



Republic of the Philippines  
**SANDIGANBAYAN**  
Quezon City

**SIXTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**

Plaintiff,

SB-23-CRM-0079

For: Violation of Section 3 (g) of  
Republic Act (R.A.) No. 3019

-versus-

**DARWIN CABRERA  
ESTRAÑERO**

Accused,

PRESENT:

FERNANDEZ, SJ, *J. Chairperson*  
MIRANDA, &  
VIVERO, JJ.

Promulgated:

04 OCT 2023

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**RESOLUTION**

MIRANDA, J.:

This resolves: 1) Accused Darwin Estrañero's (Estrañero) Motion to Dismiss/Quash (with Prayer to Withhold Issuance of and/or Enforcement of Warrant of Arrest) dated August 23, 2023; 2) Estrañero's Supplement to the Motion to Dismiss/Quash dated August 25, 2023; and 3) The prosecution's Manifestation (In Lieu of the Comment/Opposition on the Motion to Quash and Supplemental Motion to Quash) dated September 6, 2023.

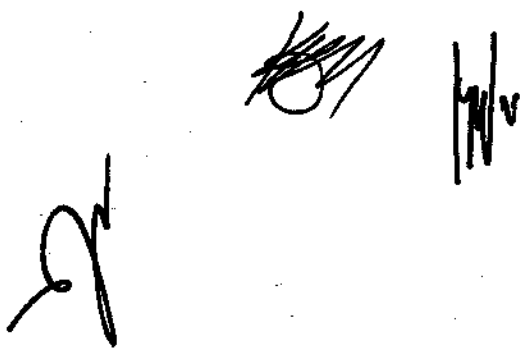
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In his motion to dismiss/quash, Estrañero claims that the facts charged in the Information dated November 28, 2022 failed to constitute a violation of Section 3 (g) of R.A. No. 3019. He likewise asserts that the evidence is insufficient to support a finding of probable cause for the offense charged. Estrañero particularly alleges that:

- 1) The national emergency caused by the Covid-19 pandemic in 2020 justified the immediate purchase of the medical supplies and devices.
- 2) The price freeze on emergency supplies issued by the Department of Industry (DTI), Department of Agriculture (DA) and Department of Health (DOH) under Joint Memorandum Circular No. 2020-01 dated March 18, 2020 was superseded by the enactment of R.A. No. 11469 or the Bayanihan To Heal As One Act on March 23, 2020.
- 3) The medical supplies and devices were purchased in compliance with the procedure on emergency procurement under R.A. No. 11469.
- 4) The residents of Tabuk City benefitted from the medical supplies and devices. This is contrary to the prosecution's allegation that their purchase was grossly and manifestly disadvantageous to the government.
- 5) The amount of damage was not specified in the Information.

In his supplement to the motion to dismiss/quash, Estrañero discusses the errors in the findings of the Office of the Ombudsman in its Resolution dated November 28, 2022. He prays for the suspension of his arraignment and the court proceedings pending the resolution by the Office of the Ombudsman of his partial motion for reconsideration.

In its manifestation, the Office of the Special Prosecutor (OSP) claims that Estrañero's argument on the lack of probable cause is not a ground for the quashal of an information. The OSP asserts that Estrañero's motion is a prohibited pleading and should be dismissed outright under the Revised Guidelines for the Continuous Trial of Criminal Cases.

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After a review of the records of this case and the arguments raised by the parties, the Court **DENIES** the Motion to Dismiss/Quash dated August 23, 2023 and the Supplement to the Motion to Dismiss/Quash dated August 25, 2023 for lack of merit.

***The Information dated November 28, 2022 filed against Estrafiero is sufficient.***

A motion to quash is a hypothetical admission of the facts alleged in the information.<sup>1</sup> The court cannot consider facts contrary to those alleged in the information or which do not appear on the face of the information except those admitted by the prosecution.<sup>2</sup> **The test in resolving a motion to quash on the ground that the information charges no offense is whether the material facts alleged in the complaint or information will establish the essential elements of the offense charged as defined by law.**<sup>3</sup> In resolving this issue, the court must look into three matters: 1) what must be alleged in a valid information; 2) what the elements of the crime charged are; and 3) whether these elements are sufficiently stated in the information.<sup>4</sup>

For a complaint or information to be sufficient, it must state the name of the accused, designation of the offense given by the statute, acts or omission complained of as constituting the offense, name of the offended party, approximate time of commission of the offense, and place where the offense was committed.<sup>5</sup> What controls is the description of the crime charged and the particular facts recited therein. The acts or omission complained of must be sufficiently alleged to enable a person of common understanding to know the offense charged, and to enable the court to pronounce a proper judgment.<sup>6</sup> No information for a crime will be sufficient if it does not accurately and clearly allege the elements of the crime charged.<sup>7</sup>

Estrafiero was charged with violation of Section 3 (g) of R.A. No. 3019. The elements of this crime are: 1) The accused is a public officer; 2) The accused entered into a contract or transaction on behalf of the government; and 3) The contract or transaction was grossly and manifestly disadvantageous to the government.<sup>8</sup>

<sup>1</sup> *Antone v. Beronilla*, G.R. No. 183824, December 8, 2010.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Torres v. Garchitorena*, G.R. No. 153666, December 27, 2002.

<sup>4</sup> *People v. Sandiganbayan, et al.*, G.R. No. 160619, September 9, 2015.

<sup>5</sup> Sec. 6, Rule 110 of the Revised Rules of Criminal Procedure.

<sup>6</sup> Sec. 9, *Ibid.*

<sup>7</sup> *Consigna v. People*, G.R. No. 175750-51, April 2, 2014.

<sup>8</sup> *Froilan v. Sandiganbayan*, G.R. No. 115221, March 17, 2000.



The Information dated November 28, 2022 reads:

That on or about May 2020 or sometime prior or subsequent thereto, in the City of Tabuk, and within the jurisdiction of this Honorable Court, accused DARWIN C. ESTRANERO (with Salary Grade 30), being then City Mayor of Tabuk, while in the performance of his official functions, committing the offense in relation to his public office, taking advantage of his official position, did then and there willfully, unlawfully, and criminally enter into contract with various suppliers for the purchase of medical supplies/devices that were grossly overpriced ranging from 135% to 609% despite Price Freeze on Emergency Supplies issued under Joint Memorandum Circular No. 2020-01 dated March 18, 2020 by the Department of Industry, Department of Agriculture and Department of Health, as shown hereunder:<sup>9</sup>

SUPPLIERS/ MEDICAL SUPPLIES/ DEVICES	CONTRACT PRICE		PRICE CEILING		OVERPRICE PERCENTAGE
	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	
From Jo-Lea:					
150 PPE	1,500.00	75,000.00	210.00		500%
From JPRVAM:					
7 Nebulizer	11,500.00	80,500.00	3,980.00	27,860.00	289%
10 Oxygen tank	14,850.00	148,500.00	3,800.00	38,000.00	391%
150 Nasal cannula	250.00	37,500.00	60.00	9,000.00	417%
150 Nebulizer kit	270.00	40,500.00	120.00	18,000.00	225%
200 Eye protective goggle	350.00	70,000.00	180.00	36,000.00	194%
400 Alcohol	700.00	280,000.00	520.00	208,000.00	135%
800 Medical surgical gown	700.00	560,000.00	300.00	240,000.00	233%
5 Thermal scanners	12,000.00	60,000.00	3,400.00	17,000.00	353%
1,450 bottles mini alcohol	40.00	58,000.00	25.50	36,975.00	157%
20 (not 500) sets Hazmat	1,150.00	23,000.00	210.00	4,200.00	548%
From Emphyrean:					
500 PPE with shoe cover and glasses	2,440.00	1,220,000.00	210.00 10.50 180.00	400.50 X 500 <u>200,250.00</u>	609%
100 Thermal scanners	12,000.00	1,200,000.00	3,400.00	340,000.00	353%

and which were grossly and manifestly disadvantageous to the government, to the damage and prejudice of the government and the public interest.

**CONTRARY TO LAW.**

<sup>9</sup> Citations omitted.

The Information dated November 28, 2022 is sufficient and complete. It alleges the essential elements of a violation of Section 3 (g) of R.A. No. 3019 and the required information under Sections 6 and 9, Rule 110 of the Revised Rules of Criminal Procedure.

Specifically, it states that Estrañero is the Mayor of Tabuk City who, in his official capacity, entered into grossly and manifestly disadvantageous contracts with various suppliers for the purchase of medical supplies and devices that were grossly overpriced ranging from 135% to 609% despite a price freeze on emergency supplies under Joint Memorandum Circular No. 2020-01 dated March 18, 2020 by the DTI, DA and DOH. It likewise alleges the name of the accused (Darwin C. Estrañero), designation of the offense (violation of Section 3 (g) of R.A. No. 3019), approximate time of commission of the offense (on or about May 2020, or sometime prior or subsequent thereto), place of commission (Tabuk City, Philippines), and the acts or omissions complained of (elements of the offense charged, as discussed). Damage is not an element in the crime of violation of Section 3 (g) of R.A. No. 3019. As such, the prosecution is not required to allege the amount and certainty of the purported damage and prejudice caused by the questioned contracts to the government.

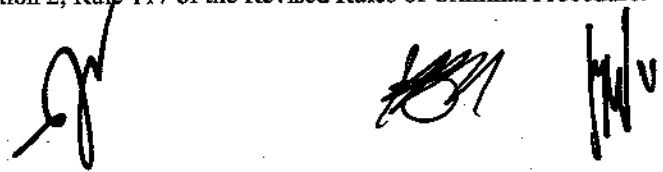
***Lack of probable cause is not a ground  
in a motion to quash.***

Section 3, Rule 117 of the Revised Rules of Criminal Procedure exclusively enumerates the grounds for filing of a motion to quash the complaint or information.<sup>10</sup> The motion should distinctly specify its factual and legal grounds.<sup>11</sup>

Although Estrañero's pleadings were titled "motions to dismiss/quash and supplement thereto", it is patently clear that he is arguing on the supposed lack of probable cause to charge him in court. In effect, he is seeking the authority of the court to review and possibly reverse the findings of the Office of Ombudsman against him. The relief prayed for by Estrañero, however, is no

<sup>10</sup> Section 3. Grounds.—The accused may move to quash the complaint or information on any of following grounds: (a) That the facts charged do not constitute an offense; (b) That the court trying the case has no jurisdiction over the offense charged; (c) That the court trying the case has no jurisdiction over the person of the accused; (d) That the officer who filed the information had no authority to do so; (e) That it does not conform substantially to the prescribed form; (f) That more than one offense is charged except when a single punishment for various offenses is prescribed by law; (g) That the criminal action or liability has been extinguished; (h) That it contains averments which, if true, would constitute a legal excuse or justification; and (i) That the accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent. (3a)

<sup>11</sup> Section 2, Rule 117 of the Revised Rules of Criminal Procedure.



longer allowed under the Revised Guidelines for Continuous Trial of Criminal Cases, which reads:

*2. Motions*

*(a) xxx*

***(b) Prohibited Motions. – Prohibited motions shall be denied outright before the scheduled arraignment without need of comment and/or opposition.***

*The following motions are prohibited:*

- i. Motion for judicial determination of probable cause. xxx*
- iv. Motion to quash the information when the ground is not one of those stated in Section 3, Rule 117;<sup>12</sup>xxx*

These motions are likewise prohibited by the 2018 Revised Internal Rules of Sandiganbayan.<sup>13</sup> Estrañero's arguments on the alleged errors committed by the Office of the Ombudsman in the Resolution dated November 28, 2022 are clearly misplaced and must be denied by this court. At any rate, the court had already evaluated the records and found probable cause for the issuance of a warrant of arrest against Estrañero in its proceedings on August 18, 2023.<sup>14</sup>

***The court may suspend its proceedings based on justifiable grounds.***

The filing of information in court removes the prosecution's power and authority over the disposition of the case. In *Crepo v. Mogul*<sup>15</sup>, the Supreme Court held:

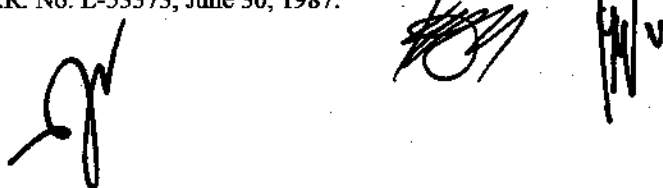
*The rule therefore in this jurisdiction is that once a complaint or information is filed in court any disposition of the case as its dismissal or the conviction or acquittal of the accused rests in the sound discretion of the court. Although the fiscal retains the direction and control of the prosecution of criminal cases even while*

<sup>12</sup> Emphasis supplied.

<sup>13</sup> See Section 2, Rule VIII on Prohibited Motions.

<sup>14</sup> Minutes of Proceedings on August 18, 2023.

<sup>15</sup> G.R. No. L-53373, June 30, 1987.



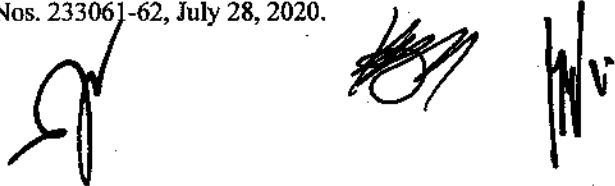
*the case is already in court he cannot impose his opinion on the trial court. The court is the best and sole judge on what to do with the case before it. The determination of the case is within its exclusive jurisdiction and competence.*

Any disposition of the case lies within the sole discretion of the court. This includes the decision to suspend arraignment of the accused or to continue its proceedings. In *People v. Sandiganbayan (Fourth Division)*<sup>16</sup>, the Supreme Court ruled that the court may suspend the proceedings during the pendency of a motion for reconsideration filed by the accused before the prosecution, *to wit*:

*Finally, in order to avoid delay in the proceedings, judges are reminded that the pendency of a motion for reconsideration, motion for reinvestigation, or petition for review is not a cause for the quashal of a warrant of arrest previously issued because the quashal of a warrant of arrest may only take place upon the finding that no probable cause exists. Moreover, judges should take note of the following:*

- 1. If there is a pending motion for reconsideration or motion for reinvestigation of the resolution of the public prosecutor, the court may suspend the proceedings upon motion by the parties. However, the court should set the arraignment of the accused and direct the public prosecutor to submit the resolution disposing of the motion on or before the period fixed by the court, which in no instance could be more than the period fixed by the court counted from the granting of the motion to suspend arraignment, otherwise the court will proceed with the arraignment as scheduled and without further delay.*
- 2. If there is a pending petition for review before the DOJ, the court may suspend the proceedings upon motion by the parties. However, the court should set the arraignment of the accused and direct the DOJ to submit the resolution disposing of the petition on or before the period fixed by the Rules*

<sup>16</sup> G.R. Nos. 233061-62, July 28, 2020.



*which, in no instance, could be more than sixty (60) days from the filing of the Petition for Review before the DOJ, otherwise, the court will proceed with the arraignment as scheduled and without further delay.<sup>17</sup>*

In this case, the partial motion for reconsideration was filed by Estrañero before the Office of the Ombudsman on August 15, 2023, which is the same date as the filing of the information in court.<sup>18</sup> To give the Office of the Ombudsman sufficient time to resolve Estrañero's partial motion for reconsideration and for purposes of orderly proceedings, the court deems it best to defer the arraignment of the accused and suspend its proceedings. This ruling does not, however, signify that the court is bound by the resolution of the Office of the Ombudsman. As a rule, jurisdiction, once acquired by the court, is not lost despite a contrary finding by the prosecution.

Despite the objection of the OSP, the arraignment of Estrañero is deferred for a justifiable cause. Accordingly, the Office of the Ombudsman is directed to resolve Estrañero's partial motion for reconsideration within a period of sixty (60) days from receipt of this resolution. After the lapse of this period, the court shall proceed with the arraignment of Estrañero whether or not the prosecution has submitted its compliance. The parties are reminded that no further deferment or postponement of a similar nature shall be allowed.

**WHEREFORE**, the Motion to Dismiss/Quash (with Prayer to Withhold Issuance of and/or Enforcement of Warrant of Arrest) dated August 23, 2023 and the Supplement to the Motion to Dismiss/Quash dated August 25, 2023 of accused Darwin Cabrera Estrañero is **DENIED** for lack of merit.

The arraignment of accused Estrañero is deferred for a period of 60 days from receipt by the prosecution of this resolution. The prosecution is directed to inform the court of its receipt of a copy of this resolution as soon as it receives the same.

**SO ORDERED.**

  
**KARL B. MIRANDA**  
Associate Justice

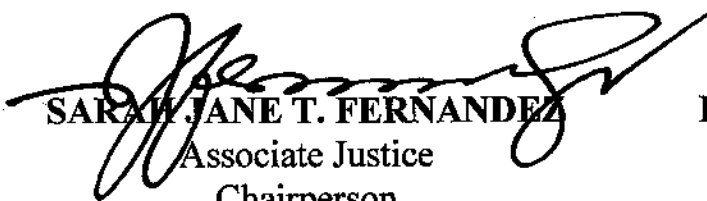
<sup>17</sup> Emphasis supplied.

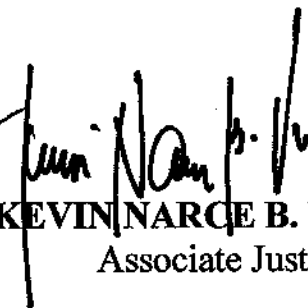
<sup>18</sup> p. 4 of the Supplement to the Motion to Dismiss/Quash dated August 25, 2023.



RESOLUTION  
People v. Estrañero  
SB-23-CRM-0079

WE CONCUR:

  
SARAH JANE T. FERNANDEZ  
Associate Justice  
Chairperson

  
KEVIN NARCE B. VIVERO  
Associate Justice

