



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

**SB-22-CRM-0112 to
SB-22-CRM-0113
For: Violation of Section
3(e), Republic Act
No. 3019**

**ZURIEL S. ZARAGOZA
MELODY CADACIO
MARIO G. CABINTE
EDGARDO D. ZARAGOZA
CONSTANTE A. CABITAC,**
Accused.

Present:

HERRERA, J.,
Chairperson
CALDONA, J. and
MALABAGUIO, J.

Promulgated:

January 18, 2024

X-----X

RESOLUTION

CALDONA, J.:

This resolves the **Motion for Reconsideration** dated December 5, 2023¹ filed by accused-movants Melody Cadacio and Mario Cabinte together with the **Comment/Opposition** dated December 11, 2023² filed by the prosecution.

¹ Records, Volume V, pp. 213-217.

² Records, Volume V, pp. 227-228.

M

[Handwritten signature]

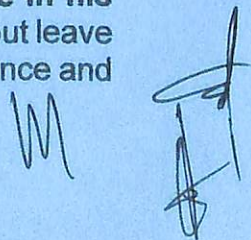
Accused-movants assert that their earlier Motion for Leave to File Demurrer to Evidence specifically stated its grounds when it stated that the prosecution failed to prove all the elements of the offense charged and the fact of conspiracy among the accused. They add that the third and fifth elements of the offense need not be textually cited as these are matters of judicial notice. Lastly, they claim that the rule which requires that the grounds relied upon be distinctly specified refers to a civil case and to the demurrer itself. Citing the Revised Rules of Court and The Revised Guidelines for Continuous Trial of Criminal Cases, accused-movants also insist that they are not yet required to make a specific discussion or definite assertions of the facts under which they anchor their demurrer to evidence during the preliminary stage of the motion.

By way of **Comment/Opposition**, the prosecution contends that the present Motion for Reconsideration merits an outright denial according to The Revised Guidelines for Continuous Trial of Criminal Cases. The accused-movants should proceed to present their evidence or to file a demurrer to evidence without leave of court. Besides, the instant motion did not raise any new issue. In fact, it is a mere rehash of arguments that have been raised in their earlier motion and have already been considered by the Court.

Section 23, Rule 119 of the Revised Rules of Criminal Procedure provides:

Section 23. Demurrer to evidence. — After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) **upon demurrer to evidence filed by the accused with or without leave of court.**

If the court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his defense. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and



submits the case for judgment on the basis of the evidence for the prosecution. (15a)

The motion for leave of court to file demurrer to evidence shall specifically state its grounds and shall be filed within a non-extendible period of five (5) days after the prosecution rests its case. The prosecution may oppose the motion within a non-extendible period of five (5) days from its receipt.

If leave of court is granted, the accused shall file the demurrer to evidence within a non-extendible period of ten (10) days from notice. The prosecution may oppose the demurrer to evidence within a similar period from its receipt.

The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by *certiorari* before judgment. (Emphasis supplied)

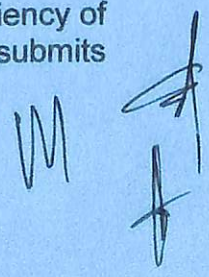
From the foregoing, the Rules are clear that an accused is given the option to file his demurrer to evidence with or without leave of court, each with its own set of consequences. If an accused seeks leave of court to file demurrer to evidence, the motion for leave shall specifically state its grounds and shall be filed within a non-extendible period of five (5) days after the prosecution rests its case.

The purpose for seeking leave of court prior to filing a demurrer to evidence in criminal cases, a requirement which was not found in the earlier version of the Rules on Criminal Procedure, was explained by the Supreme Court in this wise:

The orderly procedure prescribed by the Rules of Court is for both the prosecution and the accused to present their own evidence after which the trial court, evaluating the evidence submitted by both parties renders its judgement of either acquittal or conviction.

Under Section 15, Rule 119 of the Rules of Court, however, the Court may on its own initiative, after finding the evidence presented by the prosecution insufficient to sustain a conviction dismiss the case.

Under the 1985 Rules on Criminal Procedure a defendant who files a motion to dismiss on the ground of insufficiency of evidence "waives the right to present evidence and submits

Handwritten signature and initials in the bottom right corner of the page.

the case for judgment on the basis of the evidence of the prosecution."

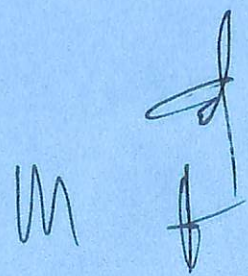
The current rule allows the accused in a criminal case to present evidence even after a motion to dismiss provided the demurrer was made with the express consent of the court. **The purpose for obtaining leave of court is to determine whether or not the defendant in a criminal case has filed the demurrer merely to stall the proceedings.** Once such leave of court has been obtained, the court is left with no choice but to allow the accused to present evidence in his own behalf if the court denies the motion to dismiss. The new rule partially reverts to the rule existing prior to the 1985 Rules of Criminal Procedure, where the defendant was allowed to present his own evidence upon denial of a motion to dismiss with or without leave of court. (Emphasis supplied)³

Hence, a motion for leave of court to file demurrer to evidence is not a surplusage in procedure. The presence or absence of leave of court prior to filing a demurrer to evidence will spell the course of action available to the accused thereafter. The approval of the court prior to filing a demurrer to evidence carries with it a guarantee in favor of the accused such that he will still be allowed to present evidence even if his demurrer is denied later on. Verily, it is settled that the power to grant leave to the accused to file a demurrer is addressed to the sound discretion of the trial court and wide latitude is given to it in exercising such discretion.⁴

As quoted above, the purpose for obtaining leave of court is for it to determine whether the demurrer is being filed merely to stall the proceedings. In order to properly aid the Court, the rules provide that accused-movants must state the specific grounds as to why the prosecution's evidence is insufficient to make out a case for conviction against them. The rules do not simply require that accused-movants enumerate the grounds relied upon in their motion, but these grounds should be stated with specificity.

³ *People of the Philippines v. Mahinay*, G.R. No. 109613, July 17, 1995

⁴ *Sillona v. Sandiganbayan*, G.R. No. 243770 (Notice), January 28, 2019.

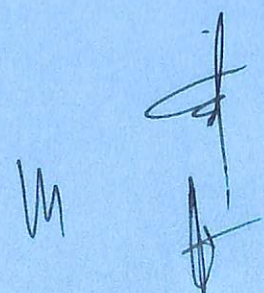
Handwritten signatures and initials at the bottom right of the page. There are two distinct signatures, one appearing to be 'M' and the other a more complex cursive signature.

It will be recalled that the *Resolution*⁵ denying the motion for leave to file demurrer to evidence was premised on the fact that the accused-movants failed to specifically state the grounds relied upon for their motion. Unfortunately, the present motion for reconsideration still suffers from the same defect. While the rules do not require that accused-movants explain at length their arguments in the motion for leave, it requires them to specifically state the grounds relied upon. Hence, a general claim that the prosecution was not able to establish the elements of the offense and the fact of conspiracy will not suffice following the purpose for which the rules require the express consent of the court. For how can the Court be expected to properly exercise its sound discretion absent any argument from accused-movants in support of their supposed grounds for the intended demurrer? Certainly, the Court cannot speculate.

At any rate, at this stage in the proceedings, the Court is of the view that the prosecution has been able to adduce adequate evidence to prove the offenses charged in these cases and that therefore there is a need for the accused-movants to present countervailing evidence.

The accused-movants are not left without recourse as they may still present evidence in their defense or insist on filing a demurrer to evidence without prior leave of court. However, accused-movants should be reminded of the consequence provided under Section 23, Rule 119 of the Revised Rules of Criminal Procedure that, in such event, they shall waive their right to present evidence and submit these cases for judgment on the basis of evidence adduced by the prosecution.

⁵ Records, Volume V, pp. 188-197.

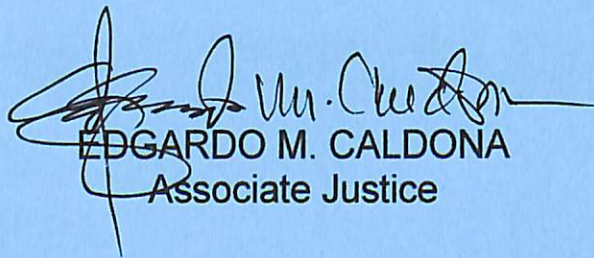
Handwritten signatures and initials in the bottom right corner of the page. There are two distinct signatures, one appearing to be 'M' and another more complex signature, possibly 'J' or 'K'.

X-----X

WHEREFORE, premises considered, the **Motion for Reconsideration** dated December 5, 2023 filed by accused-movants Melody Cadacio and Mario Cabinte is **DENIED**.


SO ORDERED.

Quezon City, Metro Manila, Philippines

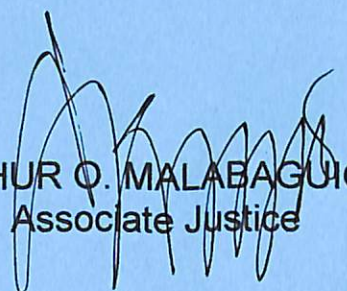


EDGARDO M. CALDONA
Associate Justice

WE CONCUR:



OSCAR C. HERRERA, JR.
Associate Justice
Chairperson



ARTHUR O. MALABAGUIO
Associate Justice