



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City
THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

**DATU SAJID ISLAM UY
AMPATUAN, ET AL.,**
Accused.

Criminal Case Nos.
SB-20-CRM-0015-0017
*For: Violation of Section 3(e),
R.A. No. 3019, as amended;
Malversation of Public Funds*

Present:
Cabotaje-Tang, P.J.,
Chairperson
**Fernandez, B.R., J. and
Moreno, R.B., J.**

Promulgated:

JULY 19, 2021

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RESOLUTION

Moreno, J.:

For resolution is the prosecution's *Omnibus Motion*:¹ (1) to admit the attached Amended Informations in SB-20-CRM-0015 and SB-20-CRM-0016; (2) to withdraw the Information in SB-20-CRM-0017; and (3) to allow plaintiff to attend the motion hearing, if such is deemed necessary, through videoconferencing, with the *Manifestation*² filed by accused Danny T. Calib.

The prosecution averred that upon review of the records vis-à-vis the Informations, it noted several matters in the allegations of the Informations that needed to be addressed. Consequently, in a Memorandum dated 21 September 2020 addressed to the Ombudsman, it recommended for the

¹ Records, pp. 757-770

² *Id* at pp. 785-786

amendment of the Informations for violation of Section 3(e) of R.A. No. 3019 (SB-20-CRM-0015) and for Malversation (SB-20-CRM-0016), and for the withdrawal of the Information for Failure to Render Accounts (SB-20-CRM-0017). These recommendations were approved by the Ombudsman.

The prosecution stated that the amendment is allowed by Rule 110, Section 14 of the Rules on Criminal Procedure. As regards the withdrawal of the Information in SB-20-CRM-0017, the prosecution averred that the illegal receipt of cash advances is already deemed included in the Informations for Graft and Malversation and that Article 218 (Failure of Accountable Officer to Render Accounts) is not applicable to the transactions subject of these cases. The cash advances were prohibited by law, hence, charging accused Ampatuan and Bandila with violation of Article 218 and focusing on their failure to render accounts may be tantamount to conceding the regularity, validity, or legitimacy of the grant of cash advances to them.

Accused Calib manifested that he has no comment to the Omnibus Motion and left the matter to the sound discretion of the Court.

THE COURT'S RULING

The Court resolves to grant the prosecution's *Omnibus Motion*.

The Revised Rules of Criminal Procedure allows the amendment of the information. Section 14, Rule 110 thereof reads:

Section 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.

However, any amendment before plea, which downgrades the nature of the offense charged in or excludes any accused from the complaint or information, can be made only upon motion by the prosecutor, with notice to the offended party and with leave of court. The court shall state its reasons in resolving the motion and copies of its order shall be furnished all parties, especially the offended party. x x x

The rule provides that the prosecution is given the right to amend the information, regardless of its nature, so long as the amendment is sought before the accused enters his plea, subject to the qualification under the second paragraph thereof.

Here, the accused have not yet been arraigned. Moreover, the amendments do not charge a different offense against the accused. Neither is there a change in the theory of the prosecution. The amendments merely state with additional precision something already contained in the original Informations. Hence, a formal or substantial amendment of the present Informations may be properly made pursuant to Section 14, Rule 110 of the Revised Rules of Criminal Procedure.

With respect to the withdrawal of the Information in SB-20-CRM-0017, finding the reason of the prosecution to be well-taken, the Court finds merit in granting the withdrawal thereof.

As for the prosecution's prayer that the plaintiff be allowed to attend the motion hearing through videoconferencing, the same is already rendered moot in view of this Resolution.

WHEREFORE, the prosecution's *Omnibus Motion* is hereby **GRANTED**. Accordingly, the Amended Informations for violation of Section 3(e) of R.A. No. 3019, as amended, in SB-20-CRM-0015 and for Malversation in SB-20-CRM-0016 are hereby **ADMITTED**. The Information for Failure to Render Accounts in SB-20-CRM-0017 is hereby ordered **WITHDRAWN**.

SO ORDERED.

Quezon City, Metro Manila, Philippines.



RONALD B. MORENO
Associate Justice

WE CONCUR:



AMPARO M. CABOTAJE-TANG
Presiding Justice, Chairperson



BERNELITO R. FERNANDEZ
Associate Justice