

EPIFANIO MANABAT, PETITIONER, VS. THE PROVINCIAL WARDEN OF NUEVA ECIJA, RESPONDENT.*G.R. No. L-6483. November 27, 1953*

Ponente: MONTEMAYOR, J.

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In his petition for habeas corpus EPIFANIO MANABAT alleges that since November 14, 1945, he had been imprisoned, charged in two criminal cases Nos. 173 and 188 of the Court of First Instance of Nueva Ecija, with robbery in band and with murder, respectively; that the joint trial of the two cases was commenced on February 18-19, 1946, with the prosecution presenting and terminating with the testimony of only one witness; that on August 30, 1951, "his defense counsel was given an opportunity to get through with and conclude his cross-examination of a prosecution witness whose direct testimony had been had in February, 1946"; that in a court order of January 9, 1952, the continuation of the joint trial was set for February 13-15, 1952, but when the day came and although the prisoner and his witnesses appeared, neither the Judge nor the aggrieved party appeared, and the two cases were not assigned to any other Judge; that since the order of January 9, 1952, no step or action had been taken by the court, the Provincial Fiscal or the aggrieved party for the speedy trial of these cases; that in spite of its list of Government witnesses the prosecution had presented and terminated with the testimony of only two since February, 1946, and the supposed aggrieved party, the medical officer and others have yet to testify; that on September 23, 1952, counsel for petitioner filed an ex parte motion asking the court to order that the transcript of the stenographic notes of the testimony of the witnesses who had already testified be attached to the record of the case and to set the date for the continuation of the hearing of said cases, but despite the said motion nothing had been done, except that a subpoena to the opposing counsels had been issued on October 22, 1952, requiring them to appear in court on December 4, 1952, for a pre-trial; that on December 4th petitioner's counsel appeared in court, but the Judge issuing the subpoena failed to appear, and the two cases are still pending trial up to the date of the filing of this petition. Supplementing his petition with a motion to amend, petitioner avers that he had been denied speedy trial guaranteed to him by the Constitution, and invoking the case of *Conde vs. Rivera*, 45 Phil. 650, he asks that he be ordered released by respondent Provincial Warden of Nueva Ecija, and that the two criminal cases for robbery in band and for murder be declared terminated as far as he is concerned.

At first blush, this would appear to be a clear case of miscarriage of justice or a denial of justice on the principle that justice delayed is justice denied, where a person accused of an offense had been confined in jail for almost eight years, and that save for two hearings wherein only two out of several witnesses for the prosecution testified, no effort had been made by the court and the prosecuting attorney to have the case or cases tried and terminated. However, according to the very petition itself and the answer filed on behalf of the respondent, the picture is not as dark and somber as one would think. Petitioner Manabat was arrested and confined in jail on November 14, 1945, charged with two serious crimes of robbery in band and murder, and trial of the two cases was commenced actually in February, 1946. However, on April 13, 1946, petitioner broke jail, and according to the answer of the respondent, the petitioner was the leader of the jail breakers. He was not recaptured by the Philippine

Constabulary until October 7, 1949, after which he was delivered to the Court of First Instance of Nueva Ecija. The two cases were set for joint trial on several dates in 1951, but the hearings were postponed sometimes at the instance of the Provincial Fiscal, other times upon agreement of both parties, and still at other times, at the instance of the defense itself. As for instance, the hearings set for February 15-16, 1951, March 16, 1951, and June 5, 1951, were postponed upon agreement of the Provincial Fiscal and the defense; hearings set for April 16-17, 1951, December 21, 1951 and January 10, 1951, were cancelled at the request of the prosecution while the hearings scheduled on May 22, 1951, July 11-12, 1951, August 31, 1951, October 17-18, 1951 and November 23, 1951, were cancelled on motion for accused-petitioner's counsel himself. That more or less satisfactorily accounts for the delay in the trial of the two cases up to the end of the year 1951.

But why were not the two cases tried in 1952 and up to February 6, 1953, when this petition for habeas corpus was filed? The Provincial Fiscal in behalf of the respondent gives the following explanation in an attempt to justify the delay. According to said Fiscal, one reason was, because of the escape of the petitioner from jail, some prosecution witnesses had transferred their residence, especially the medical officer who performed the post mortem examination on the body of the deceased Teofila Puno, the victim of the murder in criminal case No. 188, and that said witnesses were not immediately available to the prosecution and amenable to the summons of the court. It is also claimed that Hon. Mariano Nable, the judge presiding over the branch of the court where the cases had been pending had been transferred to Manila about January, 1952, designated as Chairman of the Board of Tax Appeals, and that his successor who did not come until April, 1952 did not hear those cases which had already been begun and where the stenographic notes taken in them had not been transcribed; that the stenographer who took down said stenographic notes had been transferred to Manila and later to Pampanga where she is at present assigned; that when petitioner filed his motion on September 23, 1952, Judge Ladislao Pasicolan was then presiding" over said branch and he set the two cases for pre-trial on December 4, 1952, in order to inform himself of what had transpired during the previous hearings, but that on December 1, 1952, Judge Pasicolan was designated by the Department of Justice to hold sessions in Pangasinan, thereby cancelling the pre-trial previously set, but that, however, these two criminal cases against petitioner had been set on March 18, 1953, and that barring unforeseen circumstances the prosecution expects to reset its case against the accused after said date.

Taking the case as a whole, we find that the delay in the trial of the two cases in question and the confinement in jail of petitioner since 1945, may in some if not in great measure be laid at petitioner's door, namely, his escape from jail and being at large for about four years and his agreement and his own requests for postponements in 1951. Just the same since the beginning of 1952, there is reason to believe that the trial had been delayed without much justification. As a rule, criminal cases, especially those involving detention prisoners should be given preference in the court calendar. Speedy trial is secured by the Constitution to every person accused. An accused, especially when a detention prisoner has the right to have his case tried and decided as speedily as possible, either for or against him so that if he is acquitted he regains his liberty if detained, or even if out on bail, he is cleared of the charge and its implications, and if convicted he may appeal the case or serve his sentence. The state is equally interested in a speedy trial of criminal cases because the thought and the certainty that a criminal will relentlessly and without delay be tried while witnesses are still available, and punished for his crime, is an effective deterrent to would-be-offenders.

In the case of *Conde vs. Rivera*, cited by the petitioner, we ordered the release of the prisoner because his right to speedy trial had been violated. However, the circumstances obtaining in the present case do not in our opinion justify the application of the ruling laid down in said case of *Conde*, because here the delay was in part due to the petitioner himself, and because the delay which was not so long was partly although not wholly justified.

In view of the foregoing, the petition for release of petitioner and for a declaration of the termination of Criminal Cases Nos. 173 and 188 of the Court of First Instance of Nueva Ecija, as to him is hereby denied. The Court of Nueva Ecija and the Provincial Fiscal are hereby urged and enjoined to have these two cases tried and terminated as early as possible. Let a copy of this decision be furnished the Honorable, the Secretary of Justice and the Solicitor General.

Paras, C. J., Pablo, Bengzon, Padilla, Tuason, Reyes, Jugo, Bautista Angelo and Labrador, JJ., concur.

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