

**TRINIDAD HERRERA, PETITIONER, VS. JUAN PONCE NI ENRILE, AS SECRETARY OF NATIONAL DEFENSE, FIDEL TO RAMOS, AS COMMANDING GENERAL OF THE PHILIPPINE TO CONSTABULARY PROSPERO OLIVAS...**

*G.R. No. L-40181. February 25, 1975*

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**PER CURIAM:**

A petition for habeas corpus, Seeking her release from detention, was filed on February 21, 1975 by Trinidad Herrera against respondents' all of whom are sued in their official capacity. The factual allegations follow: "Since February 19, 1975, at or about 3:00 o'clock in the afternoon, petitioner has been detained and restrained of her liberty by elements of the Metropolitan Police Command headed by one Lt. Valencia. She was taken from the ZOTO office at 900 Kagitingan St., Tondo, Manila, where she was at that time to MPIS (Metropolitan Police Intelligence Service), Camp Crame, Quezon City, allegedly only for 'interrogation'; but after being questioned there, she was detained and made to spend the night there; and at about 9:00 o'clock this morning, she was booked and brought to the Military Judge Advocate's Office of the Metropolitan Command, Camp Crame, Quezon City; from where, after her papers are processed, she will be taken to Women's Detention Center, Camp Crame, Quezon City. Petitioner has not been committed, and is not detained, by virtue of any judicial warrant, judgment decree, final order, mandate or process. The cause or pretense for her detention or restraint, according to the booking record shown to counsel at the Military Judge Advocate's Office, Metropolitan Police Command, Camp Crame, Quezon City is 'violation of P.D. No. 33 and G.O. No. 51.' Presidential Decree No. 33, penalizes, with prison correccional, in its minimum period, 'printing, possession, distribution and circulation of certain leaflets, handbills and propaganda materials.' General Order No. 51 provides 'for public and free discussions and debate on the Referendum questions. "'2 It was then contended that her "arrest and detention are illegal" for the following reasons: "A. The documents that petitioner is charged with having circulated consist solely of the four (4) documents which are annexed hereto and made part hereof, and which briefly are as follows: Annex ' 1' — 'Manifesto on the Referendum" signed by among others, Bishop Jesus Varela of Ozamis City, and Bishop Francisco Claverof Malaybalay, Bukidnon \*\*\*; Annex '2' — "Manifesto," dated 17 December 1974, signed by, among others, Bishop Felix Perez, Fr. Pacifico Ortiz, S.J., Minister Cirilo S. Rigos, and Justice Pastor Endencia \*\*\*; Annex '3' — Recent News Items on February 27 Referendum and the Mindanao War.' This consists of excerpts from local newspapers as well as one excerpt from the Pacific Stars and Stripes and one from the Philippine Times of Chicago, Illinois, U.S.A.; Annex '4' — 'Concern for Justice.' This consists of reproductions of letters written by Archbishop Sin of Manila, Sr. Christine Tan and Fr. Lope Castillo, of the Associations of Major Religious Superiors of Men and Women in the Philippines, and Fr. Edicio de la Torre, as well as a brief account of maltreatment of some political prisoners. That some of these were maltreated has been admitted by the Department of National Defense. None of the foregoing documents is, and all of them taken together are not, subversive. All are relevant to the coming Referendum. Circulation of them is not and cannot be a crime. B. Respondents have no jurisdiction to arrest petitioner or prosecute her for violation of General Order No. 51, since, it is only the Commission on Elections that can prosecute here therefor. C. In arresting and detaining petitioner,

respondents have violated General Order No. 51. D. Considering that none of the authors or signatories of the above documents have been arrested or detained, it is evident that the effect, if not the intent of petitioner's detention is to harass her for being a petitioner in the Referendum Case (G.R. No. L-40004) abovementioned, and to instill fear in the members of her organization so as to coerce them into taking part in the coming referendum." [3] Then came the prayer: "That a writ of habeas corpus be issued directing the respondents to appear and produce the body of petitioner forthwith before the Honorable Court and to make due return of the writ thereon. That at such time, the court proceed to hear and determine the illegality of petitioner's detention; and upon determination that petitioner is illegally or unlawfully restrained, to order her immediate release; or in the alternative, to order her release upon such bail as the Court may fix." [4]

On the very same day, a resolution came from this Court worded thus: "Considering the allegations of the petition for habeas corpus, the Court Resolved: Let a writ of habeas corpus issue, returnable to this Court not later than Monday, February 24, 1975. The respondents are hereby required to file an answer to the petition for habeas corpus not later than the aforesaid date and not to move to dismiss the petition. This case is hereby set for hearing on Tuesday, February 25, 1975, at 9:30 a.m." [5] The writ itself was likewise issued.

On February 24, 1974, there was a return to the writ and answer to petition filed by the respondents, through the Solicitor General. [6] It is of the following tenor: "1. Respondents deny the allegation in paragraph I of the petition, the truth being that petitioner has been released from detention; 2. Respondents admit the allegations in paragraphs II and III of the petition except the allegation as to the nature and character of ZOTO (Zone One Tondo Organization) which is denied for lack of knowledge and information sufficient to form a belief as to the truth thereof; and to the extent qualified by the Special and Affirmative Defenses; 3. Respondents deny the allegations in paragraphs IV, V, VI and VII of the petition for the reasons given under the Special and Affirmative Defenses; Respondents state by way of [Special and Affirmative Defenses] 4. The petitioner has been released from custody and detention, hence, the petition for habeas corpus is moot and academic. \*\*\* 5. The petitioner was arrested on February 19, 1975 and was detained in the Female Detention Center, PC Metrocom, Camp Crame, Quezon City by virtue of Arrest, Search and Seizure Order No. 3285 dated February 19, 1975 issued by the Secretary of National Defense and Commitment Order No. 919 dated February 19, 1975 issued by the Commanding General, Philippine Constabulary Metropolitan Command, for violation of Presidential Decree No. 33 and Presidential Decree No. 90 in connection with General Order No. 51-A. \*\*\*; 6. The order of arrest was derived from the martial law powers of the President and was issued pursuant to General Order No. 2-A. The proclamation of martial law automatically carries with it the suspension of the privilege of the writ of habeas corpus \*\*\*. The validity of the above proclamation and decrees and orders issued under it was confirmed by the Transitory Provisions of the Constitution and upheld in the said Martial Law Cases; 7. Petitioner was arrested and investigated for distributing, circulating and spreading false news and information which tend to cause panic, divisive effects among the people and discredit and distrust for the duly constituted authorities; 8. The freedom of discussion and debate on the Referendum questions provided under General Order No. 51-A can not be interpreted to mean license for the advocacy and dissemination of subversive propaganda. Neither can said freedom be utilized as a cover or means to participate in, promote or give aid and comfort to insurrection or rebellion; \*\*\* 11. Upon review of the acts which led to the petitioner's valid arrest and temporary detention and taking into account the spirit behind the amendments embodied in General Order No. 51-A which may, during the free debate period, overlook at least these acts of petitioner in the desire to encourage the people to manifest their true will, it was decided to release the petitioner from custody, which release has, in fact, been effected." [7]

With the above manifestation, it being shown that respondents had in fact released Trinidad Herrera, this petition for habeas corpus has become moot and academic. No further action need be taken by this Court therefore, as she is no longer under detention. [8]

WHEREFORE, this petition for the writ of habeas corpus is dismissed for being moot and academic.

Makalintal, C.J., Castro, Fernando, Teehankee, Barredo, Makasiar, Antonio, Esguerra, Fernandez, and Aquino, JJ., concur.

Muñoz Palmar J., did not take part.

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[1] The respondents are Juan Ponce Enrile, as Secretary of National Defense, Fidel Ramos, as Commanding General of the Philippine Constabulary, Prospero Olivas, as Commanding General of the Metropolitan Command, and the Commanding Officer. Women's Detention Center, Camp Crame.

[2] Petition, pars. III-V.

[3] Ibid., par. 6. A. B. C. D.

[4] Ibid., Prayer.

[5] Resolution of this Court dated February 21, 1975.

[6] Solicitor General Estelito P. Mendoza was assisted by Assistant Solicitor Hugo H. Gutierrez, Jr.

[7] Return to the Writ and Answer to Petition, pars. 1-11.

[8] Cf. *Tan Me Nio v. Collector of Customs*, 34 Phil. 944 (1916); *Zagala v. Ilustre*, 48 Phil. 282 (1925); *Gonzales v. Viola*, 61 Phil. 824 (1935); *Lino v. Fugoso*, 77 Phil. 933 (1947); *Camasuru v. Provost Marshall*, 78 Phil. 142 (1947); *Vivo v. Marfe*, 1-24510, Dec. 18, 1967, 21 SCRA 1309; *Aquino v. Ponce Enrile*, L-35546. Sept. 17, 1974, 59 SCRA 183.

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