

CONSTANTE PIMENTEL, PETITIONER. REQUEST FOR THE DESIGNA-TION OF ANOTHER JUDGE TO HEAR THE MOTION FOR RECONSIDERATION AND/OR PETITION FOR RELIEF FROM THE DECISION RENDERED IN CR...

A.M. No. 2128-JC. August 31, 1978

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

On June 24, 1975, a vehicular accident took place in Candon Ilocos Sur, involving a jeep driven by Rizal Tilan, and a passenger bus, operated by Ruben de la Cruz, which resulted in the death of Kin Sang Lim and physical injuries upon Natividad Que Lim, both passengers of the jeep. As a consequence thereof, Ruben de la Cruz was prosecuted for the crime of Homicide with Serious Physical Injuries and Damage to Property thru Reckless Imprudence.[1] After appropriate proceedings, Ruben de la Cruz was acquitted of the charges.

On November 25, 1977, the private prosecutor, petitioner herein, filed a notice of appeal from the decision insofar as the civil liability of the accused is concerned, but which he withdrew on December 5, 1977.[2]

On January 9, 1978, the private prosecutor, in contemplation of the filing of a motion for the reconsideration of the decision rendered in the case upon the ground that one of the exhibits presented therein had been falsified, and in lieu of filing a motion to disqualify the judge, which procedure he considered cumbersome, requested the Court to designate another judge or to order the return of Judge Alfredo Lazaro to Branch IV, to hear and resolve the motion for reconsideration for the reason that the incumbent Judge Daniel C. Macaraeg had induced and encouraged the falsification complained of.

On January 13, 1978, the private prosecutor filed the proposed motion for reconsideration based upon the ground that the English translation (Exh. K-1) of the custodial declaration of Rizal Tilan (Exh. K) had been falsified in that there had been added the phrase "beside the jeep" between the words "following" and "bumped" (Line 24 of said exhibit) which materially changed the real meaning of the affidavit of Rizal Tilan and setting at naught all the testimonial and documentary evidence presented, and prayed that the judgment be set aside insofar as the civil liability of the accused is concerned and enter another condemning the said accused to pay the damages incurred by the offended party.[3]

The procedure prescribed for the disqualification of judges (Rule 137) must be substantially followed. Objection to the competency of the judge should be filed with him in writing, and the judge shall determine his qualification.[4] The mere allegation in an unverified letter that Judge Daniel C. Macaraeg had committed an act of falsification is not sufficient for this Court to designate another judge to hear the petitioner's motion for reconsideration and/or petition for relief from judgment.

For the same reason, the Court cannot give due course to the complaint for falsification or misconduct against Judge Macaraeg. Besides, the petitioner stated that "the complaining witness and surviving spouse of the deceased

is presently preparing the corresponding charge of falsification and administrative case against the judge as well as the court interpreter which may be filed before the end of the week,"[5] which indicates that his letter should not be considered as an administrative complaint.

WHEREFORE, the request should be, as it is hereby, DENIED.

Santos, J., concur.

Barredo, J., concurs in that the motion should be denied by Us because it should first be addressed to the respondent judge.

Fernando, (Chairman), Antonio, JJ., in the result.

Aquino, J., no part.

[1] Criminal Case No. 310-C of the Court of First Instance of Ilocos Sur, Branch IV.

[2] Rollo, p. 104.

[3] Rollo, p. 106.

[4] Moran, Rules of Court, Vol 6, p. 198, citing Joaquin vs. Barretto, 25 Phil. 281 and Government of P.E. vs. Heirs of Abella, 49 Phil. 374.

[5] Rollo, p. 3.

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