

FOURTH DIVISION

- versus -

JAN 13 2023
Promulgated

RESOLUTION

MUSNGI, J.:

This court resolves the following:

- (1) ***Motion for Reconsideration***¹ filed on 18 November 2022 by accused Elenita S. Binay (“Binay”);
- (2) ***Comment/Opposition (to accused Elenita Binay’s Motion for Reconsideration dated 14 November 2022)***² filed on 25 November 2022 by the prosecution;
- (3) ***Motion for Reconsideration (Re: Resolution dated 04 November 2022)*** filed on 21 November 2022 by accused Mabel B. Asunio (“Asunio”), Conrado V. Paminutan (“Pamintuan”), Jaime P. Delos Reyes (“Delos Reyes”) and Lilia A. Nonato (“Nonato”);
- (4) ***Motion for Reconsideration [Re: Resolution dated 04 November 2022. denying the accused, Ernesto Aspillaga and Luz Yamane-Garcia, Motion for Leave of Court to File Demurrer to Evidence]*** filed on 21 November 2022 by accused

¹ Records, Vol. 11, p. 15.

² *Id.*, p. 25.

Ernesto Aspillaga (“Aspillaga”) and Luz Yamane-Garcia (“Yamane-Garcia”); and

- (5) ***Consolidated Comment/Opposition*** filed on 28 November 2022 by the prosecution.

The subject *Resolution* sought to be reconsidered denied the motions for leave of court to file Demurrers to Evidence was promulgated on 04 November 2022.


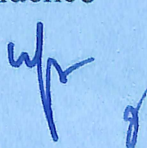
Accused Binay argues that: 1) the documentary evidence relied upon by the prosecution are inadmissible in evidence, for which it has no probative value; 2) the prosecution did not present witnesses who are competent to testify on Exhibit I (STFLGU Report No. 2001-001); 3) the prosecution’s documentary evidence and testimonial evidence failed to prove beyond reasonable doubt the elements of the charges.

The prosecution objects to accused Binay’s *Motion for Reconsideration* on the ground that the arguments are a mere reiteration or rehash of those in her Motion for Leave of Court to File Demurrer to Evidence.

Accused Asunio, Pamintuan, Delos Reyes, and Nonato argue that they specifically stated the grounds in their *Motion for Leave to File Demurrer to Evidence* that: 1) the prosecution failed to establish the guilt of the accused beyond reasonable doubt, and 2) the documents on which the prosecution solely relied are inadmissible in evidence and may not be used against the accused.

Accused Aspillaga and Yamane-Garcia argue that they specifically stated the grounds in their *Motion for Leave to File Demurrer to Evidence* that: 1) conspiracy was not proven; 2) no showing of grave abuse of office; 3) the Complaint-Affidavit is heresay.

The prosecution objects to the *Motions for Reconsideration* on the ground that an order denying the motion for leave of court to file a demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by *certiorari* before judgment. Further, the prosecution avers that they were able to more than sufficiently establish the guilt of all the accused beyond a reasonable doubt. Likewise, the prosecution submits that the assailed *Resolution* does not preclude the accused from filing a demurrer to evidence if they so insist.



RULING

After a careful review, the Court denies the subject *Motions for Reconsideration* as the grounds raised therein are a rehash of the arguments already made in their *Motions for Leave of Court to File a Demurrer to Evidence*.

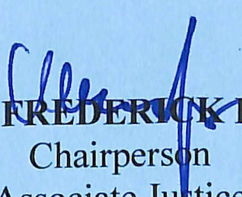
The Court has already passed upon the issues raised in the assailed *Resolution* and since there are no new arguments presented by the accused, it becomes evident that the motions should be considered as a mere scrap of paper.

The other issues raised by the accused are evidentiary in nature and are matters of defense, the truth of which can best be passed upon after a full-blown trial on the merits.

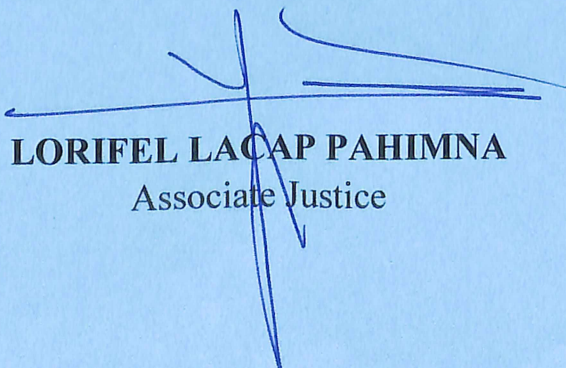
WHEREFORE, in light of the foregoing the *Motions for Reconsideration* are hereby **DENIED** for lack of merit.

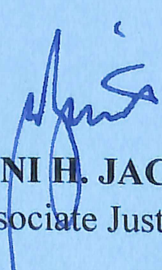
So ordered.

Quezon City, Philippines.


MICHAEL FREDERICK L. MUSNGI
Chairperson
Associate Justice

We concur:


LORIFEL LACAP PAHIMNA
Associate Justice


BAYANI H. JACINTO
Associate Justice