



REPUBLIC OF THE PHILIPPINES

## **Sandiganbayan**

QUEZON CITY

### **THIRD DIVISION**

**PEOPLE  
OF  
PHILIPPINES**

**OF  
THE  
Plaintiff,**

**Criminal Cases Nos. SB-17-  
CRM-1017 to 1018;**

For: Violation of Section 3 (e) of  
Republic Act No. 3019

**- versus -**

**Criminal Cases Nos. SB-17-  
CRM-1020 to 1021**

For: Malversation through  
Falsification

**NUR P. MISUARI, et al.,**

**Accused.**

*Present:*

**CABOTAJE-TANG, P.J.,**  
Chairperson,  
**FERNANDEZ, B., J.** and  
**MORENO, J.**

*Promulgated:*

July 29, 2022

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## **RESOLUTION**

**CABOTAJE-TANG, P.J.:**

For resolution are the following:

1. Accused Nur P. Misuari's (Misuari) "*Manifestation Cum Motion*" dated May 18, 2022;<sup>1</sup>

<sup>1</sup> pp. 116-121, Vol. XI, Record

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2. Accused Misuari's "Very Respectful Apology with Urgent Manifestation and Motion" dated June 2, 2022;<sup>2</sup>

3. The prosecution's "Comment with Motion (Re: Manifestation cum Motion and Very Respectful Apology with Urgent Manifestation and Motion of accused Nur P. Misuari) dated June 13, 2022;<sup>3</sup>

4. Accused Misuari's "Manifestation with Motion to Admit Cum Very Respectful Motion" dated June 17, 2022;<sup>4</sup> and,

5. Accused Misuari's "Manifestation with Motion to Release Travel Bond" dated June 17, 2022.<sup>5</sup>

**ACCUSED MISUARI'S MANIFESTATION CUM MOTION**

Accused Misuari, through counsel, prays that the Travel Authority granted him by the Court in its *Resolution* promulgated on April 22, 2022, be extended to allow him to "recover and regain his strength to travel back to Manila."<sup>6</sup>

He noted that while the arrival date indicated in the said Travel Authority was May 11, 2022, accused Misuari fell seriously ill and he was in Dubai in care of doctors. Thus, he could not travel to Manila on the said date.<sup>7</sup>

Moreover, the counsel for the said accused pointed out that a copy of the Medical [Report]<sup>8</sup> issued by a certain Dr. Rinelle H. Sanaan, indicating therein that accused Misuari is "not fit to fly" is attached to their present *motion*.<sup>9</sup>

<sup>2</sup> pp. 123-128, *Id*

<sup>3</sup> pp. 130-134, *Id*

<sup>4</sup> pp. 158-160, *Id*

<sup>5</sup> pp. 144-155, *Id*

<sup>6</sup> p. 117, *Id*

<sup>7</sup> *Id*

<sup>8</sup> p. 121, *Id*

<sup>9</sup> *Id*

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**ACCUSED MISUARI'S VERY RESPECTFUL APOPOLOGY  
WITH URGENT MANIFESTATION AND MOTION**

Accused Misuari, through counsel, recounts that in the Court's Order dated May 18, 2022, he was directed to submit a Medical Certificate under oath before the Philippine Consulate in Dubai attesting to his alleged fact of ailment.

He further avers that Ainee Misuari, his daughter, who is currently travelling with him, is unable to obtain the subject Medical Certificate and that she has been "*tossed back and forth between offices in Dubai.*"<sup>10</sup>

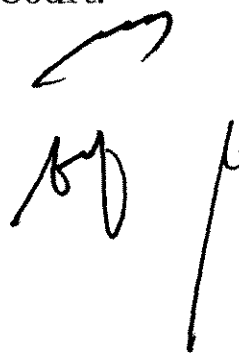
Moreover, accused's counsel, Atty. Lim, narrates the following circumstances, which supposedly transpired during accused Misuari's stay in Dubai, to wit:

. . .

5. It has turned out that what actually happened was this: on May 9, 2022, Mr. Nur Misuari collapsed in his hotel room and lost consciousness and was about to be rushed to a hospital when Dr. Rinell H. Sanaan of Aster Clinic arrived and was able to attend to him and revive him, thus, his hospital trip was thereby aborted.
6. Mr. Misuari was not hospitalized, hence, the earlier manifestation of undersigned counsel that he was hospitalized was inaccurate, based as it was on hearsay and scanty information from Mr. Agassi during the May 18, 2022 hearing, for which undersigned counsel sincerely apologize to the Honorable Court. Said manifestation was made in good faith, under the belief that Mr. Misuari was rushed to the hospital, with no intent whatsoever to mislead the Honorable Court.

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<sup>10</sup> p. 123, *Id*

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7. Dr. Sanaan issued a Medical Report certifying that he attended to Mr. Misuari in the latter's hotel room on May 9, 2022, and his diagnosis/findings were as follows (as stated in the Medical Report), thusly:

. . .

Undersigned counsel instructed Mr. Agasi to coordinate with Ms. Ainee Misuari the need to have the said Medical Certificate notarized for immediate submission to the Honorable Court.

8. Furthermore, last May 30, 2022, Mr. Misuari underwent a "right eye cataract extraction" performed by DR. UMESH PATIJAREKANDY as per a MEDICAL REPORT issued by said doctor on 30.05.2022, a copy of which is attached as "Annex C." Regrettably, said Medical Report while mentioning that the cataract operation was done in a "HOSPITAL" did not indicate the hospital's name.

Under "ADVISE," it is stated, among others: "He can travel after 2-3 weeks."<sup>11</sup>

Lastly, Atty. Lim offered his apology to the Court for the delay in submitting the above-mentioned Medical Certificate.<sup>12</sup>

### **THE PROSECUTION'S COMMENT WITH MOTION**

In its *Comment* dated June 13, 2022, the prosecution prays that accused Misuari's bail and travel bond be forfeited and that the Court issue a warrant for his arrest.<sup>13</sup>

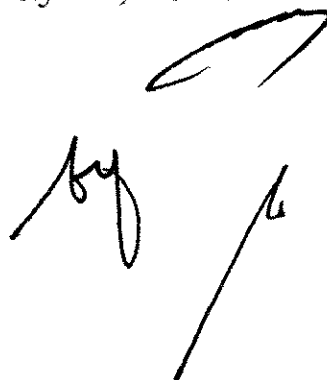
The prosecution recalls that in his *Motion to Travel*, accused Misuari indicated therein that his travel abroad was to perform *Umrah* from April 25, 2022; visit his family on May 5, 2022; and, to return to the Philippines on May 11, 2022.

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<sup>11</sup> pp. 123-124, *Id*

<sup>12</sup> p. 125, *Id*

<sup>13</sup> p. 132, *Id*

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It further notes that on April 22, 2022, the Court granted accused Misuari's *motion* and set forth conditions for his travel;<sup>14</sup> that the said accused has yet to return to the Philippines; that he has been staying abroad for more than his allowed period to travel; that he has extended his stay even longer than the one that he prayed for in his *Motion to Travel*; and, that accused Misuari's specific whereabouts cannot be determined in the submissions of his counsels.<sup>15</sup>

Moreover, the prosecution argues that accused Misuari should have returned to the Philippines after the unfortunate event that happened in his hotel room considering that the subject Medical Report stated that he was not fit to fly on May 10, 2022, only. It adds that it is not necessary for the said accused to have his consultation in Dubai as he can consult with the doctors in the Philippines.<sup>16</sup>

Also, the prosecution points out that accused Misuari visited the *Canadian Specialist Hospital* in Dubai on May 21, 2022, for a check-up and in the Medical Report attached to accused Misuari's *Manifestation cum Compliance* dated June 7, 2022, there was no longer any advice that accused Misuari was not fit to travel.<sup>17</sup>

The prosecution further notes that instead of returning to the Philippines, the same accused underwent *gingivoplasty* in conjunction with the removal of his tooth on May 23, 2022, and an eye cataract extraction on May 30, 2022. According to the prosecution, as stated in the Medical Report, accused Misuari's eye problem was already ostensible two (2) years ago; hence, the said accused had plenty of time to have treatment in the Philippines or abroad with the proper permission from the Court.<sup>18</sup>

Moreover, the prosecution notes that the purposes of accused Misuari's travel were already achieved when he underwent the said procedures. Thus, he no longer has any valid

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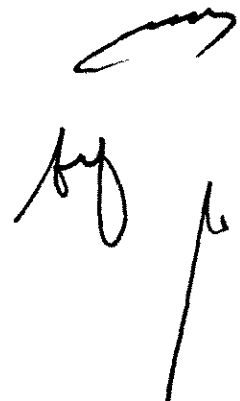
<sup>14</sup> p. 130, *Id*

<sup>15</sup> pp. 130-131, *Id*

<sup>16</sup> p. 131, *Id*

<sup>17</sup> p. 131, *Id*

<sup>18</sup> p. 131, *Id*

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reason to extend his stay abroad and his continued stay thereat is in violation of the travel authority granted to him by the Court.<sup>19</sup>

**ACCUSED MISUARI'S MANIFESTATION WITH MOTION  
TO ADMIT CUM VERY RESPECTFUL APOLOGY**

The counsel for accused Misuari avers that he was given by the Court until June 7, 2022, within which to submit the original copies of accused Misuari's Medical Certificates; that he was able to electronically transmit to the Sandiganbayan copies of the same on June 8, 2022, and personally file with the Court accused Misuari's *Manifestation cum Compliance* and the attached Medical Reports and Certifications on June 9, 2022.<sup>20</sup>

Thus, he prays that the said *Manifestation cum Compliance* filed on June 9, 2022, which includes the original copies of accused Misuari's Medical Certificates, be deemed as sufficient compliance to the Court's Order dated May 18, 2022.<sup>21</sup>

**ACCUSED MISUARI'S MANIFESTATION WITH MOTION  
TO RELEASE TRAVEL BOND**

Accused Misuari prays that the travel bond posted by him with the Court on April 22, 2022, be released and that he be allowed to withdraw the same.<sup>22</sup>

He submits that he has returned to Manila from his recent travel to the United Arab Emirates and Saudi Arabia on June 16, 2022;<sup>23</sup> that his airline ticket and a copy of his passport with the pertinent page stamped by the Philippine Bureau of Immigration are attached to his present *motion*;<sup>24</sup> and, that he made a

<sup>19</sup> p. 131, *Id*

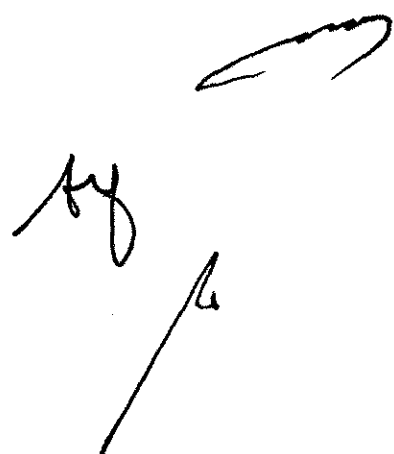
<sup>20</sup> p. 158, *Id*

<sup>21</sup> p. 158, *Id*

<sup>22</sup> p. 144, *Id*

<sup>23</sup> p. 144, *Id*

<sup>24</sup> p. 144, *Id*



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personal appearance before the office of the Division Clerk of Court, Third Division, Sandiganbayan, on June 17, 2022.<sup>25</sup>

**ACCUSED MISUARI'S REPLY TO THE PROSECUTION'S  
COMMENT WITH MOTION**

Accused Misuari submits that [1] he has returned to the Philippines and has appeared before the Sandiganbayan Third Division Clerk of Court on June 16, 2022; [2] the *Comment with Motion* filed by the prosecution is rendered moot and academic; and, [3] he has not violated the terms and conditions of his travel.<sup>26</sup>

According to the said accused, the circumstances which led to his extended stay abroad was brought by the fact that he lost consciousness in his hotel room. He pointed out that the Medical Certificate issued by Dr. Rinelle H. Sanaan found him to have suffered "*acute bronchitis, acute gastroenteritis with dehydration and electrolyte imbalance.*"<sup>27</sup>

Moreover, accused Misuari contends that in view of his advanced age, his medical conditions cannot be taken lightly, and he intended to travel back to Manila on the date indicated in his Travel Authority, but his medical and physical condition prevented him from doing so.<sup>28</sup>

Accused Misuari further explains that he had to undergo a second medical check-up in Dubai to determine whether he is fit to travel to the Philippines; and the second medical check-up on June 2, 2022, directed him to undergo further investigation and specialist consultation with executive general check-up as a pre-requisite for his medical clearance to travel to Manila. Thus, he argues that the prosecution cannot fault him for having a second medical check-up and being thorough and circumspect before flying back to Manila.<sup>29</sup>

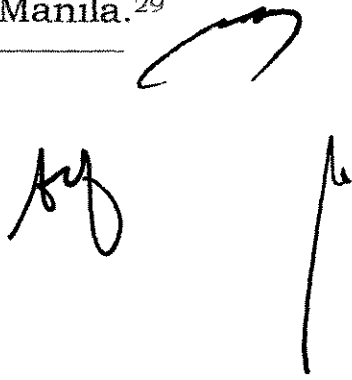
<sup>25</sup> p. 144, *Id*

<sup>26</sup> p. 185, *Id*

<sup>27</sup> p. 185, *Id*

<sup>28</sup> p. 186, *Id*

<sup>29</sup> p. 186, *Id*

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Finally, accused Misuari avers that the prosecution cannot “*begrudge*” him for having followed the medical advice of the doctors and specialists in Dubai at that time. Also, he submits that he has nothing but utmost respect for the law and the Court and he had no intention to violate the travel conditions mentioned in his Travel Authority.<sup>30</sup>

### **THE PROSECUTION’S COMMENT**

The prosecution [1] maintains its opposition to the release of the travel bond of accused Misuari; and [2] adopts its arguments and discussions in its *Comment with Motion* dated June 13, 2022.<sup>31</sup>

### **THE RULING OF THE COURT**

To begin with, the records of these cases show that in its *Resolution* promulgated on April 22, 2022, the Court granted accused Misuari permission to travel to Jeddah, Mecca and Medina, Kingdom of Saudi Arabia (KSA) and Dubai, United Arab Emirates (UAE) from April 25, 2022, to May 11, 2022, subject to certain terms and conditions.<sup>32</sup>

During the continuation of the presentation of evidence for accused Misuari on May 18, 2022, Atty. Lim manifested that the said accused is ill in Dubai. Thus, he requested for the cancellation of the hearings considering that he intended to present accused Misuari as his witness. In its *Order* dated May 18, 2022, the Court directed Atty. Lim to submit to the Court a medical certificate under oath before the Philippine Consulate in Dubai attesting to the alleged fact of ailment of accused Misuari within fifteen (15) days from the date of the said order.<sup>33</sup>

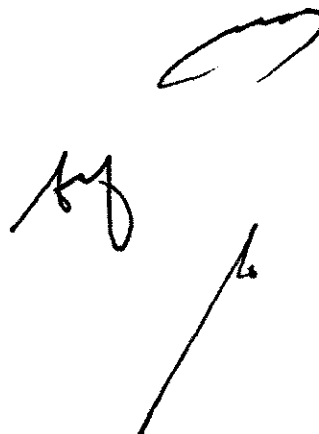
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<sup>30</sup> p. 186, *Id*

<sup>31</sup> p. 202, *Id*

<sup>32</sup> pp. 683-685, Vol. X, Record

<sup>33</sup> pp. 4-5, Vol. XI, Record

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On June 1, 2022, Atty. Lim moved for an extension of five (5) days within which to submit the sworn Medical Certificate of the said accused on the ground that “*there has been some delay beyond his control.*”<sup>34</sup> In its *Resolution* promulgated on June 1, 2022, the Court granted the said *motion* and gave Atty. Lim until June 7, 2022, within which to submit the accused’s duly notarized medical certificate.<sup>35</sup>

On June 3, 2022, Atty. Lim filed the present *Manifestation cum Motion* praying that the Travel Authority granted by the Court to accused Misuari be extended on the ground that the said accused needs “*to recover and regain his strength to travel to Manila.*”<sup>36</sup>

On even date, the same counsel filed the *Very Respectful Apology with Urgent Manifestation and Motion* wherein he [1] apologized to the Court for the information which he relayed during the hearing on May 18, 2022, that accused Misuari was hospitalized, and [2] the Medical Report dated May 9, 2022, issued by Dr. Rinelle H. Sanaan be treated as substantial compliance to the Court’s Order dated May 18, 2022, until he is able to receive the sworn Medical Certificate from Ainee Misuari and/or Jaysar Agasi.<sup>37</sup>

On June 9, 2022, accused Misuari filed a *Manifestation cum Compliance*. Attached therewith are the following documents:

1. Certification issued by the Consulate General of the Republic of the Philippines in Dubai, dated June 3, 2022, and signed by Aleah Marie B. Gica, Vice-Consul;<sup>38</sup>
2. Medical Report for patient Nur Pining Misuari issued by the Canadian Specialist Hospital, Dubai, signed by Dr. Raeba Matthew, MS, FRCS, DNB (Specialist Ophthalmologist Medical Retina Specialist);<sup>39</sup>

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<sup>34</sup> p. 49, *Id*

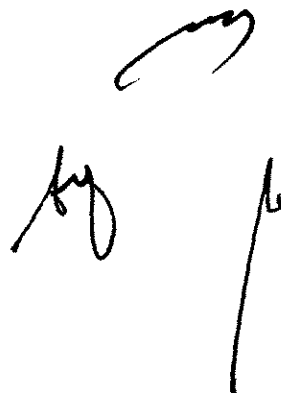
<sup>35</sup> p. 51, *Id*

<sup>36</sup> pp. 116-121, *Id*

<sup>37</sup> p. 125, *Id*

<sup>38</sup> p. 66, *Id*

<sup>39</sup> pp. 67-68, *Id*

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3. Certification issued by the Consulate General of the Republic of the Philippines in Dubai, dated June 3, 2022, and signed by Aleah Marie B. Gica, Vice-Consul;<sup>40</sup>
4. Medical Report issued by 800-ASTER signed by Dr. Rinelle Sanaan (General Physician);<sup>41</sup>
5. Certification issued by the Consulate General of the Republic of the Philippines in Dubai, dated June 3, 2022 and signed by Aleah Marie B. Gica, Vice-Consul;<sup>42</sup>
6. Medical Report issued by Vasan Eye Multispecialty dated May 30, 2022 and signed by Dr. Umesh Patinjarekandy (Specialist Ophthalmologist);<sup>43</sup>
7. Certification issued by the Consulate General of the Republic of the Philippines in Dubai, dated June 3, 2022, and signed by Aleah Marie B. Gica, Vice-Consul;<sup>44</sup>
8. Medical Report for patient Nur Pining Misuari issued by the Canadian Specialist Hospital, Dubai, dated May 21, 2022, and signed by Dr. Mukesh Kumas, (Specialist Internal Medicine);<sup>45</sup>
9. Certification issued by the Consulate General of the Republic of the Philippines in Dubai, dated June 3, 2022, and signed by Aleah Marie B. Gica, Vice-Consul; and,<sup>46</sup>
10. Medical Report for patient Nur Pining Misuari issued by the Canadian Specialist Hospital, Dubai, dated May 23, 2022, and signed by Dr. Zaman Al Janabi (General Dentist).<sup>47</sup>

In its *Resolution* promulgated on June 10, 2022, the Court noted the above-mentioned *Manifestation cum Compliance*.<sup>48</sup>

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<sup>40</sup> p. 70, *Id*

<sup>41</sup> p. 75, *Id*

<sup>42</sup> p. 72, *Id*

<sup>43</sup> p. 73, *Id*

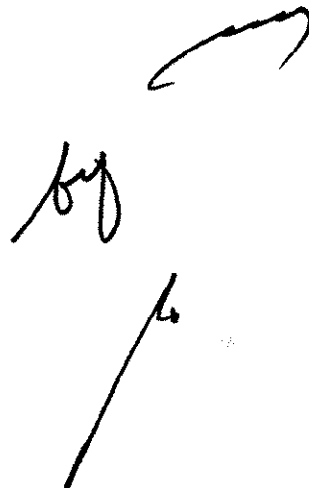
<sup>44</sup> p. 74, *Id*

<sup>45</sup> pp. 78-80, *Id*

<sup>46</sup> p. 77, *Id*

<sup>47</sup> p. 71, *Id*

<sup>48</sup> p. 82, *Id*



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Considering that the Court has noted the *Manifestation cum Compliance* filed by accused Misuari on June 9, 2022, which contained various medical reports of accused Misuari and accompanied by the Certifications issued by the Consulate General of the Philippines in Dubai, the Court finds accused Misuari's "Very Respectful Apology with Urgent Manifestation and Motion" dated June 2, 2022, moot and academic.

Likewise, in its *Resolution* promulgated on July 14, 2022, the Court declared accused Misuari's *Manifestation with Motion to Admit cum Very Respectful Apology* dated June 17, 2022, moot considering that the said accused's *Manifestation cum Compliance* was already noted in the Court's *Resolution* promulgated on June 10, 2022, in compliance with the Court's Order dated May 18, 2022.<sup>49</sup>

On accused Misuari's *Manifestation Cum Motion* dated May 18, 2022, wherein he prays for the extension of the travel period granted to him by the Court in its *Resolution* promulgated on April 22, 2022, the Division Clerk of Court of the Sandiganbayan Third Division, has attested that accused Misuari personally appeared before him on June 16, 2022.

Thus, in view of the circumstances herein obtaining, the Court holds that accused Misuari's *Manifestation cum Motion* has been rendered moot because of his return to the Philippines.

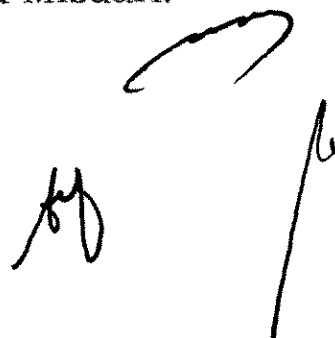
Lastly, accused Misuari prays for the release of his travel bond in his *Manifestation with Motion to Release Travel Bond* dated June 17, 2022.<sup>50</sup>

In its *Comment* dated June 13, 2022, the prosecution contends that accused Misuari violated the terms and conditions set forth in the Court's *Resolution* promulgated on April 22, 2022, when he exceeded the period stated in the subject Travel Authority without the permission of the Court. Thus, it prays for the forfeiture of the travel bond posted by the accused.

The Court finds for accused Misuari.

<sup>49</sup> p. 2, *Resolution* promulgated on July 14, 2022

<sup>50</sup> pp. 144-155, *Id*

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To repeat, in its *Resolution* promulgated on June 10, 2022, the Court noted accused Misuari's *Manifestation cum Compliance* dated June 7, 2022, together with the attached [1] Medical Reports of various medical doctors, and [2] Certifications issued by the Philippine Consulate in Dubai. Therein, the Court held that the said manifestation complied with the Court's Order dated May 18, 2022.<sup>51</sup> In fact, this was reiterated by the Court in its *Resolution* promulgated on July 14, 2022.<sup>52</sup>

Indeed, the terms and conditions of the subject Travel Authority granted by the Court to accused Misuari on April 22, 2022, permitted the said accused to travel to the KSA and UAE only until May 11, 2022.<sup>53</sup> Nevertheless, the records of these cases show that the Court already noted and considered the medical reports of the various doctors in Dubai attesting, among other things, that the said accused was not fit to travel at the time he was supposed to return to the country.

Jurisprudence teaches that courts must act in line with the principle that a party-litigant should be given the fullest opportunity to establish the merits of his complaint or defense rather than for him to lose life, liberty, honor, or property on technicalities. Procedural rules may be relaxed for the most persuasive of reasons in order to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.<sup>54</sup>

Taking into consideration the circumstances mentioned in accused Misuari's *Manifestation cum Compliance*, the Court finds that the failure of accused Misuari to return to the country within the period prescribed by the Court was not animated by a deliberate desire to disregard its directive. The confluence of events simply prevented him from strictly complying with the said Court's directive. Thus, in the higher interest of justice, the Court holds that accused Misuari substantially complied with the terms and conditions imposed by the Court in its *Resolution*

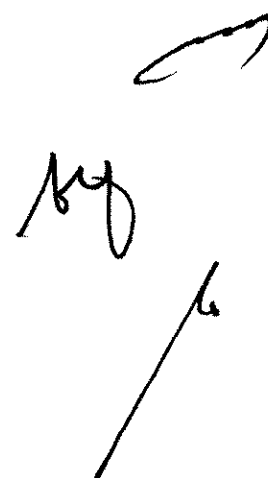
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<sup>51</sup> p. 82, *Id*

<sup>52</sup> p. 2, *Resolution* promulgated on July 14, 2022

<sup>53</sup> pp. 683-685, Vol. X, *Record*

<sup>54</sup> See *Curammeng v. People*, 808 SCRA 613 (2016)

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promulgated on April 22, 2022. Accordingly, the release of the cash travel bond posted by the accused Misuari is in order.

**WHEREFORE**, the Court **NOTES** the following *motions* for being moot and academic:

1. “*Manifestation cum Motion*” dated May 18, 2022, filed by accused Misuari;<sup>55</sup>

2. “*Very Respectful Apology with Urgent Manifestation and Motion*” dated June 2, 2022, filed by accused Misuari;<sup>56</sup> and,

3. “*Manifestation with Motion to Admit Cum Very Respectful Motion*” dated June 17, 2022;<sup>57</sup> filed by accused Misuari.

Moreover, the prosecution’s “*Comment with Motion (Re: Manifestation cum Motion and Very Respectful Apology with Urgent Manifestation and Motion of accused Nur P. Misuari)*” dated June 13, 2022,<sup>58</sup> is **DENIED** for lack of merit.

Finally, accused Misuari’s *Manifestation with Motion to Release Travel Bond* dated June 17, 2022,<sup>59</sup> is **GRANTED** over the objection of the prosecution in its *Comment* filed before the Court on June 16, 2022.

Accordingly, the Cashier III of this Court is **DIRECTED** to return the cash travel bond posted by the said accused in the amount of Nine Hundred Twenty Thousand Pesos (**Php920,000.00**) as evidenced by **O.R. No. 8047811 B** dated April 22, 2022,<sup>60</sup> upon the presentation of the original thereof, subject to the usual accounting and auditing procedures and the production of proper identification document/s and/or special power of attorney, if to be withdrawn by a representative.

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<sup>55</sup> pp. 116-121, *Id*

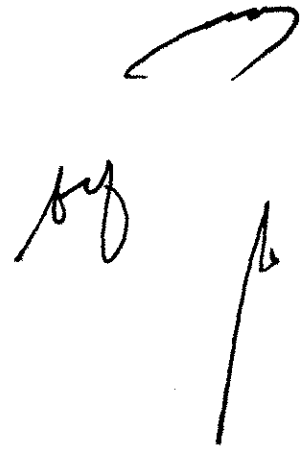
<sup>56</sup> pp. 123-128, *Id*

<sup>57</sup> pp. 158-160, *Id*

<sup>58</sup> pp. 130-134, *Id*

<sup>59</sup> pp. 144-155, *Id*

<sup>60</sup> pp. 686-687, Vol. X, Record

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**SO ORDERED.**

Quezon City, Metro Manila

**AMPARO M. CABOTAJE-TANG**

Presiding Justice

Chairperson

**WE CONCUR:**

**BERNELITO R. FERNANDEZ**

Associate Justice

**RONALD B. MORENO**

Associate Justice