

**ESMERALDO DEJESA, JR., RUBEN DELA CRUZ, JR., MIGUEL CORTEZ,
NORMA RUBIA, RODOLFO ABANGAN AND ARMANDO DEJESA,
PETITIONERS-APPELLANTS. V. HON. WILFREDO L. PASCASIO,
ACTING JUDGE O...**

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GALAPATE-LAGUILLES, J:

Before Us is an Appeal from the Order dated April 29, 2011 of the Regional Trial Court, Branch 71 of Iba, Zambales, denying petitioners-appellants' Petition for Certiorari with Prayer for the Issuance of a Temporary Restraining Order and/or Preliminary Injunction, which assailed the Orders dated August 18, 2006 and September 20, 2006 of the Municipal Circuit Trial Court of Botolan-Cabangan, Zambales denying their Motion to Quash the two Informations for Falsification of a Private Document in Criminal Case Nos. 4339-4340 and Motion for Reconsideration, respectively.

The present controversy stemmed from the two Informations indicting petitioners Esmeraldo Dejesa, Jr., Ruben De La Cruz, Jr., Miguel Cortez, Norma Rubia, Rodolfo Abangan, and Armando Dejesa for Falsification of a Private Document. The first Information^[1] dated May 18, 2006 involved the alleged falsification of a private document denominated as “Deklarasyon sa Likod ng Kahilingan”, the inculpatory portion of which reads:

That on or about the 19th days of October 2005, in the Municipality of Botolan, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring, confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously falsify and/or cause to falsify a private document entitled “Deklarasyon sa Likod ng Kahilingan” dated October 19, 2005, by making untruthful statements in their narration of facts therein by declaring that about one hundred (100) fishermen signed a petition to oppose to the operation by Beverly Concessa Lucero of a fish cage in Parel, Botolan, Zambales, when the truth was that several signatures in the petition were forged and/or that most signatories were coerced and misled to sign the same without knowing that the petition was to oppose the fish cage operation and that most of the fishermen who signed the petition were not opposed to said fish cage operation, with the said accused knowing the said statements to be false and not true, and the falsified document brought damage and prejudice to said Beverly Concesso Lucero.

CONTRARY TO LAW.

A separate Information^[2] for the same offense, similarly worded as the one afore-quoted, involved Joint Resolution No. 01, series of 2005 dated September 17, 2005 which was also allegedly falsified by the petitioners.

Petitioners filed a Motion to Quash^[3] the two Informations on the ground that the facts charged did not constitute an offense. They argue that the subject documents were not falsified as they bore the true signatures of the parties, the petitioners herein, who executed the same. They further contended that the “petition”, which allegedly contained the “faked” signatures, was merely cited in the “Resolution” and “Deklarasyon” by mere referral, and that the same did not constitute falsification. Finally, petitioners averred that the alleged falsified documents were executed in the exercise of their constitutional right to petition the government for redress of grievances and that the same negated the element of damage required in falsification of private documents.

The private respondent Beverly Concesso Lucero opposed[4] the quashal of the Informations arguing that regardless of the genuineness of the signatures in the “petition” cited in the “Joint Resolution” and “Deklarasyon”, the petitioners still committed falsification by “making untruthful statements in the narration of facts” in the latter two documents. According further to the private respondent, the arguments raised by the petitioners are evidentiary matters which should be threshed out during trial as the scope of inquiry in the a motion to quash is limited only to the averments set forth in the Information which are hypothetically admitted.

On August 18, 2006, the MCTC issued an Order denying petitioners Motion to Quash holding that the facts stated in the Informations constituted the crime of falsification under paragraph 4 of Article 171 of the Revised Penal Code, in relation to Article 172. Hence, it ruled that the Informations were sufficient in form and substance.

Aggrieved, petitioners sought reconsideration insisting that the elements of falsification of a private document under paragraph 4 of Article 171 were lacking in both Informations, to wit:

- That the offender makes in a document statements in a narration of facts;
- That he has a legal obligation to disclose the truth of the facts narrated by him;
- That the facts narrated by the offender are absolutely false; and
- That the perversion of the truth in the narration of facts was made with the wrongful intent of injuring a third person.

The MCTC likewise denied petitioners' Motion for Reconsideration per Order dated September 20, 2007; hence, they commenced the instant Petition before the Regional Trial Court of Iba, Zambales imputing to the public respondent MCTC grave abuse of discretion. The petitioners argued that the MCTC gravely abused its discretion when it denied their Motion for Reconsideration based on the alleged failure to pay the DOJ fee, presumably required under DOJ Circular No. 42.[5] They likewise reiterated their stance that the facts in the Informations did not constitute the offense of falsification of a private document for the following reasons:

- 1) the signatures on the Joint Resolution and “Deklarasyon” were unquestionably those of the petitioners; hence, not falsified;
- 2) the documents with the alleged falsified signatures referred to a “petition” which is altogether different from the two documents subject of the consolidated criminal cases;
- 3) the two documents, the Joint Resolution and the “Deklarasyon” were not sufficient bases for a charge of falsification as to do so would be tantamount to a derogation of a constitutionally protected right.[6]

Meantime, the RTC issued a 20-day temporary restraining order enjoining the MCTC to suspend the arraignment of the petitioners in Criminal Case Nos. 4339-4340 and heard the prayer for the issuance of preliminary injunction. After hearing, the RTC rendered its assailed Order dated April 29, 2011 dismissing the instant petition for being improper and that the same cannot “cure errors of the trial court in its appreciation of the evidence of the parties, or its conclusions anchored on the said findings and its conclusion of law.”[7] Citing the case of *Jumaquio v. Hon. Villarosa*, it held that the legal recourse of a party aggrieved by the denial of a motion to quash is to proceed to trial and not to file the extraordinary remedy of certiorari. Nonetheless, the RTC delved into the merits of the petition and held that the MCTC did not commit grave abuse of discretion when it denied petitioners' motion to quash as well as their motion for reconsideration, viz:

As to the second assignment of error, xxx the Court likewise disagrees with the petitioners.

The Supreme Court cannot be more clear in its decision in *Boises v. People of the Philippines*, January 31, 2008 when it held[:]

“xxx Absent any showing of arbitrariness on the part of the investigating prosecutor or any other officer authorized by law to conduct preliminary investigation, courts as a rule must defer to said officer's finding and determination of probable cause, since the determination of the existence of probable cause is the function of the prosecutor.

In the said case, the High Court further stated:

“A finding of probable cause needs only to rest on evidence showing that more likely than not a crime has been committed and was committed by the suspect. Probable cause need not be based on clear and convincing evidence of guilt, neither on evidence establishing guilt beyond reasonable doubt, and definitely, not an evidence establishing absolute certainty of guilt.”[8]

Unperturbed, the petitioners come before Us through the instant appeal which raises the following issues:

First. The trial court erred in holding and ruling that the instant petition should be dismissed outright on the basis of the general rule enunciated in the case of *Jumaquio vs. Hon. Villarosa xxx*, and without taking in consideration and in total disregard of the recognized exception to the general rule as enunciated in the later cases of *Lazarte, Jr. vs. Sandiganbayan xxx*; *Javier vs. The First Division of the Sandiganbayan xxx*; *Marmo vs. Anacay xxx* and *Equitable PCI Bank vs. Fernandez xxx*[:]

Second. The trial court erred in applying the general rule, citing the cases of *Soriano vs. Ombudsman Marcelo, et al. xxx*; *Boises vs. People of the Philippines xxx* and *Jumaquio vs. Hon. Villarosa xxx*[:]

Third. The trial court erred in finding, ruling and making a sweeping statement that public respondent Judge did not act with grave abuse of discretion amounting to excess or lack of jurisdiction in denying both herein Appellant's Motion to Quash and its consequent Motion for Reconsideration; and

Fourth. The trial court erred in dismissing the instant petition for certiorari and in not granting the reliefs prayed for in said petition.[9] (Citations omitted)

In sum, the appeal raises two fundamental issues: (1) whether or not a petition for certiorari is the proper remedy to question the denial of a motion to quash; and (2) whether or not the MCTC acted with grave abuse of discretion when it denied petitioners' Motion to Quash the two Informations in Criminal Case Nos. 4339-4340.

Prefatorily, We note that the People of the Philippines was not impleaded as a public respondent considering that the instant case arose from a criminal proceeding. Section 5, Rule 110 of the Rules of Criminal Procedure mandated that all criminal actions are prosecuted under the direction and control of the public prosecutor. Thus, in *Madarang v. Court of Appeals*[10] and *Mangera v. Risos*,[11] the Supreme Court instructed that in cases involving prosecution of offenses, or actions arising therefrom, the People of the Philippines must be impleaded as a party thereto to enable the public prosecutor or the Solicitor General, as the case may be, to comment on the petition. For this reason, the petition filed before the RTC is fatally defective.

Anent the issue of the propriety of the immediate resort to certiorari, We emphasize that while the RTC opined that it could have dismissed the petition outright because it was not the proper remedy to question the denial of a motion to quash, it did not order its outright dismissal. Instead, it delved into the merits of the case and declared that the MCTC did not act with grave abuse of discretion in denying the petitioners' Motion to Quash. We sustain the ruling of the RTC.

Well-entrenched is the rule that an order denying a motion to quash on the ground that the allegations in the Informations do not constitute an offense is not appealable as Section 1 (b), Rule 41 of the Rules of Court does not allow an appeal from an interlocutory order. Neither can it be a proper subject of a petition for certiorari which can be used only in the absence of an appeal or any other adequate, plain and speedy remedy. The plain and

speedy remedy upon denial of an interlocutory order is to proceed to trial[12] which is the proper course of procedure as defined in *Basa v. People*,[13] citing *Latican v. Vergara*,[14] viz:

The accused has to enter a plea, go to trial without prejudice on his part to present the special defenses he had invoked in his motion to quash and, if after trial on the merits, an adverse decision is rendered, to appeal therefrom in the manner authorized by law.

This rule, however, is subject to several exceptions such as when the interlocutory order was issued without jurisdiction or with grave abuse of discretion, which is the very proposition that the petitioners adamantly pursue. Indeed, the Rules allow the aggrieved party to avail of the extraordinary remedy of certiorari as provided in Rule 65 of the Rules of Court[15] but this recourse is, ostensibly, an exception rather than the general rule and the petitioner carries the burden of showing that the tribunal or the court acted without jurisdiction or with grave abuse of discretion.[16]

Here, We find that the petitioners failed to overcome the burden of proving grave abuse of discretion on the part of the MCTC when it held that there existed no sufficient reason to quash the two Informations for Falsification of a Private Document.

In order to sustain a motion to quash, as a mode by which to assail the validity of the criminal complaint or information for insufficiency of material averments or for defect apparent on its face, only the grounds enumerated under Section 3, Rule 117[17] of the Rules of Criminal Procedure shall be considered.[18] In this case, petitioners cited Section 3(a) – that the facts charged do not constitute an offense – as the sole ground for the quashal of the two Informations. In the case of *Soriano v. People*[19], the Supreme Court held that the primordial consideration in resolving a motion to quash anchored on this ground is the sufficiency of the allegations in the information; that is, whether the facts alleged, if hypothetically admitted, would establish the essential elements of the offense charged as defined by law, thus:

xxx The trial court may not consider a situation contrary to that set forth in the criminal complaint or information. Facts that constitute the defense of the petitioners against the charge under the information must be proved by them during trial. Such facts or circumstances do not constitute proper grounds for a motion to quash the information on the ground that the material averments do not constitute the offense.[20]

Contrary to the petitioners' assertion, a close scrutiny of the Information disclosed that it sufficiently alleged the material facts constituting the offense charged. It satisfactorily complied with the statutory requirements of a valid information under Section 6, Rule 110 of the Rules on Criminal Procedure which provides, among other things, that the same shall state the designation of the offense given by the statute and the acts or omissions imputed which constitute the offense charged.

In particular, the Information alleged with sufficiency and specificity the following essential elements of the crime of Falsification of a Private Document under Article 172, paragraph 2 of the Revised Penal Code in relation to Article 171:

1. That the offender committed any of the acts of falsification, except those in par. 7, enumerated in Art. 171;
2. That the falsification was committed in any private document;
3. That the falsification caused damage to a third party or at least the falsification was committed with intent to cause such damage.[21]

Recall must be made that the Information unequivocally accused the petitioners of having “feloniously falsif[ied] and/or cause[d] to falsify a private document entitled ‘Deklarasyon sa Likod ng Kahilingan’” “by making untruthful statements in their narration of facts therein by declaring that about one hundred (100) fishermen

signed a petition to oppose to the operation by Beverly Concessa Lucero of a fish cage in Parel, Botolan, Zambales". The Information further averred that the untruthful narration of facts "brought damage and prejudice" to private complainant Lucero. Evidently, making untruthful statements in a narration of facts is among those acts of falsification under paragraph 4 of Article 171, which is perpetrated by a person who, having a legal obligation to disclose the truth, makes in a document statements in a narration of facts which are absolutely false with the wrongful intent of injuring a third person.[22]

Although the Information had not explicitly stated that the petitioners are bound by law to disclose the truth, it must be emphasized that their obligation to disclose the truth is inherent and implied in the very nature and purpose of documents allegedly falsified, i.e. Joint Resolution and the "Deklarasyon". As citizens who petition the government for redress of grievances, the petitioners are expected to be truthful in their statements so as not to mislead and confound the State in the dispensation of its public duty to protect the interest of the aggrieved constituents.

All told, We reiterate that the Information sufficiently and intelligibly alleged all the essential facts constituting the offense of falsification of a private document penalized under Article 172 of the Revised Penal Code. Notably, the Rules advocate that the acts or omission complained of as constituting the offense need not necessarily be in the language used in the statutes but in terms sufficient to enable a person of common understanding to know what offense is being charged and for the court to pronounce judgment.[23] Thus, in the case of Miguel v. Sandiganbayan,[24] the Supreme Court elucidates:

The test of the information's sufficiency is whether the crime is described in intelligible terms and with such particularity with reasonable certainty so that the accused is duly informed of the offense charged. In particular, whether an information validly charges an offense depends on whether the material facts alleged in the complaint or information shall establish the essential elements of the offense charged as defined in the law. The *raison d'être* of the requirement in the Rules is to enable the accused to suitably prepare his defense.

In light of the foregoing, We stamp with imprimatur the ruling of the MCTC, to wit:

A perusal of the allegation set forth in the Information will readily show that the facts therein stated constitute the crime of falsification under paragraph 4 as above enumerated. In the light of the foregoing, the Court finds and so holds that [the] Information in the present case is sufficient in form and substance.[25]

As regards the petitioners' contention that the MCTC did not conduct a preliminary inquiry as to the existence of probable cause,[26] they now argue that their motion to quash also sought a judicial determination of probable cause.[27] It suffices to state that the subject matter could not properly be considered in the resolution of the Motion to Quash for the obvious reason that the same is not one of those authorized grounds under Section 3, Rule 117. Besides, if petitioners are desirous to avail of the remedy of judicial determination of probable cause, they should have filed at the onset a motion praying for such remedy or an omnibus motion questioning the validity of the Information as well as the finding of probable cause. Neither could we entertain this issue at this late stage as it was not litigated before the lower courts. Petitioners raised the matter pertaining to probable cause for the first time on appeal and after the RTC has ruled that there was no ground for the quashal of the Informations. It is axiomatic that no question will be entertained on appeal unless it has been raised in the proceedings below as this would contravene the basic rules of fair play and justice.

FOR THE STATED REASONS, the instant petition is DENIED for lack of merit.

SO ORDERED.

Punzalan Castillo (Chairperson) and Cruz,[*] JJ., concur.

[*] Vice Justice Amy C. Lazaro-Javier per Office Order No. 198-14-ABR dated May 9, 2014

[1] Records, pp. 36-37.

[2] A copy of the said Information was not attached to the records.

[3] Records, pp. 38-41.

[4] Opposition to Motion to Quash. Id., pp. 42-44.

[5] Id., p. 9. The fees imposed by the said circular pertained to the motions filed during the preliminary investigation.

[6] Id., p. 10.

[7] Id., p. 320. Citing Soriano v. Ombudsman Marcelo, et al.

[8] Id., p. 321.

[9] Rollo, p. 24.

[10] Madarang v. Court of Appeals, G.R. No. 143044, July 14, 2005.

[11] Mangera v. Risos, G.R. No. 152643, August 28, 2008.

[12] Galzote v. Briones, G.R. No. 164682, September 14, 2011.

[13] G.R. No. 152444, February 16, 2005.

[14] G.R. No. 108619, July 31, 1997.

[15] Section 1, paragraph 3, Rule 41 of the Rules of Court. As amended by A.M. No. 07-7-12-SC, December 1, 2007.

[16] Galzote v. Briones, supra.

[17] Sec. 3. The accused may move to quash the complaint or information on any of the 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.

[18] See *Los Baños v. Pedro*, G.R. No. 173588, April 22, 2009.

[19] *Soriano v. People* G.R. No. 159517-18, June 30, 2009.

[20] *Ibid.*

[21] See *Dizon v. People*, G.R. No. 144026, June 15, 2006.

[22] *Ibid.*

[23] Section 9, Rule 110 of the Rules on Criminal Procedure.

[24] G.R. No. 172035, July 4, 2012.

[25] Records, pp. 22-2.

[26] Rollo, p. 27.

[27] *Id.*, p. 29.

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