



Republic of the Philippines
SANDIGANBAYAN
Quezon City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

Crim. Cases Nos.
SB-16-CRM-1287

For: Violation of Sec. 3 (e)
of R. A. 3019(Anti-Graft
and Corrupt Practices Act)

SB-16-CRM-1288

For: Malversation of
Public Funds or Property
through Falsification of
Public Documents (Article
217 in relation to Article
171 and 48 of the Revised
Penal Code) as amended.

DIOCAESAR S. SUERO;
JOSE SUBOC;
FLORANTE S. JARA; and
NESTOR A. IBARRA,


Accused.

X-----X

Present:

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

Promulgated:

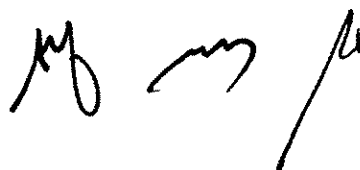
May 16, 2022 

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R E S O L U T I O N

FERNANDEZ, B. R., J.

The Court resolves the following: Motion to Expunge and For Show Cause Order dated March 24, 2022 filed by accused Diocaesar S. Suero; the Opposition dated March 30, 2022 of the prosecution; and, the Reply to Opposition dated March 31, 2022 of accused Suero.



In his Motion dated March 24, 2022, accused-movant Suero, alleges that he received a copy of the prosecution's Memorandum dated March 24, 2022 at six o'clock in the evening of the same day.

He asserts that the prosecution or the Office of the Special Prosecutor (OSP)) received on March 19, 2022, through electronic mail (email), an electronic copy of the Resolution of this Court dated March 15, 2022, giving the parties an inextendible period of five (5) days from notice within which to file their respective memoranda. Hence, the prosecution had until March 24, 2022 within which to file its Memorandum.

However, accused-movant Suero claims that he has serious misgivings on the representation of the OSP that the latter received the March 15, 2022 Resolution by email on March 19, 2022 because this is clearly belied by the record.

The email transmission cover of the March 15, 2022 Resolution, addressed to all parties concerned, including the OSP, indicates that the same Resolution was sent by this Court through email on March 18, 2022 and received by all the addressees on the same date. Accused-movant Suero added that it appears highly improbable that the OSP received its copy the following day or March 19 2022, a Saturday, when public offices including this Court and the OSP are closed. Thus, this Court could not have sent through email the March 15, 2022 Resolution to the OSP on March 19, 2022.

Accused-movant Suero cited Section 15, Rule 13 (A.M. No. 19-10-20-SC 2019) or the 2019 Proposed Amendments to the 1997 Rules of Civil Procedure and avers that the records will show that the OSP received the March 15, 2022 Resolution on March 18, 2022, not March 19, 2022, thus, the 5-day period to file the prosecution's Memorandum expired on March 23, 2022.

Accused-movant Suero further noted that even his Motion for an additional two-day extension was promptly denied by the Court, indicating this Court's firm stance on its inextendible period of five days to file memoranda.

He adds that lawyers are sworn not to do falsehood or consent to any in court. The falsehood here is not innocent and inconsequential as it was done to circumvent a strict



directive of the Court. The OSP has to explain what appears to be a contumacious comportment.

Accused-movant Suero thus prayed that the Memorandum of the prosecution be ordered expunged as being filed out of time and the signatories thereon be directed to explain why no sanction should be imposed upon them for their aforestated false representation to the Court.

For its part, the prosecution, in its Opposition dated March 30, 2022, objected, in the strongest possible terms, to the accusations of accused Suero that it had deceived this Court. It is very much aware of its duty to the Court not to do any falsehood.

It explained that the Office of the Ombudsman is implementing a hybrid work arrangement wherein its employees are required to render actual office duty at least three (3) days per week, which may include a Saturday. Hence, it is true that it was only on March 19, 2022 that the official email account of the prosecution was opened and it was only then that it came to the knowledge of the prosecution that an electronic copy of the March 15, 2022 Resolution was in its inbox and that a corresponding acknowledgement email was also sent on even date. It was also on March 19, 2022 that the said email was forwarded to the members of the prosecution panel, attached therewith is the computer printout of the thread of the same email.

The prosecution claims that its March 19, 2022 acknowledgement/reply email to the original email of the Court resulted in the former's email being stacked over this Court's original email, making it appear in the inbox that the email thread was dated March 19, 2022.

It was this inadvertence of not checking the date of the original email from this Court that led the prosecution to assume that the date thereof was March 19, 2022. The prosecution maintains that this was not deliberate but an honest mistake on its part.

Finally, the prosecution reminds the counsel of accused Suero that as a lawyer, he should not, in his professional dealings, use language which is abusive, offensive or otherwise improper. In this case, the phrase "contumacious comportment" is highly objectionable, insulting and casts



aspersions on the prosecution's integrity and professionalism.

In view of the foregoing, the prosecution begs the kind consideration of this Court and requests that its Memorandum dated March 24, 2022 be admitted in the interest of substantive justice.

Accused-movant Suero, in his Reply to Opposition dated March 31, 2022, states that the justification of the prosecution may be specious. The OSP had no reason to assume or be mistaken that the March 15, 2022 Resolution was emailed by this Court to the OSP on March 19, 2022, a Saturday, when it does not hold office.

We rule.


While it appears that the email transmission cover of the March 15, 2020 Resolution addressed to all the parties concerned indicates that the Resolution was sent by this Court through email on March 18, 2022 and received by all the addressees on the same date, the explanation of the OSP shows that it was an honest mistake on their part not to have checked the original date of the email and that it was not intended to delay the court proceedings or to do falsehood.

We find the explanation of the prosecution to be reasonable.

While the Memorandum submitted by the OSP was belately filed by a day, no prejudice will be caused to anyone with its admission. Moreover, the filing thereto will not interrupt the period for this Court to decide.

We note Administrative Circular No. 28 which in fine states that, as a general rule, the submission of memoranda is not a mandatory or required as a matter of course but shall be left to the sound discretion of the court. Furthermore, a case is considered submitted for decision upon the admission of the evidence of the parties at the termination of the trial.

Finally, it should be remembered that parties should be given amplest opportunities to fully ventilate their claims and defenses brushing aside technicalities in order to truly ascertain the merits of the case. Indeed, judicial cases do not come and go through the portals of a court of law by the mere mandate of technicalities. Where a rigid application of the rules will result in a manifest failure or miscarriage of justice,

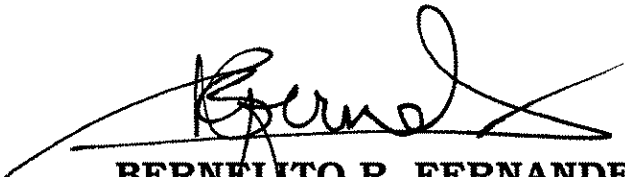


technicalities should be disregarded in order to resolve the case (Malixi vs. Baltazar, G.R. No. 208224 citing Acaylar Jr. vs. Harayo, G. R. No. 176995, July 30, 2008). Nevertheless, if a rigid application of the rules of procedure will tend to obstruct rather than serve the broader interests of justice in light of the prevailing circumstances of the case, x x x, the court may relax the strict application of the rules of procedure in the exercise of equity jurisdiction (Curammeng vs. People, G.R. No. 219510, November 14, 2016).

WHEREFORE, premises considered, the Motion to Expunge and For Show Cause Order dated March 24, 2022 filed by accused Diocaesar S. Suero, through counsel, is hereby **DENIED** for lack of merit.

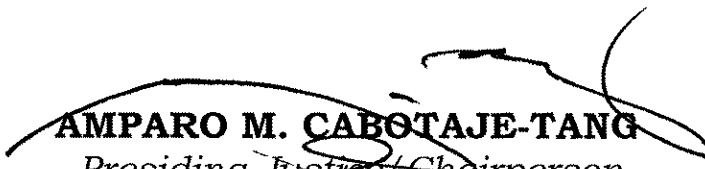
Consequently, the Memorandum dated March 24, 2022 of the prosecution is hereby **ADMITTED**.

SO ORDERED.

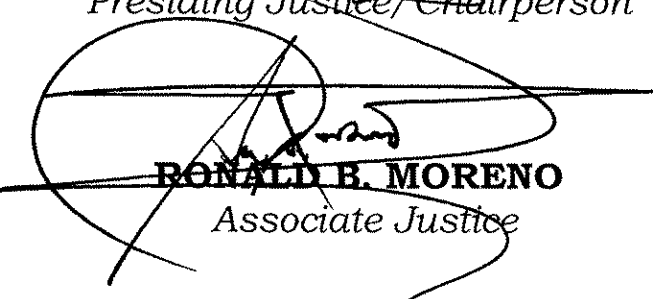


BERNELITO R. FERNANDEZ
Associate Justice

We concur:



AMPARO M. CABOTAJE-TANG
Presiding Justice/Chairperson



RONALD B. MORENO
Associate Justice