

MINOR CYNTHIA L. LARDIZABAL THRU COUNSEL ATTY. LUIS L. LARDIZABAL, PETITIONER, VS. JUDGE OSCAR A. REYES, RESPONDENT.

A.M. No. MTJ-94-897. December 05, 1994

Ponente: PADILLA, J.

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PADILLA, J.:

This is a verified complaint, dated 25 October 1993, filed by minor Cynthia L. Lardizabal, through Atty. Luis L. Lardizabal, against Judge Oscar A. Reyes, Municipal Circuit Trial Court, Tagudin-Suyo, Province of Ilocos Sur, charging Judge Reyes with ignorance of the law resulting in gross miscarriage of justice.

The complaint alleges that on 1 September 1993, the complainant, a 12-year old girl, filed a criminal complaint for rape against a certain Dionisio Lozano alias "Dioning"; that after conducting the required preliminary investigation of the complainant and her witnesses, respondent judge issued on 2 September 1993 an order directing the arrest of the accused, but at the same time, *motu proprio*, fixed the bail of the accused in the amount of P80,000.00 without any application on the part of the accused to be admitted to bail and without conducting any hearing thereon; that when the accused filed on 7 September 1993 a motion to reduce bail from P80,000.00 to P20,000.00, respondent judge, again, without prior notice and hearing, reduced the bail to P40,000.00.

Asked to comment on the complaint, respondent Judge Reyes explained that after carefully considering and evaluating the evidence presented at the preliminary investigation, acting with all honesty and good faith, he arrived at a conclusion that the evidence adduced was not strong enough to deny bail for the provisional liberty of the accused; that he later reduced the bail to P40,000.00 on the premise that justice must be tempered with mercy and based also on the due process clause which protects an accused against conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime with which the accused is charged.

The Court does not accept as satisfactory respondent's explanation that good faith urged him to fix and grant bail *motu proprio* for the provisional release of the accused charged with rape. By so doing, he acted irregularly, thereby depriving the prosecution of an opportunity to interpose objections to the grant of bail. The rule is explicit that when an accused is charged with a serious offense punishable with reclusion perpetua, such as rape, bail may be granted only after a motion for that purpose has been filed by the accused and a hearing thereon conducted by a judge to determine whether or not the prosecution's evidence of guilt is strong.

Respondent could not have arrived at a fair conclusion that the evidence was not strong enough to deny bail to the accused when the prosecution had not been heard on the matter. Respondent's unjustified haste in granting bail and thereafter reducing the amount thereof, in both instances, without hearing the side of the prosecution, speaks poorly of his competence in applying the law and jurisprudence on the matter.

Whether the motion for bail of an accused who is in custody for a capital offense be resolved in a summary proceeding or in the course of a regular trial, the prosecution must be given an opportunity to present, within a reasonable time, all the evidence that it may wish to introduce on the probable guilt of the accused, before the

court resolves the motion for bail. If, as in the present case, the prosecution should be denied such an opportunity, there would be a violation of procedural due process, and the order of the court granting bail should be considered void on that ground.[1]

We find disturbing respondent's unusual regard for the rights of the accused to be protected from harassment, as if the rights of the victim are not important enough. Compassion is imperative and laudable. It should not however be misplaced, for the victim and not only the accused, is equally deserving of it. Justice, though due the accused, is due the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true. Nor does it suffice that the questions asked by respondent judge before bail was granted could be characterized as searching. That fact did not cure an infirmity of a jurisdictional character.[2]

Respondent judge tried to absolve himself from the charge of gross incompetence by stating that in the absence of malice or any wrongful conduct, the judge cannot be held administratively responsible, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment.

Respondent must not hide behind that fundamental rule. While the Court does not require perfection and infallibility, it reasonably expects a faithful and intelligent discharge of duty by those who are selected to fill the position of administrators of justice.[3] Moreover, the Code of Judicial Conduct requires judges to act with competence, integrity and independence and should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.[4]

WHEREFORE, the Court finds respondent Judge Oscar A. Reyes GUILTY of gross ignorance of the law, and is fined Twenty Thousand Pesos (P20,000.00), with a warning that a repetition of the same or similar offense will be dealt with more severely.

SO ORDERED.

Narvasa, C.J., Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno, Vitug, Kapunan, and Mendoza, JJ., concur.

Feliciano, J., on leave.

[1] People v. Sola, 103 SCRA 393

[2] People vs. Sola, supra

[3] In re: Petition for the Dismissal from Service and/or Disbarment of Judge Baltazar R. Dizon, Administrative Case No. 3086, May 31, 1989, 173 SCRA 719.

[4] Canon 1, Rule 1.01 and Canon 2, Rule 2.01, Code of Judicial Conduct

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