



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-23-CRM-0054**
Plaintiff, For: Violation of Sec. 3(c)
of R.A. No. 3019

Present

- versus -

**SAMUEL ALOYSIUS M.
JARDIN,**

Accused.

FERNANDEZ, SJ, J.,
Chairperson
**MIRANDA, J. and
VIVERO, J.**

Promulgated:

July 4, 2023 *[Signature]*

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves accused Samuel Aloysius M. Jardin's *Motion for Reconsideration (of the Resolution dated June 13, 2023)*,¹ the prosecution's *Comment/Opposition (To Accused Jardin's Motion for Reconsideration dated 16 June 2023)*,² and the accused's *Manifestation*.³

In his *Motion for Reconsideration*, the accused prays that the Court reconsider and set aside its Resolution dated June 13, 2023 insofar as SB-23-CRM-0054 is concerned, and issue a new one quashing the Information in SB-23-CRM-0054. He further prays that the arraignment and pre-trial in SB-23-CRM-0054 be held in abeyance pending the resolution of his instant *Motion for Reconsideration*. The accused avers:

¹ Dated June 16, 2023 and filed on even date

² Dated June 21, 2023 and filed on even date

³ Dated June 23, 2023 and filed on even date

[Signatures]

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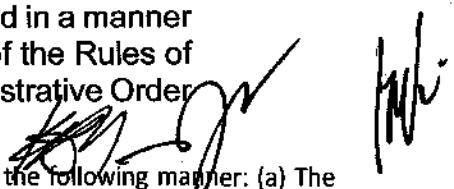
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1. The Information in SB-23-CRM-0054 should be quashed on the ground that the facts charged do not constitute an offense.
 - a. His assertions, which were not denied by the prosecution, destroy the *prima facie* truth accorded to the allegations in the Information.
 - b. In the DOTr case, Michelle Sapangila testified that there was no giving of money, black bag or envelope. This destroys the *prima facie* truth accorded to the allegation in the Information that "xxx did then and there willfully, unlawfully and feloniously request and receive, directly or indirectly, for himself and/or for another the amount of more or less FOUR MILLION SIX HUNDRED THOUSAND PESOS (Php4,600,000.00) from Michelle Sapangila x x x."
 - c. Sapangila's use of the word "ako," and her reference to an "RMC" or Route Measured Capacity, which is not a permit or license, in her *Sinumpaang Salaysay*, destroy the *prima facie* truth accorded to the allegation in the Information that "x x x in consideration for the assistance, facilitation or help to be given by the accused to said Michelle Sapangila who made arrangement for a third party applying for the issuance of a Certificate of Public Convenience (CPC) or Route Measured Capacity (RMC) for the operation of public utility or transport vehicles, said accused, in his official capacity will secure or obtain the issuance by the LTFRB of said CPC."
 - d. There is no mention of "third party" and "certificate of public convenience" in Sapangila's *Sinumpaang Salaysay*.
2. The Information in SB-23-CRM-0054 does not conform substantially to the prescribed form.
 - a. The preliminary investigation was conducted in a manner not compliant with Sec. 3(a)⁴ of Rule 112 of the Rules of Court, and with Sec. 4(a),⁵ Rule II of Administrative Order

⁴Sec. 3. Procedure. – The preliminary investigation shall be conducted in the following manner: (a) The complaint shall state the address of the respondent and shall be accompanied by the affidavits of the complainant and his witnesses, as well as other supporting documents to establish probable cause. They shall be in such number of copies as there are respondents, plus two (2) copies for the official file. The affidavits shall be subscribed and sworn to before any prosecutor or government official authorized to administer oath, or, in their absence or unavailability, before a notary public, each of whom must certify that he personally examined the affiants and that he is satisfied that they voluntarily executed and understood their affidavits.

⁵ Section 4. Procedure – The preliminary investigation of cases falling under the jurisdiction of the Sandiganbayan and Regional Trial Courts shall be conducted in the manner prescribed in Section 3, Rule



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No. 07 or the *Rules of Procedure of the Office of the Ombudsman*.

- b. Complainant DOTr, represented by Sec. A. P. Tugade, did not submit an affidavit-complaint.
 - c. Michelle Sapangila's *Sinumpaang Salaysay* is a mere photocopy, which cannot be a basis to conducting a preliminary investigation and to indict the accused.
- 3. The Court may resolve the existence or non-existence of probable cause by examining the record of the preliminary investigation.
 - 4. The Court should order the prosecution to produce the record of the preliminary investigation, pursuant to Sec. 7(b), Rule 112 of the Rules of Court.
 - 5. The following allegations in Michelle Sapangila's *Sinumpaang Salaysay* are false and fabricated:

21. Paglabas naming [sic] ng CR, pumunta si Madame Lolit sa loob ng opisina ni Director Jardin. Ako naman ay sumunod sa kanya.

22. Ng nasa loob na ng opisina ni Director Jardin si Madame Lolit Nakita ko na iniabot ni Madame Lolit ng itim na bag kay Director Jardin na sya namang tinanggap at inilagay sa tabi ng mesa.

23. Pagkatapos ko makita na tinanggap ni Director Jardin ang itim na bag na naglalaman ng 4.5M, nagpaalam na ako."

- 6. The CCTV footages⁶ taken on the hallway of the 3rd floor of the main building of the LTFRB, East Avenue, Quezon City on March 27, 2019 from 6:00 A.M. to 10:00 P.M. would show that on March 27, 2019, he and Madame Lolit had a conversation in Sapangila's presence. When they parted ways, Sapangila and Madame Lolit left the hallway to the stairway, with Sapangila still having her pink sling bag and black backpack and Madame Lolit having her black bag on her shoulder, while he headed to the mini-conference room with nothing in his hands. Sapangila and Madame Lolit only reached the hallway facing LTFRB Chairperson Delgra's office. They were never inside his (the accused) office.

112 of the Rules of Court, subject to the following provisions: a) If the complaint is not under oath or is based only on official reports, the investigating officer shall require the complainant or supporting witnesses to execute affidavits to substantiate the complaints.

⁶ USB flash drive attached to the accused's *Motion for Reconsideration*

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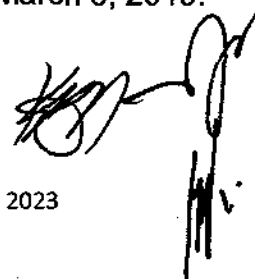
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7. A viewing of the said CCTV footages will save the time, energy, and resources of the Court and of all concerned from trying and litigating Sapangila's baseless accusation.

In its *Comment/Opposition*, the prosecution counters:

1. Ms. Sapangila's supposed admission that there was no giving of money, black bag, or envelope does not in any way destroy the *prima facie* truth accorded to the allegation in the Information that the accused requested and received, directly or indirectly, for himself and/or for another, the amount of P4,600,000.00, more or less, from Ms. Sapangila.
 - a. Ms. Sapangila's testimony was in response to the accused's question on a particular scene in the CCTV footages shown to her during the hearing on June 4, 2019 in the DOTr case.
 - b. The excerpt of the TSN attached to the accused's *Motion to Quash* would show that Ms. Sapangila consistently testified that she gave both the envelope containing the P100,000.00 and the black bag containing the P4,500,000.00 to Madam Lolit at the comfort room in the LTFRB.
2. The prosecution refuted the accused's claim that the mention of only "ako" and "RMC" in the *Sinumpaang Salaysay* destroys the *prima facie* truth accorded to the allegation "who made arrangement for a third party applying for the issuance of a CPC or RMC" in the Information.
 - a. The accused's indictment is not only based on Ms. Sapangila's *Sinumpaang Salaysay*, but on the totality of the evidence adduced during the preliminary investigation.
 - b. One of the documents presented in the DOTr case is the *Application for a New CPC with Issuance of Provisional Authority* dated November 14, 2018.⁷
 - c. The said document was signed by Ms. Sapangila as a representative of SM Tungko MOA Operators and Drivers Inc., and was received by the Office of the Executive Director of the LTFRB on March 5, 2019.



⁷ Annex A of the prosecution's *Comment/Opposition* dated June 21, 2023

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3. The material averments in the Information in SB-23-CRM-0054, if hypothetically admitted, sufficiently allege all the elements that constitute Violation of Sec. 3(c) of Republic Act No. 3019.
4. The Information in SB-23-CRM-0054 substantially conformed with the prescribed form.
 - a. All the formal parts of the Information, as provided in Sec. 6,⁸ Rule 110 of the Rules of Court, are present.
 - b. Sec. 4(a), Rule II of Administrative Order No. 07⁹ provides that "[i]f the complaint is not under oath or is based only on official reports, the investigating officer shall require the complainant or supporting witnesses to execute affidavits to substantiate the complaints."
 - c. It was not necessary to require Sec. Tugade to execute an affidavit, considering that the records already include the duly notarized *Sinumpaang Salaysay* of Ms. Sapangila, which details accused Jardin's acts that constitute the offense charged.
 - d. Furthermore, in the DOTr case, Ms. Sapangila testified, and was examined, on her *Sinumpaang Salaysay*. She affirmed the veracity of the contents thereof, and was cross-examined by the accused himself. Even if the *Sinumpaang Salaysay* that Ms. Sapangila identified was a photocopy, the defect, if any, was cured by her subsequent affirmation of the contents thereof during the said hearing.
 - e. Even assuming that there was an irregularity in the conduct of the preliminary investigation, as held by the Court in the assailed Resolution, the same will not render the Information void or impair its validity.
5. The CCTV footages submitted by the accused should not be given credence.
 - a. The footages are obviously spliced and are not an accurate representation of what actually happened on March 27, 2019. The footages do not even bear a date and time stamp.

⁸ *Sec. 6. Sufficiency of complaint or information.* – A complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed. x x x

⁹ *Rules of Procedure of the Office of the Ombudsman*

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- b. In her *Sinumpaang Salaysay*, Ms. Sapangila testified that the giving of money happened in the comfort room. The footages only show the hallway of the third floor of the LTFRB main building and would not have captured the said "giving of money."

In his *Manifestation*, the accused points out that the *Application for a New CPC With Issuance of Provisional Authority* attached to the prosecution's *Comment/Opposition* is a mere photocopy. He further argues that the CCTV footages are authentic, and that the prosecution failed to prove that the said footages were spliced.

THE COURT'S RULING

The accused's *Motion for Reconsideration* is devoid of merit and should be denied.

With respect to the quashal of the Information, the accused's arguments are merely substantial reiterations of those in his previous *Motion to Quash and Motion to Suspend Proceedings*.¹⁰ The Court had already considered such arguments and found them to be without merit in the assailed Resolution. In *Mendoza-Ong v. Sandiganbayan*,¹¹ it was held:

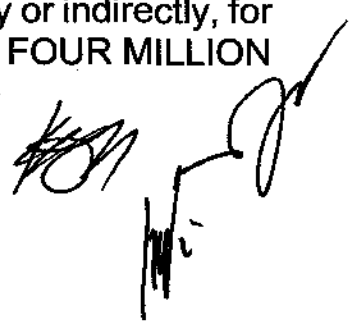
Concerning the first ground abovesited, the Court notes that the motion contains merely a reiteration or rehash of arguments already submitted to the Court and found to be without merit. Petitioner fails to raise any new and substantial arguments, and no cogent reason exists to warrant a reconsideration of the Court's Resolution. It would be a useless ritual for the Court to reiterate itself.

For the sake of greater clarity, however, the Court will briefly discuss certain points raised by the accused, which were not discussed in detail in the assailed Resolution.

First, the accused insists that Sapangila's testimony in the DOTr case, to the effect that there was no giving of money, black bag or envelope, destroys the *prima facie* truth accorded to the allegation in the Information that the accused "x x x did then and there willfully, unlawfully and feloniously request and receive, directly or indirectly, for himself and/or for another the amount of more or less FOUR MILLION

¹⁰ Dated May 2, 2023; Record, pp. 223-284

¹¹ G.R. Nos. 146368-69, October 18, 2004



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SIX HUNDRED THOUSAND PESOS (Php4,600,000.00) from Michelle Sapangila x x x.” In the assailed Resolution, this Court disagreed with such contention and held that even if it considers the accused’s assertions as facts admitted by the prosecution, the same will not destroy the *prima facie* truth accorded to the allegations in the Information.¹² The Court did not elaborate on why Sapangila’s testimony in the DOTr case will not negate the allegations in the Information, but as pointed out by the prosecution, Sapangila’s testimony pertains to a particular scene in the CCTV footages. The attachment¹³ to the accused’s *Motion to Quash and Motion to Suspend Proceedings*, which appears to be a portion of the Transcript of Stenographic Notes (TSN), reads:

Atty. Jardin : Sabi mo dito. Sa loob ng opisina ni Dir. Jardin..sa loob ng opisina.

Ms. Sapangila : Opo.

Atty. Jardin : Meron bang abotan ng pera doon? Hanggang hallway lang kayo.

Atty. Jaramilla : As to the CCTV your honor, as to the entire ...

Atty. Reyes : Counsel, what is your question?

Atty. Jardin : The question is this one, okay we’ll just ask you yong sa CCTV lang na nakikita mo. Yong back pack mo nasa likod mo pagpasok mo hanggang lumabas ka di ba?

Ms. Sapangila : Opo.

Atty. Jardin : Wala kang binigay na envelop kay Lolit o sa akin?

Ms. Sapangila : Kay Lolit ko po binigay sa CR.

Atty. Jardin : Hindi hind[i], dito dito.wala? [sic]

Ms. Sapangila : Wala po akong binigay jan.

Atty. Jardin : Sa CCTV lang, wag mo ng anohin yong iba ibang kwento.

M. Sapangila : Opo.

¹² Resolution dated June 13, 2023, p. 11.

¹³ Record, p. 242

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Atty. Jardin : Wala kang binigay na black bag dito?
Ms. Sapangila : Wala po jan. Sa CR po.
Atty. Jardin : So walang bigayan dito ng pera? Black bag o envelope? Wala?
Ms. Sapangila : Wala po.
Atty. Jardin : Infact [sic] hanggang hallway lang kayo. Kasi umalis na kayo eh.

(underscoring supplied)

Next, citing *Ladlad v. Velasco*,¹⁴ the accused contends that the Information should be quashed because the Office of the Ombudsman failed to comply with Sec. 3(a), Rule 112 of the Rules of Court during the preliminary investigation. The Court, again, disagrees. The facts in the present case are not on all fours with those in the said case.

Indeed, in *Ladlad v. Velasco*, the Supreme Court dismissed the criminal cases against therein petitioners after it found that the preliminary investigation was tainted with irregularities. But a careful reading of the said Decision would reveal that the dismissal of the criminal cases was not grounded solely on the irregularities in the conduct of the preliminary investigation, but on the absence of probable cause and the deprivation of therein petitioners' right to due process. The irregularities in the preliminary investigation merely indicated that the entire proceeding was a sham. The pertinent portions of the Supreme Court's Decision read:

X X X

These uncontroverted facts belie respondent prosecutors' statement in the Order of 22 March 2006 that the preliminary investigation "was done in accordance with the Revised Rules of [f] Criminal Procedure." Indeed, by peremptorily issuing the subpoenas to petitioners, tolerating the complainant's antics during the investigation, and distributing copies of a witness' affidavit to members of the media knowing that petitioners have not had the opportunity to examine the charges against them, respondent prosecutors not only trivialized the investigation but also lent credence to petitioners' claim that the entire proceeding was a sham.

¹⁴ G.R. Nos. 172070-72, 172074-76, and 175013, June 1, 2007

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A preliminary investigation is the crucial sieve in the criminal justice system which spells for an individual the difference between months if not years of agonizing trial and possibly jail term, on the one hand, and peace of mind and liberty, on the other hand. Thus, we have characterized the right to a preliminary investigation as not “a mere formal or technical right” but a “substantive” one, forming part of due process in criminal justice. This especially holds true here where the offense charged is punishable by *reclusion perpetua* and may be non-bailable for those accused as principals.

x x x

On Respondent Prosecutors’ Lack of Impartiality

We find merit in petitioners’ doubt on respondent prosecutors’ impartiality. Respondent Secretary of Justice, who exercises supervision and control over the panel of prosecutors, stated in an interview on 13 March 2006, the day of the preliminary investigation, that, “**We [the DOJ] will just declare probable cause, then it’s up to the [C]ourt to decide...**” Petitioners raised this issue in their petition, but respondents never disputed the veracity of this statement. This clearly shows pre-judgment, a determination to file the Information even in the absence of probable cause.

The circumstances in the aforecited case do not obtain in the present case. Here, the accused was given the opportunity to respond to the charges against him, and he, in fact, actively participated in the preliminary investigation by submitting his *Verified Answer/Counter-Affidavit*¹⁵ and supporting evidence. After the issuance of the Ombudsman’s Resolution dated December 22, 2020,¹⁶ finding probable cause to indict the accused in court, he was given the opportunity to seek reconsideration of the same, and he, in fact, filed his *Motion for Reconsideration*.¹⁷ It cannot be said that the accused was deprived of his right to due process.

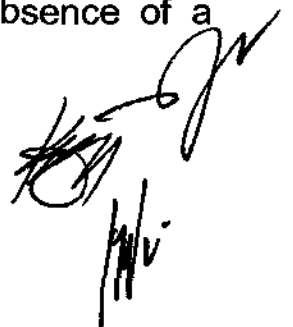
At any rate, this Court reiterates its ruling in the assailed Resolution, that even assuming that there were irregularities in the conduct of the preliminary investigation, the same will not render the Information void nor impair its validity.¹⁸ Even the absence of a

¹⁵ Record, pp. 63-83

¹⁶ Record, 8-22

¹⁷ Record, p. 25

¹⁸ Resolution dated June 13, 2023, p. 13

Handwritten signature and initials in black ink, located in the bottom right corner of the page. The signature appears to be a stylized name, possibly 'J. S. ...', with the initials 'M. J.' written below it.

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preliminary investigation will not impair the validity of an Information or otherwise render it defective.¹⁹

The accused then argues that this Court may resolve the existence or non-existence of probable cause by examining the record of the preliminary investigation. It is not clear whether the accused is assailing this Court's determination of the existence of probable cause, or the Ombudsman's finding of probable cause, but the same will have no effect on the assailed Resolution.

The Court already made its judicial determination of probable cause. In the Resolution dated April 17, 2023,²⁰ this Court already found that sufficient grounds exist for the finding of probable cause for the purpose of issuing warrant of arrest against the accused, and ordered the issuance of the warrant of arrest against him. On the other hand, this Court has no jurisdiction to act on questions involving the Ombudsman's finding of probable cause to indict the accused in court. The proper mode to assail the Ombudsman's finding of probable cause in criminal cases is by filing a petition for *certiorari* under Rule 65 of the Rules of Court with the Supreme Court.²¹ In *Gatchalian v. Office of the Ombudsman*,²² the Supreme Court explained:

x x x

With regard to orders, directive, or decisions of the Ombudsman in criminal or non-administrative cases, the Court, in *Tirol, Jr. v. Del Rosario*, held that the remedy for the same is to file a petition for *certiorari* under Rule 65 of the Rules of Court. The Court explained:

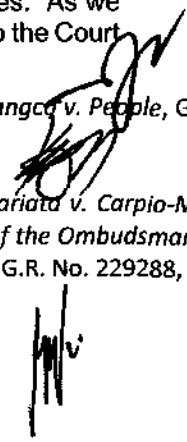
True, the law is silent on the remedy of an aggrieved party in case the Ombudsman found sufficient cause to indict him in a criminal or non-administrative cases. We cannot supply such deficiency if none has been provided in the law. We have held that the right to appeal is a mere statutory privilege and may be exercised only in the manner prescribed by, and in accordance with, the provisions of law. Hence, there must be a law expressly granting such privilege. The Ombudsman Act specifically deals with the remedy of an aggrieved party from orders, directives and decisions of the Ombudsman in administrative disciplinary cases. As we ruled in *Fabian*, the aggrieved party is given the right to appeal to the Court

¹⁹ Please see *Gomez v. People*, G.R. No. 216824, November 10, 2020, citing *Sanciango v. People*, G.R. No. 72830, March 24, 1987

²⁰ Record, p. 215

²¹ Please see *Patdu v. Carpio-Morales* (G.R. No. 230171, September 27, 2021); *Bariata v. Carpio-Morales* (G.R. No. 234640, February 1, 2023); *Fainsan v. Field Investigation Office (Office of the Ombudsman)* (G.R. No. 233446, February 22, 2023); all citing *Gatchalian v. Office of the Ombudsman*, G.R. No. 229288, August 1, 2018

²² G.R. No. 229288, August 1, 2018



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of Appeals. Such right of appeal is not granted to parties aggrieved by orders and decisions of the Ombudsman in criminal cases, like finding probable cause to indict accused persons.

However, an aggrieved party is not without recourse where the finding of the Ombudsman as to the existence of probable cause is tainted with grave abuse of discretion, amounting to lack or excess of jurisdiction. An aggrieved party may file a petition for *certiorari* under Rule 65 of the 1997 Rules of Civil Procedure. (Emphasis supplied)

The Court in *Tirol, Jr.*, however was unable to specify the court – whether it be the RTC, the CA, or the Supreme Court – to which the petition for *certiorari* under Rule 65 should be filed given the concurrent jurisdictions of the aforementioned courts over petitions for *certiorari*.

Five years after, the Court clarified in *Estrada v. Desierto* that a petition for *certiorari* under Rule 65 of the Rules of Court questioning the finding of the existence of probable cause – or the lack thereof – by the Ombudsman should be filed with the Supreme Court. The Court elucidated:

But in which court should this special civil action be filed?

Petitioner contends that certiorari under Rule 65 should first be filed with the Court of Appeals as the doctrine of hierarchy of courts precludes the immediate invocation of this Court's jurisdiction. Unfortunately for petitioner, he is flogging a dead horse as this argument has already been shot down in *Kuizon v. Ombudsman* where we decreed –

In dismissing petitioners' petition for lack of jurisdiction, the Court of Appeals cited the case of *Fabian vs. Desierto*. The appellate court correctly ruled that its jurisdiction extends only to decisions of the Office of the Ombudsman in administrative cases. In the *Fabian* case, we ruled that appeals from decisions of the Office of the Ombudsman in *administrative disciplinary* cases should be taken to the Court of Appeals under Rule 43 of the 1997 Rules of Civil Procedure. It bears stressing that when we declared Section 27 of Republic Act No. 6770 as unconstitutional, we categorically stated that said provision is involved only whenever an appeal by *certiorari* under Rule 45 is taken from a decision in an administrative disciplinary action. It cannot be taken into account where an original action for *certiorari* under Rule 65 is resorted to as a remedy for judicial review, such as from an incident in a criminal action. In fine, we hold that the present petition should have been filed with this Court.

Kuizon and the subsequent case of Mendoza-Arce v. Office of the Ombudsman (Visayas) drove home the point that the remedy of aggrieved parties from resolutions of the Office of the Ombudsman finding probable cause in criminal cases or non-administrative cases, when tainted with grave abuse of discretion, is to file an original action for certiorari with this Court and not with the Court of Appeals. In cases when the aggrieved party is questioning the Office of the Ombudsman's finding of lack of probable cause, as in this case, there is likewise the remedy of *certiorari* under Rule 65 to be filed with this Court and not with the Court of Appeals following our ruling in *Perez v. Office of the Ombudsman*. (Emphasis supplied)

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x x x

Finally, regarding the USB flash drive attached to the accused's *Motion for Reconsideration*, the Court rules that it is premature to consider the same at this stage of the proceedings. The said USB flash drive has not yet been identified by any witness or admitted in evidence.

In fine, the accused failed to convince this Court that the reversal of the assailed Resolution is warranted.

WHEREFORE, the accused's *Motion for Reconsideration* is hereby DENIED for lack of merit. His *Manifestation* is NOTED.

The parties are DIRECTED to file, within ten (10) days from receipt of this Resolution, their respective memoranda on whether the Sandiganbayan has jurisdiction over the offense charged.²³

The arraignment and pre-trial set on July 3, 2023 is CANCELLED and reset to August 7, 2023.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice

²³ P.D. No. 1606, as amended by R.A. No. 10660, Sec. 4. *Jurisdiction*. – The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

x x x

Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00).

x x x