

**JULIUS R. CASTRO, ROMEO C. TORRES AND ARNEL S. ARENAS,
PETITIONER, VS. HON. JOSELITO C. VILLAROSA, IN HIS CAPACITY
AS ACTING PRESIDING JUDGE OF RTC BR. 138, MAKATI CITY,
PEOPLE ...**

Ponente: CRUZ, R.A., J.

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CRUZ, R.A., J.:

THE CASE

This is a Joint Petition for Certiorari filed under Rule 65 of the Rules of Court which seeks to reverse the October 18, 2011 Order[1] and the Order[2] dated January 20, 2012 rendered by Hon. Joselito C. Villarosa, in his capacity as acting presiding judge of the Regional Trial Court Branch 138, Makati City, for allegedly having been rendered with grave abuse of discretion, amounting to lack or in excess of his jurisdiction.[3]

The dispositive portion of the Order dated October 18, 2011 reads:

x x x

WHEREFORE, the Demurrer to Evidence is DENIED and all of the accused are ordered to present evidence on November 10, 2011 at 2:00 P.M.

SO ORDERED.

The January 20, 2012 Resolution on Petitioners' motions for reconsideration disposes as follows:

x x x

WHEREFORE, the Motions for Reconsideration filed by the accused are DENIED for lack of merit.

SO ORDERED.

THE ANTECEDENTS

Petitioners Julius R. Castro ("Castro"), Romeo C. Torres ("Torres"), and Arnel S. Arenas ("Arenas") are the accused in Criminal Case No. 09-1386 entitled "People of the Philippines vs. Jing Parayaoan, et al." [4]

Public Respondent Judge Joselito C. Villarosa ("Judge Villarosa") is the Acting Presiding Judge of Branch 138 of the Regional Trial Court of Makati City ("Makati RTC"). [5] Private Respondent Rita M. Dela Cruz ("Dela Cruz") is the registered owner and operator of DCRM Transport [6] and the private complainant in the criminal case against Petitioners.

On July 13, 2009, at around two o'clock in the morning, a Toyota Corolla DCRM Taxi bearing plate number TYG-912 driven by Ronnie C. Mahinay ("Mahinay") was allegedly carnapped along Vito Cruz and Primo Rivera Streets in La Paz, Makati City by three (3) unidentified men. [7]

At around three o'clock in the afternoon of July 14, 2009, operatives of the Philippine National Police ("PNP")

San Carlos City, Pangasinan received an information that a white taxi is being cut into pieces in Sitio Caapangan, San Carlos City, Pangasinan. The policemen proceeded to the place to verify the same. As they were nearing the place, they saw several persons scampering away, while Petitioners Castro and Torres were nabbed cutting the taxi using an acetylene torch.[8] Accused Jing Parayaoan (“Parayaoan”) was later identified as one of those who fled and hid in the open field covered with grass.[9] The policemen informed Dela Cruz that they found her missing taxi which was carnapped almost two days ago.[10]

To make it easier to transport the taxi from where it was discovered, Petitioners Castro and Torres were ordered to continue cutting the same and load it to the van for transport to the police station. Thereafter, they were brought to the precinct and were subjected to custodial investigation.[11]

On July 15, 2009, Dela Cruz, accompanied by the Anti-Carnapping Unit of Makati City PNP (“ANCAR Makati”) arrived at the San Carlos Police Station and coordinated with PNP San Carlos to see and inspect the area where the taxi was discovered and cut into pieces. On the same day, Castro and Torres were ordered released by the Chief of Police of PNP San Carlos City without being criminally charged.[12]

On July 20, 2009, ANCAR Makati, together with Mahinay, conducted a follow-up operation. While the group was driving along Macardo St., corner Pasong Tirad St., Makati City, Mahinay spotted and positively identified two of the three men who forcibly took the taxi he was driving, namely, Jing Parayaoan (“Parayaoan”) and Edison Gonzales (“Gonzales”). The two were arrested by the ANCAR operatives[13] and an Information[14] for carnapping was subsequently filed against them[15], to wit:

INFORMATION

The undersigned prosecutor accuses JING PARAYAOAN y PAGSOLINGAN and EDISON GONZALES y LIZARTE of the crime of carnapping committed as follows:

On the 13[th] day of July 2009, in the City of Makati, the (sic) Philippines, the accused, conspiring and confederating with Ruben Galisim y Abang, Julius Castro y Rufo, Romeo Torres y Carino and Arnel Arenas, who are at large and all of them mutually helping and aiding one another, with intent to gain, did then and there willfully, unlawfully and feloniously take, steal and carnap (sic) a Toyota Corolla (DCRM Transport) taxi bearing Plate No. TYG-912, Motor No. 2E-3287866, Chasis No. EE110-5501915, color white, model 2002 belonging to Rita Dela Cruz y Mendoza, without the consent, knowledge, and to the damage and prejudice of the owner thereof.

CONTRARY TO LAW.

X X X

Petitioners Castro, Torres, and Arenas were subsequently arrested. A preliminary investigation[16] was held, and the information was thereafter amended to implead them.[17] The Amended Information[18] reads:

AMENDED INFORMATION

The undersigned prosecutor accuses JING PARAYAOAN y PAGSOLINGAN, EDISON GONZALES y LIZARTE, RUBEN CALISIM y ABANG, JULIUS CASTRO y RUFO, ROMEO TORRES y CARIÑO and ARNEL ARENAS of the crime of carnapping committed as follows:

On the 13[th] day of July 2009, in the City of Makati, the (sic) Philippines, the accused, conspiring and confederating together and all of them mutually helping and aiding one another, with intent to gain, did then and there willfully, unlawfully and feloniously take, steal and carnap (sic) a Toyota Corolla (DCRM Transport) taxi bearing Plate No. TYG-912, Motor No. 2E-3287866, Chasis No. EE110-5501915, color white, model

2002 belonging to Rita Dela Cruz y Mendoza, without the consent, knowledge, and to the damage and prejudice of the owner thereof.

CONTRARY TO LAW.

x x x

To support the indictment of the Petitioners, the prosecution presented Mahinay, SPO4 Resultan, PO3 Glen Ramos Mangalindan, a member of the Makati City ANCAR Division, and Domingo Buenconsejo, the official photographer of Makati City PNP. The prosecution thereafter rested its case and filed its formal offer of evidence.[19]

Petitioners, instead of presenting their evidence, opted to file a Joint Demurrer to Evidence[20] arguing that “after the prosecution formally offered its evidence and rested its case, the quantum of proof beyond reasonable doubt in criminal cases was not satisfied to convict the accused, less even require them to present evidence in order to prove their innocence.”[21]

The prosecution filed its Opposition to the Demurrer to Evidence[22] contending that “during trial, the prosecution was not only able to establish that Castro, Torres, and Arenas were cutting up the subject vehicle when the police apprehended them but more importantly, it was proven that the three were in the company of Parayaoan, who appears to be well known in the area. If uncontroverted, the facts established by the evidence presented by the prosecution are sufficient to establish the liability of Castro, Torres, and Arenas as conspirators.”[23]

In his assailed October 18, 2011 Order,[24] Judge Villarosa denied Petitioners' Demurrer to Evidence. He ruled that the prosecution was able to establish the elements of the crime charged against the accused and that a prima facie case has been established against them. It was likewise held that there is a necessity for Petitioners to adduce evidence in support of their defenses.[25]

Petitioners filed their respective Motions for Reconsideration[26] which were all denied by Judge Villarosa in his January 20, 2012 Order.[27] Hence, this Petition for Certiorari under Rule 65 of the Rules of Court.

THE ISSUES

Petitioners submit the following issues[28] for Our consideration, to wit:

I.

WITH ALL DUE RESPECT, PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT ISSUED THE ASSAILED ORDERS THUS VIOLATING THE CONSTITUTIONAL RIGHTS OF HEREIN PETITIONERS AS ACCUSED TO BE PRESUMED INNOCENT UNTIL PROVEN OTHERWISE AND THE BURDEN OF THE PROSECUTION TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT;

II.

WITH UTMOST DUE RESPECT, PUBLIC RESPONDENT PEOPLE THRU THE PUBLIC PROSECUTOR FAILED TO CONSIDER THE FACT AND WERE ACTUALLY MISLED BY PRIVATE RESPONDENT ACTING IN CAHOOTS WITH THE INVESTIGATING TEAM OF THE MAKATI CITY PNP ANCAR DIVISION IN PERJURING THEIR STATEMENTS TO IMPLICATE PETITIONERS IN A CRIME THEY NEVER COMMITTED;

III.

THERE BEING NO DIRECT INVOLVEMENT OF ACCUSED-PETITIONERS CASTRO, TORRES, AND

ARENAS PROSECUTION (sic) TRIED TO PROVE ITS CASE BASE (sic) ON CIRCUMSTANTIAL EVIDENCE BY ALLEGING THAT THEY CONSPIRED WITH ACCUSED PARAYAOAN AND GONZALES;

IV.

THE EVIDENCE OF THE PROSECUTION LIKewise FAILED TO SUPPORT ITS ALLEGATION OF CONSPIRACY;

V.

WITH ALL DUE RESPECT, PUBLIC RESPONDENT GRAVELY ERRED IN APPLYING THE GUIDELINES SET FORTH BY THE HONORABLE SUPREME COURT ON DEMURRER TO EVIDENCE INVOLVING CIVIL CASES.

OUR RULING

Distilled to its juice, the sole issue which confronts Us is whether Public Respondent Judge Joselito Villarosa gravely abused his discretion thereby amounting to a lack or excess of jurisdiction in denying Petitioners' Demurrer to Evidence.

Petitioners argue that Judge Villarosa's Order denying the demurrer to evidence violated their constitutional right to be presumed innocent until proven otherwise.[29] Petitioners also argue that the demurrer to evidence should have been granted because “no evidence whatsoever was presented by the prosecution to prove their guilt beyond reasonable doubt, much less their involvement or participation in the crime charged, whether directly or indirectly.”[30]

Petitioners' arguments are quaint.

Case law provides that the grant or denial of a Demurrer to Evidence is left to the sound discretion of the trial court, and its ruling on the matter shall not be disturbed in the absence of a grave abuse of such discretion.[31]

To Our minds, the trial judge did not commit grave abuse of discretion when he denied Petitioners' Demurrer to Evidence based on his conclusion that the prosecution was able to establish the elements of the crime charged against the Petitioners and that a prima facie case has been established against them.[32]

A Demurrer to Evidence is "an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue." [33] The party demurring challenges the sufficiency of the whole evidence to sustain a verdict.[34] In passing upon the sufficiency of the evidence raised in a demurrer, the court is merely required to ascertain whether there is competent or sufficient proof to sustain the indictment or to support a verdict of guilt.[35]

In *Gutib v. Court of Appeals*, it was held that sufficient evidence which would warrant a denial of a Demurrer to Evidence is “such evidence in character, weight or amount as will legally justify the judicial or official action demanded according to the circumstances. To be considered sufficient therefore, the evidence must prove: (a) the commission of the crime, and (b) the precise degree of participation therein by the accused.”[36]

In the case before Us, the RTC found sufficient evidence to sustain the indictment and to support a verdict of guilt for the violation of Republic Act No. 6539, otherwise known as “Anti-Carnapping Act of 1972”. [37] This law defines carnapping as “the taking, with intent to gain, of a motor vehicle belonging to another without the latter’s consent, or by means of violence against or intimidation of persons, or by using force upon things.”[38] The elements of the crime are as follows:

- That there is an actual taking of the vehicle;

- That the offender intends to gain from the taking of the vehicle;
- That the vehicle belongs to a person other than the offender himself;
- That the taking is without the consent of the owner thereof; or that the taking was committed by means of violence against or intimidation of persons, or by using force upon things.[39]

At the time Petitioners were apprehended, they were unable to give any plausible explanation why they had the stolen taxi in their possession and why they were dismantling the same. In its Memorandum[40], the Office of the Solicitor General (“OSG”) correctly observed that the aforementioned elements of carnapping had been established during trial which corollarily set forth a prima facie case against the Petitioners. The taxi owned by Dela Cruz[41] was being driven by Mahinay when it was forcibly taken.[42] The taxi was forcibly taken without Dela Cruz's consent through violence or intimidation against its driver Mahinay.[43] In addition, the OSG aptly raised these uncontroverted facts: the stolen taxi was in Petitioners' possession at the time it was recovered;[44] They were cannibalizing it, and some of its parts were already put in a box;[45]

Given the sufficiency of evidence presented against the Petitioners, We cannot, at this point, make a categorical pronouncement that their guilt has not been proven beyond reasonable doubt. It is premature at this stage of the proceedings to conclude that the prosecution's evidence failed to establish Petitioners participation in the unlawful taking of the taxi. As there is competent and sufficient evidence to sustain the indictment for the crime charged, it behooves Petitioners to adduce evidence on their behalf to controvert the asseverations raised by the prosecution.

The staid rule is that the resolution of a Demurrer to Evidence should be left to the exercise of sound judicial discretion. A lower court's order of denial shall not be disturbed, that is, the appellate courts will not review the prosecution's evidence and precipitately decide whether such evidence has established the guilt of the accused beyond a reasonable doubt, unless accused has established that such judicial discretion has been gravely abused, thereby amounting to a lack or excess of jurisdiction. Mere allegations of such abuse will not suffice.[46]

The term grave abuse of discretion is defined as a capricious and whimsical exercise of judgment so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, as where the power is exercised in an arbitrary and despotic manner because of passion or hostility.[47] To fall within its ambit, the abuse of discretion must be one which is "too patent and gross as to amount to an evasion of a positive duty, or a virtual refusal to perform the duty enjoined or act in contemplation of law, or where the power is exercised in an arbitrary and despotic manner by reason of passion and personal hostility." [48] There is excess of jurisdiction "where the respondent being clothed with the power to determine the case, oversteps his authority as determined by law." [49] In this case, Petitioners failed to convince Us that Judge Villarosa committed an abuse, much more, a grave abuse, of his discretion in denying Petitioners Demurrer to Evidence.

Then as now, when there is no showing of such grave abuse, certiorari is not the proper remedy. Rather, the appropriate recourse from an order denying a Demurrer to Evidence is for the court to proceed with the trial, after which the accused may file an appeal from the judgment of the lower court rendered after such trial. In the present case, we are not prepared to rule that Judge Villarosa gravely abused his discretion when he denied Petitioners' Demurrer to Evidence and held that the prosecution's evidence satisfactorily established the elements of the crime charged. Case law provides that "the presence or absence of the elements of the crime is evidentiary in nature and is a matter of defense that may be passed upon after a full-blown trial on the merits," and "the validity and merits of a party's defense or accusation, as well as admissibility of testimonies and evidence, are better ventilated during trial proper." [50] Thus, Judge Villarosa aptly ruled that it will be best if the Petitioners will present specific legal justification and arguments in support of their defenses which would only be possible if they

be allowed to adduce evidence in support thereof.

Finally, We note that trial courts should exercise caution in granting a Demurrer to Evidence and take into consideration not only the rights of the accused, but also the right of the private offended party to be vindicated of the wrongdoing done against him, for if it is granted, the accused is acquitted and the private complainant is generally left with no more remedy as the accused can invoke his right against double jeopardy. Thus, judges are enjoined to be more diligent and circumspect in the performance of their duties as members of the Bench.[51]

In sum, the public respondent did not gravely abuse his discretion when he found that the prosecution has established a prima facie case against the Petitioners, warranting their having to go forward with their exculpatory evidence. The issuance of the assailed Order denying Petitioners' Demurrer to Evidence was therefore done in the proper exercise of his jurisdiction.

WHEREFORE, in view of the foregoing, this Petition for Certiorari is hereby DISMISSED.

SO ORDERED.

Salazar-Fernando, R.A., Chairperson, and Gonzales-Sison, M., JJ., concur.

[1] Rollo, p. 52.

[2] Id. at 53.

[3] Id. at 6, 25.

[4] Id. at 441-442.

[5] Id. at 9.

[6] Id. at 284-286.

[7] Rollo, pp.11-12.

[8] Id. at 12-13.

[9] Id. at 692.

[10] Id. at 12-13.

[11] Id. at 13.

[12] Id. at 13-14.

[13] Rollo, p.14.

[14] Id. at 261-262.

[15] Id. at 694.

[16] Id. at 16.

[17] Id. at 694.

[18] Id. at 94-95.

[19] Rollo, p.694.

- [20] Id. at 54-72.
- [21] Id. at 65-66.
- [22] Id. at 666-667.
- [23] Id.
- [24] Id. at 52.
- [25] Rollo, p.52.
- [26] Id. at 73-91.
- [27] Id. at 53
- [28] Id. at 22-23.
- [29] Id. at 24-28.
- [30] Id. at 25-28.
- [31] *Te v. Court of Appeals*, 400 Phil. 127, 139 (2000).
- [32] Rollo, p.52.
- [33] *Rivera v. People*, G.R. No. 163996, June 9, 2005.
- [34] Id. citing *Ong v. People*, G.R. No. 140904, October 9, 2000.
- [35] Id. citing *Choa v. Choa*, G.R. No. 143376, November 26, 2002.
- [36] *Gutib v. Court of Appeals*, 371 Phil. 293, 300, 305 (1999).
- [37] An Act Preventing and Penalizing Carnapping [Anti-Carnapping Act of 1972], Republic Act No. 6539 (1972).
- [38] Anti-Carnapping Act of 1972, Sec. 2
- [39] *People v. Calabroso*, G.R. No. 126368, September 14, 2000.
- [40] Rollo, pp.727-762.
- [41] Id. at 285-287 (TSN, January 21, 2010, pp.5-7).
- [42] Id. at 96-97 (TSN, December 3, 2009, pp.5-6).
- [43] Id. at 291-293, 299-303 (TSN, January 21, 2010, pp.11-13, 19-23).
- [44] Id. at 98-102 (TSN, December 3, 2009, pp.7-12).
- [45] Id. at 22.
- [46] *Alarilla v. Sandiganbayan*, 393 Phil. 143, 154 (2000).
- [47] *Office of the Ombudsman v. Magno*, G.R. No. 178923, November 27, 2008.
- [48] *Romy's Freight Service v. Castro, et al.* (citing *Lim v. Executive Secretary*, G.R. No. 151445, April 11, 2002).

[49] *Nepomuceno v. Court of Appeals*, G.R. No. 126405, February 25, 1999 (citing *Rocha v. Crossfield*).

[50] *Lee v. KBC Bank N.V.*, G.R. No. 164673, January 15, 2010.

[51] *Bautista et al., v. Cuneta-Pangilinan*, G.R. No. 189754, October 24, 2012.

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