The power of contempt is inherent in all courts.⁴ It is exercised by the court to vindicate public interest by punishment of contemptuous conduct, to compel the contemnor to do what the law requires him to uphold the power of the court, and to secure the rights of the parties to a suit awarded by the court.⁵

Judges, however, are enjoined to exercise the power of contempt judiciously and sparingly, with utmost restraint, and with the end view of utilizing the same for correction and preservation of the dignity of the court, and not for retaliation or vindication.⁶ The salutary rule is that the power to punish for contempt must be exercised on the preservative, not vindictive principle, and on the corrective and not retaliatory idea of punishment.⁷ The courts must exercise the power to punish for contempt for purposes that are impersonal, because the power is intended as a safeguard not for the judges as

² See *Paredes-Garcia v. Court of Appeals, et al.*, G.R. No. 120654, September 11, 1996 citing *Bakewell v. Lloren*, G.R. No. 20108, December 28, 1964 and *Esparagoza, et al., v. Tan, et al.*, G.R. No. L-6525, April 12, 1954.

³ G.R. No. 189949, March 25, 2005.

⁴ *Lorenzo Shipping Corporation, et al. v. Distribution Management Association of the Philippines, et al.*, G.R. No. 155849, August 31, 2011.

⁵ *Ma. Concepcion L. Regalado v. Antonio S. Go*, G.R. No. 167988, February 6, 2007.

⁶ *Panaligan v. Ibay*, A.M. No. RTJ-06-1972, June 21, 2006.

⁷ *Ibid.*



persons but for the functions that they exercise.⁸ Only occasionally should the court invoke the inherent power in order to retain the respect without which the administration of justice must falter or fail.⁹

There are two types of contempt: 1) direct contempt; and 2) indirect contempt. Direct contempt is committed when a person is guilty of misbehavior in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, including disrespect toward the court, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so.¹⁰ Indirect or constructive contempt, on the other hand, is committed out of the presence of the court.¹¹ A person who is guilty of disobedience or of resistance to a lawful order of a court or who commits any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice may be punished for indirect contempt.¹²

In this case, petitioners Madrona, Fadiri and Galos claim that respondent Molino should be held liable for indirect contempt for his contemptuous statements in social media tending directly or indirectly to impede, obstruct or degrade the administration of justice. They argue that the subject social media posts violated their right to have an impartial trial because respondent Molino's statements delved on the merits of SB-17-CRM-1490 and prematurely concluded their guilt in the offense charged.

The Court dismisses the Petition for Indirect Contempt.

Indirect contempt of this kind normally proceeds from violation of the *sub judice* rule under Section 3(c) and/or (d), Rule 71 of the Rules of Court, thus:

Sec. 3. Indirect contempt to be punished after charge and hearing. - x x x, a person guilty of any of the following acts may be punished for indirect contempt:

x x x x



⁸ *Oclarit v. Paderanga*, G.R. No. 139519, January 24, 2001.

⁹ *Supra, Panaligan v. Ibay*.

¹⁰ Section 1, Rule 71 of the Rules of Court.

¹¹ Moran, Comments on the Rules of Court, Vol. III, 1997 ed., p. 446, cited in *Re: Conviction of Judge Adoracion G. Angeles, RTC, Br. 121, Caloocan City in Crim. Cases Q-97-69655 to 56 for Child Abuse*, A.M. No. 06-9-545-RTC, January 31, 2008.

¹² Section 3, Rule 71 of the Rules of Court.



c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under section 1 of this Rule;

d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;

x x x x

The *sub judice* rule restricts comments and disclosures pertaining to pending judicial proceedings to avoid prejudging the issue, influencing the court, or obstructing the administration of justice.¹³ The restriction applies to litigants and witnesses, the public in general, including the members of the Bar and the Bench.¹⁴

In *P/Supt Marantan v. Atty. Diokno*,¹⁵ the Supreme Court explained how the court should exercise its contempt power in case of violation of *sub judice* rule, thus:

For a comment to be considered as contempt of court "it must really appear" that such does impede, interfere with and embarrass the administration of justice. What is, thus, sought to be protected is the all-important duty of the court to administer justice in the decision of a pending case. The specific rationale for the *sub judice* rule is that courts, in the decision of issues of fact and law should be immune from every extraneous influence; that facts should be decided upon evidence produced in court; and that the determination of such facts should be uninfluenced by bias, prejudice or sympathies.

The power of contempt is inherent in all courts in order to allow them to conduct their business unhampered by publications and comments which tend to impair the impartiality of their decisions or otherwise obstruct the administration of justice. As important as the maintenance of freedom of speech, is the maintenance of the independence of the Judiciary. The "clear and present danger" rule may serve as an aid in determining

¹³ *P/Supt Marantan v. Atty. Diokno*, G.R. No. 205956, February 12, 2014.

¹⁴ *Re: Show Cause Order in the Decision dated May 11, 2018 in G.R. No. 237428 (Republic of the Philippines, represented by Solicitor General Jose C. Calida v. Maria Lourdes P.A. Sereno)*, A.M. No. 18-06-01-SC, July 17, 2018).

¹⁵ G.R. No. 205956, February 12, 2014.

the proper constitutional boundary between these two rights.

The "clear and present danger" rule means that the evil consequence of the comment must be "extremely serious and the degree of imminence extremely high" before an utterance can be punished. There must exist a clear and present danger that the utterance will harm the administration of justice. Freedom of speech should not be impaired through the exercise of the power of contempt of court unless there is no doubt that the utterances in question make a serious and imminent threat to the administration of justice. It must constitute an imminent, not merely a likely, threat.¹⁶

The test for limitations on freedom of expression continues to be the "clear and present danger" rule, that words are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that the lawmaker has a right to prevent.¹⁷ In contempt proceedings, the "clear and present danger" rule is applied to determine whether the court's contempt power should be exercised to maintain the independence and integrity of the Judiciary, or the constitutionally-protected freedom of speech should be upheld.¹⁸

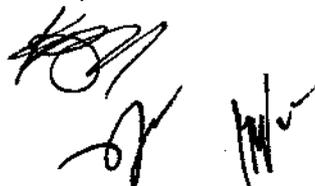
Upon examination of the statements made by respondent Molino in his questioned Facebook posts, the Court **DOES NOT** find a clear and present danger that would bring about disrepute or even scorn to the proceedings of the Sixth Division of the Court in SB-17-CRM-1490. Both Facebook posts do not present any evil consequence that is "extremely serious and the degree of imminence extremely high" which may be prejudicial to the rights of the accused and to the disposition of the Court in the said criminal case.

The Facebook post dated February 20, 2019 pertaining to the alleged similarity of Ex-Sorsogon Raul Lee's Fertilizer Scam Case to the criminal case filed against petitioners Madrona, Fadiri, and Galos was a mere restatement of facts. The information pertaining to the brand of the fertilizer involved in the criminal case, the purchase price, its supplier, and the alleged lack of public bidding in its procurement are public records that may be accessible by the

¹⁶ Emphasis supplied; citations omitted.

¹⁷ *Eastern Broadcasting Corporation (Dyre) v. Dans, et al.*, G.R. No. L-50329, July 19, 1985.

¹⁸ *Supra, Re: Show Cause Order in the Decision dated May 11, 2018 in G.R. No. 237428 (Republic of the Philippines, represented by Solicitor General Jose C. Calida v. Maria Lourdes P.A. Sereno)*



public anytime. The alleged similarities in the Sorsogon and Romblon cases could not influence the Court because the determination of the guilt of the petitioner in the Romblon case would depend solely on the evidence presented by the Prosecution and the Defense. There was nothing in the post that undermines the ability of this Court to pass judgment with impartiality.

In the same vein, the statements in the Facebook post dated February 28, 2019 were not contemptuous. A scrutiny thereof reveals that respondent Molino was simply expressing his sentiments and opinion about the criminal case filed against the petitioners, particularly that: 1) he was hoping for the speedy disposition of the first ever graft and corruption case in the history of Romblon that was filed against its former governor and congressman;¹⁹ and 2) those who fabricate issues and intrigues against him are bound to fail because he is not a corrupt public official.²⁰ His statement publicizing himself and two others from the Commission of Audit as witnesses in the criminal case²¹ cannot likewise disturb or obstruct the proceedings of the case because witnesses are already identified as early as the pre-trial stage. These statements cannot be branded as an insult or attack on the dignity and authority of this Court.

The proceedings for punishment of indirect contempt are criminal in nature because it is conduct directed against the dignity and authority of the court or a judge acting judicially.²² It is an act obstructing the administration of justice which tends to bring the court into disrepute or disrespect.²³ Intent is therefore a necessary element in criminal contempt, and no one can be punished for a criminal contempt unless the evidence makes it clear that he intended to commit it.²⁴ In this case, there appears no criminal intent to impede, obstruct, or degrade the administration of justice that can be inferred from the statements of respondent Molino in his social media posts.

Respondent Molino's Facebook posts appear to be nothing but a publication of his personal sentiments, opinion and position about the criminal case filed against the petitioners. The said Facebook posts merely gave a fair commentary on an issue which is imbued with public interest. Whether these statements are true or not, they fall within the purview of freedom of speech.²⁵



¹⁹ Paragraph 2 of the second social media post.

²⁰ Paragraph 3 of the second social media post.

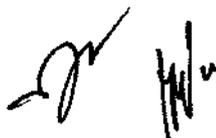
²¹ Paragraph 1 of the second social media post.

²² *Supra*, P/Supt. Maranan v. Atty. Diokno.

²³ *Ibid.*

²⁴ *Id.*

²⁵ See Section 4, Article III of the Constitution.



In *Chavez v. Gonzales*,²⁶ the Supreme Court emphasized:

Surrounding the freedom of speech clause are various concepts that we have adopted as part and parcel of our own Bill of Rights provision on this basic freedom. What is embraced under this provision was discussed exhaustively by the Court in *Gonzales v. Commission on Elections*, in which it was held:

...At the very least, **free speech and free press may be identified with the liberty to discuss publicly and truthfully any matter of public interest without censorship and punishment.** There is to be no previous restraint on the communication of views or subsequent liability whether in libel suits, prosecution for sedition, or action for damages, or contempt proceedings unless there be a clear and present danger of substantive evil that Congress has a right to prevent.²⁷

A public utterance or publication is not to be denied the constitutional protection of freedom of speech and press merely because it concerns a judicial proceeding still pending in the courts, upon the theory that in such a case, it must necessarily tend to obstruct the orderly and fair administration of justice.²⁸ Freedom of public comment should, in borderline instances, weigh heavily against a possible tendency to influence pending cases.²⁹ Thus, the power to punish for contempt, being drastic and extraordinary in its nature, should not be resorted to unless necessary in the interest of justice.³⁰

Finally, the guilt of the accused in a criminal case is determined by the weight and credibility of the evidence of the Prosecution and the Defense. Being a collegial judicial body, the members of this Court have solemnly and

²⁶ G.R. No. 168388, February 15, 2008.

²⁷ Emphasis supplied; citations omitted.

²⁸ *Supra*, P/Supt. Maranan v. Atty. Diokno, citing *Cabansag v. Fernandez*, G.R. No. L-8974, October 18, 1957.

²⁹ *Ibid*.

³⁰ *Supra*, P/Supt. Maranan v. Atty. Diokno, citing *Austria v. Masaquel*, G.R. No. L-22536, August 31, 1967.



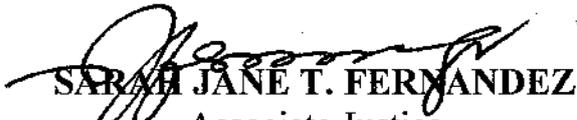
individually sworn to dispense and administer justice to its litigants. They cannot be swayed by a mere publication in social media of a person's sentiments, opinion and position on a pending case. It is their duty to render decisions purely based on the evidence presented and admitted during trial, and not from any extra-judicial source.

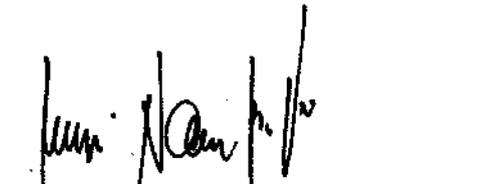
WHEREFORE, the Petition for Indirect Contempt dated April 15, 2019 filed by Eleandro Jesus F. Madrona, Geishler F. Fadiri, and Oscar P. Galos is **DISMISSED** for lack of merit.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

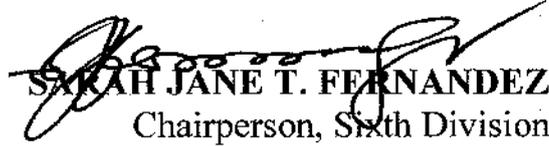
WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


KEVIN NARCE B. VIVERO
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.


SARAH JANE T. FERNANDEZ
Chairperson, Sixth Division

CERTIFICATION

Pursuant to Article VII, Section 13 of the Constitution, and the Division Chairperson's Attestation, 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's Division.


AMPARO M. CABOTAJE-TANG
Presiding Justice

