



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

QUEZON CITY

THIRD DIVISION

**PEOPLE
OF
PHILIPPINES**

OF

THE

**Criminal Case No. SB-17-
CRM-1182**

Plaintiff,

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


- versus -

Present:

**ADBULLAH ABDULRAHMAN
CAMPONG, AL-HAJ, ET AL.,**
Accused.

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

Promulgated:

JANUARY 4, 2023 

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RESOLUTION

CABOTAJE-TANG, PJ:

For resolution is accused Onofre Gandola Natividad's "*Urgent Motion to Avail of Plea-Bargaining*" dated April 18, 2022.¹

Therein, accused-movant Natividad proposes that he plead *guilty* to the crime of *failure of accountable officer to render accounts* defined and penalized under Article 218 of the Revised Penal Code. He also prays that he be meted the penalty of fine for the said crime

¹ pp. 182-184, Vol. II, Record

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*“in the interest of compassionate justice and humanitarian considerations.”*²

He avers that he is now a retired government employee; a senior citizen suffering from various ailments; and is currently surviving on a meager monthly pension. Thus, he is willing to enter into a plea-bargaining with the prosecution allegedly to *“buy peace and to be able to move on with the remaining years of his life without the concomitant stress brought about by litigation more so, with the possible threat of penalty of imprisonment.”*³

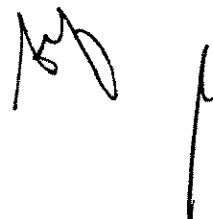
In its *“Comment”* dated December 8, 2022,⁴ the prosecution claims that on August 1, 2022, the Office of the Special Prosecutor (OSP) sent a *subpoena* to complaining witness Mulba M. Ampakay (Ampakay) for purposes of requiring him to comment on the proposed plea-bargaining filed by accused Natividad. The prosecution summarized the *comment* of witness Ampakay, *viz:*

- a) *Accused Natividad failed to consider that the case stands on Fourteen Million Pesos (Php14,000,000.00);*
- b) *Complaining witness Mulba M. Ampakay will be entitled to recover the amount of money he may have given to accused Natividad in case of conviction of the latter for the offense of Violation of Section 3 (e) of Republic Act No. 3019, as amended;*
- c) *Accused Natividad’s penalty under Article 218 of the Revised Penal Code is less to be awarded justly to complaining witness Ampakay; and,*
- d) *Complaining witness Ampakay is willing and open to other reliefs, taking into consideration the age, health*

² *Id.*, at p. 182

³ *Id.*, at pp. 182-183

⁴ *Id.*, at pp. 254-266



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*issues and non-survival of accused Natividad should the latter be convicted and imprisoned.*⁵

Also, the prosecution avers that it sent a *Letter* dated October 18, 2022, to accused-movant Natividad on October 21, 2022, requesting him to respond to the *comment* of witness Ampakay. However, the said accused-movant did not respond to its request up to the present time.⁶

Lastly, the prosecution asserts that the requirement under Section 2, Rule 116 of the Revised Rules of Criminal Procedure has not been met in this case. Thus, it interposes its objection to the present *motion* filed by the accused-movant on the ground of the lack of consent of the witness/offended party: Mulba M. Ampakay.⁷

THE RULING OF THE COURT

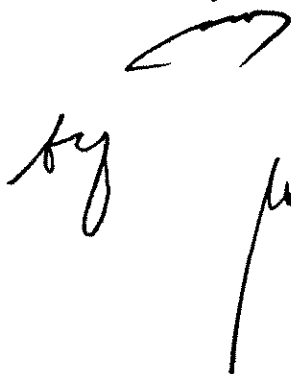
Section 2, Rule 116, of the Revised Rules of Criminal Procedure provides the requisites before the Court may allow an accused to plead *guilty* to a lesser offense, to wit:

Sec. 2. *Plea of guilty to a lesser offense.* – At arraignment, the accused ***with the consent of the offended party and the prosecutor***, may be allowed by the trial court to plead guilty to a lesser offense which is necessarily included in the offense charged. After arraignment, but before trial, the accused may still be allowed to plead guilty to said lesser offense after withdrawing his plea of not guilty. No amendment of the complaint or information is necessary.

⁵ *Id.*, at pp. 256-257

⁶ *Id.*, at p. 257

⁷ *Id.*, at p. 257

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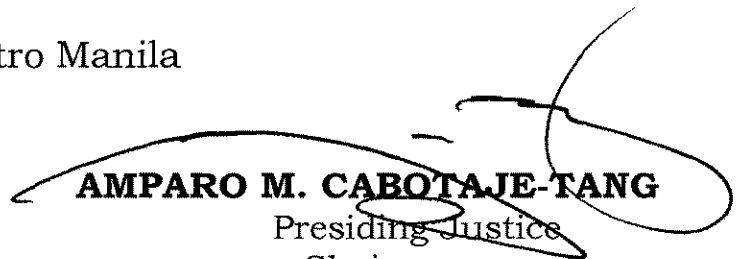
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Here, the records show that complainant Ampakay, who is also the offended party in this case, interposed his objection to the accused-movant's *motion* in his "*Comment/Objection on Urgent Motion to Avail of Plea-Bargaining*" dated August 11, 2022.⁸ Thus, for lack of consent of the offended party, the prosecution is interposing its objection to the present *motion*.

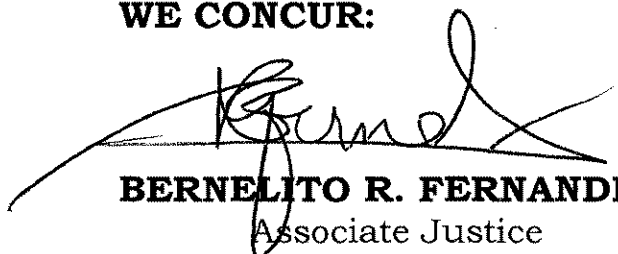
WHEREFORE, the Court **DENIES** accused Onofre Gandola Natividad's "*Urgent Motion to Avail of Plea-Bargaining*" dated April 18, 2022,⁹ considering that the requirement prescribed under Section 2, Rule 116 of the Revised Rules of Criminal Procedure has not been met.

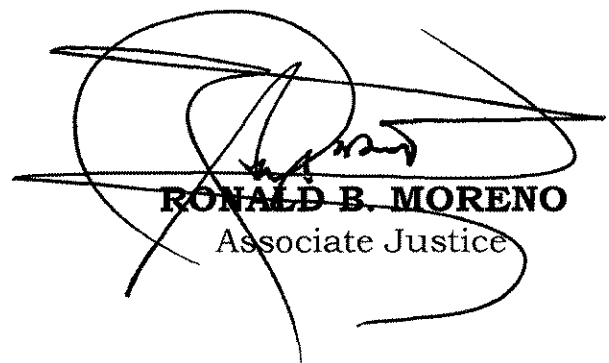
SO ORDERED.

Quezon City, Metro Manila


AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson

WE CONCUR:


BERNELITO R. FERNANDEZ
Associate Justice


RONALD B. MORENO
Associate Justice

⁸ *Id.*, at pp. 261-263

⁹ pp. 182-184, Vol. II, Record