

THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. LOURDES P. SAN DIEGO, AS PRESIDING JUDGE OF BRANCH II OF THE COURT OF FIRST INSTANCE OF RIZAL (QUEZON CITY BRANCH); MARIO HEN...

G.R. No. L-29676. December 24, 1968

Ponente: CAPISTRANO, J.

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CAPISTRANO, J.:

In criminal case No. Q-8711, Court of First Instance of Rizal, Quezon City Branch, the information charged the defendants, Mario Henson, Rafael Gonzales, Angel Mendoza, Rogelio Lazaro and Bienvenido Wijangco, as principals of the murder of Jesus Lapid with the qualifying circumstances of treachery, evident premeditation, and abuse of superior strength and with the aggravating circumstances of nocturnity, aid of armed men and craft or fraud. The prosecution and the defense agreed that the motions for bail of the defendants would be considered in the course of the regular trial instead of in a summary proceeding. In the course of the regular trial, after the prosecution had presented eight witnesses, the trial court resolved the motions for bail granting the same despite the objection of the prosecution on the ground that it still had material witnesses to present. The orders granting bail in the amount of P50,000.00 for each defendant on the ground that the evidence of guilt was not strong must have made Fiscal Oscar Inocentes very angry because in his motion for reconsideration of the orders granting bail he used contumacious language for which he was forthwith cited for contempt. Fortunately, after the Fiscal had submitted his answer and explanation, the trial judge, in a forgiving mood, did not punish him for contempt on condition that the contumacious words be deleted from his motion for reconsideration.

The question presented before us is, whether the prosecution was deprived of procedural due process. The answer is in the affirmative. We are of the considered opinion that whether the motion for bail of a defendant who is in custody for a capital offense be resolved in a summary proceeding or in the course of a regular trial, the prosecution must be given an opportunity to present, within a reasonable time, all the evidence that it may desire to introduce before the court should resolve the motion for bail. If, as in the criminal case involved in the instant special civil action, the prosecution should be denied such an opportunity, there would be a violation of procedural due process, and the order of the court granting bail should be considered void on that ground. The orders complained of dated October 7, 9 and 12, 1968, having been issued in violation of procedural due process, must be considered null and void.

The court's discretion to grant bail in capital offenses must be exercised in the light of a summary of the evidence presented by the prosecution; otherwise, it would be uncontrolled and might be capricious or whimsical. Hence, the court's order granting or refusing bail must contain a summary of the evidence for the prosecution followed by its conclusion whether or not the evidence of guilt is strong. The orders of October 7, 9 and 12, 1968, granting bail to the five defendants are defective in form and substance because they do not contain a summary of the evidence presented by the prosecution. They only contain the court's conclusion that the evidence of guilt is not strong. Being thus defective in form and substance, the orders complained of cannot, also on this ground, be

allowed to stand.

PREMISES CONSIDERED, the orders of October 7, 9 and 12, 1968, are set aside. No costs.

Certiorari granted.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, and Teehankee, JJ., concur.

Barredo, J., took no part.

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