

**PEOPLE OF THE PHILIPPINES AND QUINCIANO DE VERA,
PETITIONERS, VS. HON. PEDRO JL. BAUTISTA, JUDGE OF FIRST
INSTANCE OF RIZAL, BRANCH III, PASAY CITY, AND ROSITA FLORES
DABU, RESP...**

G.R. Nos. L-26057 & L-26092. April 25, 1968

Ponente: REYES, J. B. L., Acting C.J.

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REYES, J. B. L., Acting C.J.:

The City Fiscal's Office of Pasay City had filed two in-formations against Rosita Flores Dabu for the crime of falsification of public documents through false narration of facts, in Criminal Cases Nos. 6708-P and 6709-P of the Court of First Instance of Rizal, Pasay City branch, presided by respondent Judge Pedro JL. Bautista. Said informations are as follows:

"The undersigned Assistant City Fiscal accuses ROSITA FLORES DABU of the crime of FALSIFICATION OF PUBLIC DOCUMENT, committed as follows:

"That on or about the 19th day of March, 1961, in Pasay City, Philippines; and within the jurisdiction of this Honorable Court, the above-named accused, ROSITA FLORES DABU, did then and there wilfully, unlawfully and feloniously prepare, execute and sign a public document, to wit: a certificate of live birth for Susan Dabu de Vera, dated March 19, 1961, which said accused filed and caused to be entered in the Civil Registrar of Pasay City on or about March 20, 1961, as Entry No. 907 for the year 1961, by then and there stating and making it appear in said document that on September 23, 1958 herein complainant, QUINCIANO DE VERA, and the said accused had entered into marriage at Lubao, Pampanga, and that the child alleged to have been born of the accused on March 19, 1961 was the legitimate daughter of herein complainant and accused and as such entitled to bear the surname 'de Vera' of complainant, when in truth and in fact, as said accused well knew, no such marriage ever took place between them on the date mentioned above or at any other date, at Lubao, Pampanga, or at any other place, thus committing the offense of Falsification of Public Document by making untruthful statements in the narration of facts in violation of the provisions of Article 172, in relation to Article 171, of the Revised Penal Code." (Crim. Case No. 6708-P).

"That on or about the 18th day of September, 1962, in Pasay City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, ROSITA FLORES DABU, did then and there wilfully, unlawfully and feloniously prepare, execute and sign a public document, to wit: a certificate of live birth for Quinciano Dabu de Vera, Jr., dated September 13, 1962, which said accused filed and caused to be entered in the Civil Register of the Local Civil Registrar of Pasay City as Entry No. 2871 for the year 1962, by then and there stating and making it appear in said document that on September 23, 1958 herein complainant and the said accused had entered into marriage at Lubao, Pampanga, and that the child alleged to have been born of the accused on September 13, 1962 was the legitimate son of herein complainant and accused and as such entitled to bear the surname 'de Vera' of complainant, when in truth and in fact, as said accused well knew, no such marriage ever took place between them on the date mentioned above or at any other date, at Lubao, Pampanga, or any place, thus committing the crime of falsification of public document by making untruthful statements in the narration of facts, in violation of the provisions of Article 172, in relation to Article 171, of the Revised

Penal Code." (Crim. Case No. 6709-P).

After the accused had been arraigned and had pleaded not guilty, but before trial had begun, the prosecution moved to amend the informations in the following particulars:

1) In Criminal Case No. 6708-P:

(a) The date reading "March 20, 1961" in the body of the information (line 10) to be amended to read, "March 29, 1961";

(b) The words reading "Entry No. 907" in line 10 of the body of the information to read "Entry No. 807".

2) In Criminal Case No. 6709-P:

(a) The date reading "September 13, 1962" in line 15 of the body of the information to be amended to read "September 12, 1962";

(b) The words "Susan Dabu de Vera, dated September 13, 1962" appearing in list of Witnesses (No. 2) to be amended to read "Quinciano de Vera, Jr., dated September 12, 1962."

The accused having objected to the proposed amendments as prejudicial to her rights, the respondent Court refused to allow the amendments sought by the prosecution; later, it denied recons-ideration.

Thereupon, the Fiscal resorted to this Court for a writ of certiorari and for a writ of preliminary injunction against further proceedings in both cases until final decision in the main case. We granted the preliminary injunction on May 18, 1966.

For the sake of clarity, each case will be discussed separately.

The amendments sought in Criminal Case No. 6708-P would cause the pertinent portion of the corresponding information to charge that the accused prepared, executed and signed a public document,

"to wit: a certificate of live birth for Susan Dabu de Vera, dated March 19, 1961, which said accused filed and caused to be entered in the Civil Register of Pasay City on or about March 29, 1961, as Entry No. 807 for the year 1961",

in lieu of the original allegation that the document in question was filed by the accused and entered in the Civil Register of Pasay City on or about March 20, 1961, as Entry No. 907.

There being no controversy that the changes sought to be introduced correspond to the actual date and entry number of birth certificate as filed in the Civil Register of Pasay, the issue is whether such amendments are merely formal or whether they impair the rights of the accused.

With regard to the first amendment, altering the date in which the alleged falsified document was filed in the Civil Registrar's Office (from March 20 to March 29), we opine that the amendment is merely formal, because the purpose is merely to correct a clerical mistake in unessential details (*Barot vs. Bayona*, L-13853, July 27, 1960; *Angeles vs. Encarnacion*, L-5966, October 3, 1952). The date of filing in the Civil Registry was not an element of the crime charged (falsification by false narration of facts) since the offense had already been completed before the document allegedly falsified was filed in the Registry.

The same reasoning applies to the amendment of the Entry number, from 907 to 807. The entry numbers being assigned by the Civil Registrar's office, the same can not affect the offense charged, or any constitutive element thereof; neither does it bar any defense that the accused may interpose under the law against the crime described in the information.

In Criminal Case No. 6709-P, the first amendment sought has merely the effect of causing the information to allege that the child, whose birth certificate is claimed to have been falsified, was "born of the accused on September 12, 1962", instead of September 13, 1962 as originally averred. Patently, this amendment is only formal, for the date of the child's birth has nothing to do with the falsification of its birth certificate by making it appear that said child "was the legitimate son of herein complainant and accused, and as such entitled to bear the surname 'de Vera' of complainant, when in truth and in fact, as said accused well knew, no such marriage ever took place bet-ween them". The untrue statement in the narration of facts, as charged in the information, consists in making it appear that the child was legitimate and born of lawful wedlock, when no such wedlock existed. Hence, the change by one day of the date of birth of the child is utterly immaterial and irrelevant to the offense as charged, and we are not shown how it could prejudicially affect the defense.

As to the variation in the birth certificate to be brought by the Civil Registrar as witness, the same alters no part of the body of the information. The prosecution is not duty bound to apprise the accused of all the evidence it intends to produce, (Revised Rule 116, sec. 1); it could call for any exhibit other than those enumerated by it at the foot of the information: nothing bars the fiscal from calling for the production of the birth certificate of Quinciano de Vera, Jr., instead of that of Susan Dabu de Vera.

Plainly, therefore, the orders of the Court below (Annexes I and L) denying the amendments an in grave abuse of discretion, not being warranted by the facts or the law. As no appeal lies from an interlocutory order, and no other adequate remedy is avail-able, certiorari is proper.

IN VIEW OF THE FOREGOING, the writ applied for is granted and the orders complained of are annulled and set aside. The re-spondent Court of First Instance is directed to permit the proposed amendments to the information and thereafter to proceed with the hearing and disposition of the cases with the requisite dispatch. Costs against private respondent, Rosita Flores Dabu.

Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

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