

**DOMINADOR LAYOSA, PETITIONER, VS. HON. JOSE P. RODRIGUEZ,
JUDGE OF THE COURT OF FIRST INSTANCE OF PALAWAN, AND
FERNANDO M. DILIG, CITY FISCAL OF PUERTO PRINCESA,
PALAWAN, RESPON...**

G.R. No. L-46080. November 10, 1978

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about the suspension of Dominador Layosa, the collector of customs of Palawan and Puerto Princesa City, who on March 17, 1977 was charged by the city fiscal in the Court of First Instance of Palawan with having violated the Anti-Graft and Corrupt Practices Law (Republic Act No. 3019). The information was based on the complaint filed by the assistant director of the District Anti-Smuggling Action Center. It was one of the five cases filed against Layosa, aside from a malversation case (p. 85, Rollo).

The gravamen of the charge against Layosa is that during the period from April to December, 1976 he demanded and received from the patron of the M/V Lady Angelita I, whenever that vessel docked at the Puerto Princesa wharf to unload and load cargoes of the San Miguel Corporation, two to three cases of beer and soft drinks as the consideration for giving the vessel preferential berthing facilities (Criminal Case No. 1778).

On the following day, March 18, the fiscal, acting pursuant to section 13 of Republic Act No. 3019, filed a motion for Layosa's suspension. A copy of that motion and of the orders setting it for hearing were furnished Layosa. The motion was heard on March 25, 1977. At the hearing, Layosa's counsel cross-examined the prosecution's witness. Respondent Judge granted the motion in his order dated April 11, 1977 at Brooke's Point. He found that a valid information had been filed against Layosa.

On May 10, 1977, Layosa filed in this Court the instant petition for certiorari. He prayed that the order of suspension be set aside. He contended that the court did not acquire jurisdiction over his person because no warrant of arrest had as yet been issued when the hearing on his suspension was held and the case was not raffled to respondent Judge, that the Chief State Prosecutor in a telegram to the fiscal dated March 24, 1977 directed that the record of the case be elevated for review, and that respondent Judge gravely abused his discretion in issuing the suspension order.

Because Layosa defied the order of suspension, the lower court in its order of June 15, 1977 adjudged him in contempt of court and penalized him by imprisonment for three months and a fine of P500. Layosa appealed from that order to the Court of Appeals.

Respondent Judge in his comment on the petition explained that, to avoid delay, he acted on the motion for suspension because the case was filed after the raffling of the cases between the two branches of the court had been terminated. He was scheduled to hold sessions at Brooke's Point and the other Judge was to begin his one-month vacation. Respondent Judge pointed out that his action on the motion for suspension was sanctioned

by Administrative Order No. 6 of this Court dated July 1, 1975 which empowers the Executive Judge to act on interlocutory matters prior to the raffling of a case.

The case was eventually raffled to the sala of respondent Judge. Layosa posted a bail bond. He was arraigned on October 4, 1977. He was replaced by Carlos Razo as collector of customs. On September 29, 1977, the Office of State Prosecutors sustained the filing of the information against Layosa.

Layosa did not submit a memorandum. Respondent fiscal in his memorandum alleged that the petitioner had abandoned his contention as to lack of jurisdiction over his person (based on the grounds that the case was not raffled to respondent Judge and that no warrant of arrest was issued before the hearing on his suspension was held). The fiscal stressed that the case had been scheduled for trial at the instance of the petitioner and that the latter had manifested his willingness to proceed with the trial.

Under the circumstances recited above, we hold that the petition for certiorari is devoid of merit and that the trial court did not act with grave abuse of discretion in issuing the order of suspension.

There is no question that the lower court acquired jurisdiction over the case upon the filing of the information. The offense charged is within its jurisdiction. The petitioner was notified of the pre-suspension hearing. His counsel participated in that hearing. The requirements of due process were observed. The law contemplates an expeditious hearing on the suspension of the accused. Public interest demands a speedy determination of that question, (See *Sugay vs. Pamaran*, L-33877-79, September 30, 1971, 41 SCRA 260; *Luciano vs. Wilson*, L-31347, August 31, 1970, 34 SCRA 638; *Luciano vs. Mariano*, L-32950, July 30, 1971, 40 SCRA 187; *Oliveros vs. Villaluz*, L-33362, July 30, 1971, 40 SCRA 327; *Luciano vs. Provincial Governor*, L-30306, June 20, 1969, 28 SCRA 517).

It is true that petitioner was not yet arrested or taken into custody when the pre-suspension hearing was held. However, his voluntary appearance at that hearing through his counsel was a submission to the lower court's jurisdiction. (Note that in civil cases, defendant's voluntary appearance is equivalent to service of summons.)

"Where a court has jurisdiction of the offense or subject matter, the objection that it has no jurisdiction of the person of the accused may be waived. One who desires to object to the jurisdiction of the court over his person must appear in court for that purpose only, and if he raises other questions, he waives the objection." (22 C.J.S., 1961 Ed. p. 418). In the instant case, Layosa waived the objection based on lack of jurisdiction over his person when, as already noted, he appeared at the pre-suspension hearing and his counsel cross-examined the prosecution witness.

WHEREFORE, the petition is dismissed. Costs against the petitioner.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, Concepcion, Jr., and Santos, JJ., concur.

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