

MDA, REPRESENTED BY MANUEL DE ASIS PETITIONER, VS. HON. LEILA M. DELIMA, IN THE CAPACITY AS SECRETARY OF JUSTICE OF THE DEPARTMENT OF JUSTICE OF MANILA, LUCITA OCON, SPOUSES LEL...

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This petition for certiorari under Rule 65 of the Rules of Court seeks the annulment of two Resolutions dated May 23, 2011[2] and December 3, 2013[3] (“assailed Resolutions”) issued by the Department of Justice, in I.S. Case No. 08-91, through Prosecutor General Claro A. Arellano and the Secretary of Justice Leila M. Delima, respectively, (“public respondent”) for being tainted with grave abuse of discretion amounting to lack or in excess of jurisdiction. The May 23, 2011 Resolution of public respondent DOJ denied herein petitioner's petition for review filed before the former questioning the resolution of the Office of the Provincial Prosecutor, who found no probable cause to indict herein private respondents for the crimes of trespassing and less serious physical injuries in relation to Republic Act (R.A. No. 7610) or the Anti-Child Abuse Law. Meanwhile, the December 3, 2013 Resolution denied petitioner's Motion for Reconsideration.

The antecedent facts of the case are as follows:

The evidence of herein petitioner tends to show that at about 11:00 o'clock in the morning of July 26, 2008, Manuel De Asis, petitioner MDA's father, had just arrived from his work when he saw Lelioso Villafuerte in front of the yard of his house at Brgy. Hilusig, Mahaplag, Leyte. Lelioso was with his wife Beatriz Villafuerte and a public school teacher named Lucita Ocon. The three private respondents, at that time, were looking for MDA.

Manuel then asked why the three, Lelioso, Beatriz, and Lucita, were looking for his daughter, and he was informed by the three that his daughter MDA stole from them Two Hundred Pesos (P200.00). So, Manuel went inside his house and found MDA hiding under their bed. Manuel then asked MDA to come out under the bed which the latter heeded.

As soon as MDA crawled out from under the bed, Lelioso pulled her and took her to the sala, and there, Lelioso, Beatriz and Lucita ganged up on MDA. Lelioso held MDA while Beatriz took a hammer and hammered MDA's fingers, and Lucita, all the while, pinched MDA's ear and banged her head.

Out of respect to his neighbors, the spouses Lelioso and Beatriz and Lucita, who happened to be his godmother, and out of shame of the reported act of his daughter, Manuel claimed that he could not do anything to prevent the harm that was being inflicted on his daughter.

The affidavit of Manuel[4] was corroborated by MDA's own affidavit[5], and by the affidavit of MDA's siblings[6]. Manuel also presented as evidence a medical certificate[7] showing the injuries received by his daughter MDA and a police blotter[8] showing that they reported the incident to the police.

On the other hand, private respondents' evidence, composed of their affidavits and of some children who allegedly

witnessed the incident, tends to show that Lelioso, Beatriz, and Lucita were not the ones who maltreated MDA but it was Manuel himself. Their affidavits stated that when Manuel learned of MDA's alleged act of stealing money from Lelioso, Beatriz and Lucita, it was he himself who castigated and beat MDA which resulted in the latter's injury.[9]

After preliminary investigation, the Office of the Provincial Prosecutor, through the investigating prosecutor, found no probable cause to indict herein private respondents of the crimes they allegedly committed, that is, trespassing and less serious physical injuries in relation to violation of R.A. No. 7610. The investigating prosecutor held that the testimony of Manuel and the affidavits of other witnesses for the petitioner were inconsistent, incredible, and implausible. He reasoned that it is beyond ordinary human experience that Manuel could not do anything upon seeing the maltreatment done to his own daughter, and that the alleged physical harm inflicted upon MDA was not consistent with the medical certificate presented by Manuel. He also ruled the improbability of the crime of trespassing because Manuel, in his Reply-Affidavit, stated that he ushered the three private respondents inside his house to confront his daughter.[10]

Concluding that the evidence presented by petitioner MDA, represented by her father, Manuel, could not support the finding of probable cause on the offenses charged against the three private respondents, the investigating prosecutor dismissed the case in his Resolution dated January 27, 2009,[11] thus:

“IN THE LIGHT OF THE FOREGOING, the case against LELIOSO VILLAFUERTE, BEATRIZ VILLAFUERTE and LUCITA OCON, is recommended dismissed as it is hereby DISMISSED for lack of substantial evidence to establish probable cause that the herein respondents committed the offense charged and are probably guilty thereof.”[12]

Upon a petition for review[13] before the Office of the Regional State Prosecutor, the case was referred to the Office of the Secretary of Justice.[14]

On May 23, 2011, the assailed Resolution issued by public respondent DOJ through the Office of the Secretary of Justice affirmed the dismissal of the case against the three private respondents, Lelioso, Beatriz and Lucita. The DOJ agreed with the investigating prosecutor that the evidence presented cannot sustain a finding of probable cause to indict the three private respondents of the crimes charged against them. The May 23, 2011 Resolution reads:

“WHEREFORE, the petition for review is hereby DISMISSED.”[15]

Petitioner moved for a reconsideration[16] of the May 23, 2011 Resolution, but the same was denied by the public respondent DOJ through the Secretary of Justice herself in the other assailed Resolution dated December 3, 2013.[17]

Meanwhile, an administrative case[18] before the Department of Education, Regional Office No. VIII, Palo, Leyte was filed against herein respondent Lucita Ocon. Lucita, being a public school elementary teacher, was charged by Manuel with conduct prejudicial to the best interest of the service and violation of R.A. No. 7610.

Consequently, on November 15, 2011, the Department of Education rendered a Decision[19] finding Lucita Ocon guilty of Conduct Prejudicial to the Best Interest of the Service and was imposed a fine equivalent to her one month salary.

This Decision from the Department of Education was presented to the DOJ as part of petitioner's evidence[20] in support of her Motion for Reconsideration of the May 23, 2011 Resolution, which dismissed petitioner's petition for review. But, as already stated, petitioner's Motion for Reconsideration was denied through public respondent's assailed December 3, 2013 Resolution.

Aggrieved by these assailed Resolutions rendered by the public respondent, petitioner MDA brought the instant petition for certiorari before Us on the following grounds:

“THE DISMISSAL OF THE PETITION FOR REVIEW ON THE COMPLAINT FOR TRESPASSING WITH LESS SERIOUS PHYSICAL INJURY IN RELATION TO R.A. 7610 (ANTI-CHILD ABUSE) IS TAINTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING LACK OR [IN] EXCESS OF JURISDICTION AS DEMONSTRATED BY:

(a) DISCARDING AND IGNORING VITAL EVIDENCE WHEN THE INVESTIGATING PROSECUTOR FOUND THAT THE NARRATION OF MANUEL DE ASIS, FATHER OF THE VICTIM, AND WITNESSES OF THE VICTIM MDA AS INCREDIBLE, INCONSISTENT AND CONTRARY TO THE MEDICAL CERTIFICATE.

(b) DISCARDING AND EXCLUDING ON (SIC) PINCHING AND BANGING OF THE HEAD OF THE VICTIM MDA [FOR] BEING NOT REFLECTED IN THE MEDICAL CERTIFICATE.

(c) DISCARDING AND IGNORING THE TESTIMONIES OF COMPLAINANT AND HIS WITNESSES FOR BEING REPLETE AND PREGNANT WITH INCONSISTENCIES AND MADE THEIR ASSERTION IMPLAUSIBLE.

(d) EXCLUDING THE SWORN STATEMENTS OF SIX (6) EYE WITNESSES TO THE INCIDENT OF JULY 26, 2008 AT 11:00 O'CLOCK IN THE MORNING IN THE HOUSE OF MANUEL DE ASIS AT BRGY. HILUSIG, MAHAPLAG, LEYTE.

(e) FAILING TO GIVE WEIGHT TO THE MEDICAL CERTIFICATE AND VITAL EVIDENCES (SIC) ON RECORDS (SIC) SUCH AS THE EXTRACT OF THE POLICE BLOTTER AND THE TESTIMONY OF WITNESS ROXAN C. POBADORA.

(f) FAILING TO FIND PROBABLE CAUSE DESPITE THE INSURMOUNTABLE EVIDENCE SHOWING THAT THE CRIME OF TRESPASSING WITH LESS SERIOUS PHYSICAL INJURY IN RELATION TO R.A. 7610 PROVING THAT THERE IS INDEED SUFFICIENT FACTS TO ENGENDER THE FILING OF THE CASE CHARGED.

(g) IGNORING THE DECISION OF THE DEPARTMENT OF EDUCATION FINDING PROBABLE CAUSE AND CONVICTED THE RESPONDENT LUCITA OCON, [WHICH DECISION WAS] SUBMITTED TO THE OFFICE OF THE SECRETARY OF JUSTICE THROUGH A MANIFESTATION FILED BY THE PETITIONER THROUGH COUNSEL.”[21]

Clearly, the main issue to be resolved in this case is whether or not the public respondent, in rendering the assailed resolutions, committed grave abuse of discretion amounting to lack or in excess of jurisdiction when it found that the evidence presented by the petitioner could not sustain a finding of probable cause to indict herein private respondents of the crimes of trespassing and violation of the anti-child abuse law.

We find the petition partly meritorious.

Preliminarily, We rule on the contention of petitioner that the public respondent gravely abused its discretion when it allegedly ignored the decision of the Department of Education finding Lucita Ocon guilty of Conduct Prejudicial to the Best Interest of the Service. Such contention cannot be sustained.

It is well to emphasize that the case before the Department of Education was a separate proceeding that was only against Lucita Ocon, she being a public school teacher. Such decision, therefore, binds only Lucita Ocon and cannot bind Lelioso and Beatriz who were not parties therein. Also, the act Lucita was found guilty of was Conduct Prejudicial to the Best Interest of Service, which centered more on her stature being a teacher, and does not adjudge her guilty of child abuse. Clearly, any finding of the Department of Education will not bind herein public respondent DOJ. The finding of probable cause for purposes of filing an information before the courts lies within the jurisdiction of the public prosecutor, at the first instance, and ultimately of the Secretary of Justice.

Be that as it may, We find that herein public respondent committed grave abuse of discretion in not finding probable cause to indict herein private respondents for violation of the Anti-Child Abuse Law (R.A. No. 7610). However, We affirm its dismissal of the charge for trespassing.

In the instant case, there is no sufficient evidence to form a reasonable ground to believe that the crime of trespass to dwelling, defined under Article 280 of the Revised Penal Code, was committed by herein private respondents. It is clear from Manuel De Asis' own Reply-Affidavit that he ushered the three private respondents into his house when they looked for his daughter. Aside, from the allegation of Manuel in his complaint that the three suddenly barged inside his house, no other evidence was presented to indeed indicate that the three private respondents entered Manuel's house against the latter's will.

Hence, the investigating prosecutor, as affirmed by the public respondent, was correct in dismissing the charge against private respondents for trespassing or trespass to dwelling.

However, the same cannot be said as regards the charge against the private respondents for violation of the Anti-Child Abuse Law.

Indeed, as a general rule, well-settled is the policy of non-interference in the prosecutor's exercise of discretion which requires the courts to leave to the prosecutor and to the DOJ the determination of what constitutes sufficient evidence to establish probable cause. As such, Courts can neither override their determination nor substitute their own judgment for that of the latter. They cannot likewise order the prosecution of the accused when the prosecutor has not found a prima facie case.[22]

But while it is the Court's general policy not to interfere in the conduct of preliminary investigations, leaving the investigating officers sufficient discretion to determine probable cause, [the Supreme Court] has nonetheless made some exceptions to the general rule, such as when the acts of the officer are without or in excess of authority, resulting from a grave abuse of discretion. Although there is no general formula or fixed rule for the determination of probable cause, since the same must be decided in the light of the conditions obtaining in given situations and its existence depends to a large degree upon the finding or opinion of the [public prosecutor] conducting the examination, such a finding should not disregard the facts before the [public prosecutor] or run counter to the clear dictates of reason.[23]

We, thus, echo the ruling of the Supreme Court in the case of *Elma v. Jacobi*[24] which decreed that to justify judicial intervention in the determination of probable cause by the prosecutor, the abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility. The Supreme Court thus held:

“xxx To justify judicial intrusion into what is fundamentally the domain of the Executive, the petitioner must clearly show that the prosecutor gravely abused his discretion amounting to lack or excess of jurisdiction in making his determination and in arriving at the conclusion he reached. This requires the petitioner to establish that the prosecutor exercised his power in an arbitrary and despotic manner by reason of passion or personal hostility; and it must be so patent and gross as to amount to an evasion or to a unilateral refusal to perform the duty enjoined or to act in contemplation of law, before judicial relief from a discretionary prosecutorial action may be obtained. xxx ”

By these standards, We find that the public respondent gravely abused its discretion in not finding probable cause despite the presence of sufficient evidence to form a reasonable ground to believe that a violation of the Anti-Child Abuse Law was committed and that the private respondents were probably guilty thereof.

An examination of the findings of the investigating prosecutor, which were affirmed by the public respondent, shows that the basis of the non-finding of probable cause was the investigating prosecutor's mere supposition on why Manuel De Asis failed to prevent the maltreatment of his own daughter despite the fact that he was there when the incident happened. The investigating prosecutor assessed the credibility of petitioner's witnesses and found them not credible considering the fact that he allegedly found inconsistencies in their affidavit.

Clearly, the investigating prosecutor took the judge's function by evaluating the admissibility and weight of the pieces of evidence presented, and this was affirmed by the public respondent.

“Probable cause” is defined as “such facts as are sufficient to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial.”[25]

Hence, it is well to stress that the determination of probable cause does not depend on the validity or merits of a party's accusation or defense or on the admissibility or veracity of testimonies presented. These things are better ventilated during trial proper than at the preliminary investigation level.[26]

The determination of probable cause needs only to rest on evidence showing that more likely than not, a crime has been committed and there is enough reason to believe that it was committed by the accused. It need not be based on clear and convincing evidence of guilt, neither on evidence establishing absolute certainty of guilt. What is merely required is “probability of guilt.” Its determination, too, does not call for the application of rules or standards of proof that a judgment of conviction requires after trial on the merits. Thus, in concluding that there is probable cause, it suffices that it is believed that the act or omission complained of constitutes the very offense charged.[27]

Clearly, in ruling that the testimonies of the petitioner's witnesses as implausible and not credible and in holding that petitioner failed to substantiate the charges against herein private respondents, public respondent DOJ disregarded the definition of probable cause – a reasonable ground to believe that the act or omission complained of constitutes the offense charged. To reiterate, it is during trial when the witnesses are presented in court that the validity or merits of a party's accusation or defense or on the admissibility or veracity of testimonies presented is assessed. Moreover, the affidavits of witnesses presented by petitioner are the very substantiation of her complaint which the prosecutor found wanting. Whether or not herein private respondents will be convicted based on the same evidence must not be a consideration in determining probable cause. It is enough that acts or omissions complained of, that is, the maltreatment of herein petitioner, constitute the crime of violation of the Anti-Child Abuse Law.

From the records of the case, it is clear that a prima facie case for violation of the Anti-Child Abuse Law was probably committed by herein private respondents. The victim herself, herein petitioner, has executed an affidavit that she was maltreated by the three private respondents. The medical certificate also shows that petitioner

incurred injuries because of the alleged maltreatment. A police blotter also was presented to show that the incident was reported to the police. Clearly, the documentary evidence presented, taken together, are enough to excite the belief, in a reasonable mind, that the herein three private respondents are probably guilty of the crime complained of and must be held for trial.

That private respondents Lelioso, Beatriz, and Lucita acted in concert in hammering the hands of MDA and in pinching her ears and banging her head is very well substantiated by the affidavit of MDA herself and her father and other witnesses. The mere fact that Manuel failed to explain clearly why he was not able to defend his own daughter should not be taken against the petitioner and be used to conclude the non-existence of probable cause. Whether the acts described in their affidavits were accurate or not will be determined during trial. Again, it is enough that these alleged acts would constitute a violation of the Anti-Child Abuse Law to constitute probable cause.

Verily, the above substantial facts and circumstances that could affect the result of the case have been overlooked by the public respondent. And, from the above disquisition, the alleged facts and circumstances of the case as narrated in petitioner's and her witnesses' affidavits make up a clear violation of Section 10 (a), Article VI of R.A. No. 7610, which states:

“Section 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and other Conditions Prejudicial to the Child’s Development. –

(a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child’s development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of prision mayor in its minimum period.

xxxx.”

In view of the foregoing, We hold that the filing of an Information against private respondents Lelioso, Beatriz, and Lucita is warranted. The dismissal of the complaint filed by herein petitioner, despite ample evidence to support a finding of probable cause, clearly constitutes grave error on the part of public respondent that warrants this Court's judicial intervention and correction.

WHEREFORE, the instant petition is partially GRANTED. The Resolutions dated May 23, 2011 and December 3, 2013 issued by Department of Justice, through the Secretary of Justice in I.S. Case No. 08-91 are hereby SET ASIDE as regards the dismissal of petitioner's Complaint for violation of R.A. No. 7610 or the Anti-Child Abuse Law against Lelioso Villafuerte, Beatriz Villafuerte, and Lucita Ocon. The dismissal of the Complaint for trespassing against the three-named private respondents is, however, AFFIRMED.

The Provincial Prosecutor of the Province of Leyte is hereby ORDERED to file the appropriate Information against Lelioso Villafuerte, Beatriz Villafuerte, and Lucita Ocon for violation of R.A. No. 7610 or the Anti-Child Abuse Law.

SO ORDERED.

Hernando, J., Chairperson, and Azcarraga-Jacob, J., concur.

[1] In consonance with *People v. Cabalquinto* (533 Phil. 703 [2006]), the real name of the victim has been withheld and a fictitious name has been used instead to protect her privacy.

- [2] Rollo, pp. 62-63.
- [3] Rollo, pp. 65-68.
- [4] Rollo, pp. 130-132.
- [5] Rollo, p. 133.
- [6] Rollo, p. 134,
- [7] Rollo, pp. 135-136.
- [8] Rollo, p. 137.
- [9] See Resolution dated January 27, 2009, Rollo, pp. 138-140.
- [10] Ibid.
- [11] Id.
- [12] Id. at p. 140.
- [13] Rollo, pp. 73-83.
- [14] Rollo, p. 71.
- [15] Rollo, p. 63.
- [16] Rollo, pp. 84-97.
- [17] Supra, note 3.
- [18] Rollo, pp. 98-100 and Rollo, pp. 112-113.
- [19] Rollo, pp. 115-118.
- [20] See Manifestation dated June 18, 2013, Rollo, pp. 119-120.
- [21] Rollo, pp. 21-23.
- [22] Unilever Philippines Inc. v. Tan, G.R. No. 179367, January 29, 2014.
- [23] Spouses Balangauan v. Hon. Court of Appeals, G.R. No. 174350, August 13, 2008.
- [24] G.R. No. 155996, June 27, 2012.
- [25] Navarra v. Office of the Ombudsman, G.R. No. 176291, December 4, 2009, citing Vide Rules of Court, Rule 112, Section 1.
- [26] Andres v. Hon. Cuevas, G.R. No. 150869, June 9, 2005.
- [27] Supra, note 22.

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