

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. EDUARDO MONTENEGRO, PRESIDING JUDGE, BRANCH IV-B, CFI-RIZAL, QUEZON CITY; ANTONIO CIMARRA, ULPIANO VILLAR, BAYANI CATINDIG, AND A...

G.R. No. L-45772. March 25, 1988

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for certiorari with preliminary injunction and/or restraining order, to set aside the order of the respondent court, dated 10 February 1977, denying petitioner's Motion to Admit Amended Information and the order, dated 22 February 1977, of the same court, denying the Motion for Reconsideration of said earlier order.

On 21 March 1977, the Court issued a temporary restraining order enjoining respondent court from proceeding to hear and decide the case until further orders from the Court.

The facts of the case are as follows:

On 20 September 1976, the City Fiscal of Quezon City, thru Assistant Fiscal Virginia G. Valdez, filed an Information for "Robbery" before the Court of First Instance of Rizal, Branch IV-B, Quezon City, docketed as Criminal Case No. Q-6821, against Antonio Cimarra, Ulpiano Villar, Bayani Catindig and Avelino de Leon. Said accused (now private respondents) were all members of the police force of Quezon City and were charged as accessories-after-the-fact in the robbery committed by the minor Ricardo Cabaloza, who had already pleaded guilty and had been convicted in Criminal Case No. QF-76-051 before the Juvenile and Domestic Relations Court of Quezon City. Ricardo Cabaloza was convicted for the robbery of the same items, articles and jewelries belonging to Ding Velayo, Inc. valued at P75,591.40 and enumerated in the original information[1] against herein private respondents as:

One (1) Arminius revolver, cal. 22 with six ammo SN-165928

One (1) gold men's ring 'signet'

Five (5) ID plates yellow gold

Four (4) ID plates yellow gold

Six (6) bracelets lock yellow gold

One (1) anniversary pendant yellow gold

Three (3) heart shape with assorted birthstones

One (1) lady's (ring) white gold setting

One (1) white gold ring mounting 18 karats

One (1) white gold ring mounting 18 karats

One (1) yellow gold stud

One (1) lady's white gold ring setting

One (1) white gold ring mounting

One (1) pc. white gold earring mounting

Twelve (12) pcs. of semi-precious stone bands with one broken

Two (2) Ivory bracelets

One (1) Silver bracelet

One (1) yellow ring gold with blue stone

Two (2) wedding gold rings yellow

One (1) Minolta pocket size camera

One (1) pink handbag

One (1) bunch keys

Upon arraignment on 25 October 1976, all of the accused (now private respondents) entered a plea of "not guilty" to the charge filed against them. Accordingly, trial on the merits was scheduled by the respondent court. However, before the trial could proceed, the prosecuting fiscal filed a Motion to Admit Amended Information, dated 28 December 1976, seeking to amend the original information by: (1) changing the offense charged from "Robbery" to "Robbery in an Uninhabited Place", (2) alleging conspiracy among all the accused, and (3) deleting all items, articles and jewelries alleged to have been stolen in the original Information and substituting them with a different set of items valued at P71,336.80[2] to wit:

Four (4) pcs. of I.D. Plates

14 Karat yellow gold P 24.00 each

Thirteen (13) pcs. of I.D.

Plates KYG P 26.40 each

Five (5) pcs. of anniversary

Pendant 14 KYG P 17.00 each

Three (3) pcs. of pendant w/

birthstones 14 KYG P 16.00 each

Two (2) pcs. of Signet plain

14 Karat yellow gold rings P 204.00 each

Four (4) pcs. of lady's bracelet

14 KYG oval shape P 30.00 each

Four (4) pcs. of necklace 14 KYG P 140.00 each

One (1) set of ring & earrings mounting

w/ 23 brills 14 KWG

Two (2) pcs. of ladies I.D.

bracelet 14 KYG P 120.00 each

Nine (9) pcs. of diamond design
earring 14 KYG P 32.00 each

Five (5) pcs. of Sput-nik cross
4 KYG P 99.00 each

One (1) pc. of ladies ring
mounting 14 KYG P 290.00

One (1) pc. of lady's sole diamond

ring, about .40ct w/ yellow gold ring
mounting, and one pair of earrings
white gold solo diamond about .25ct
w/ black onyx P 2,000.00

One (1) pc. lady's bracelet 14 KYG P 1,500.00

One (1) pc. chain 24KYG necklace
w/small diamond P 1,500.00

One (1) pc. Lapiz Lazuli ring 14 KYG P 1,000.00

One (1) pc. Lapiz Lazuli 18 KYG P 1,000.00

One (1) pc. lady's ring w/ 2 Jade
stone, white gold w/ small diamonds
and one pc. lady's ring white gold,
14 K w/ 2 small diamonds w/ one Jade P 2,000.00

Six (6) pcs. of fancy chains and bracelets. P 40.00 each

One (1) pair of yellow gold earrings w/ pearl for children P 70.00

One (1) pc. yellow gold ring w/blue sapphire for children P 150.00

One (1) brown envelope, containing

2 pairs of 1/g loop earrings, 14 karat P 780.00

Cash money (inside the said envelope) P 555.00

One (1) pc. silver bracelet P 50.00

One (1) pc. bronze bracelet P 30.00

One (1) pc. ring blue stone YG P 250.00

One (1) pc. Lapiz Lazuli band P 100.00

One (1) pc. Coral band P 30.00

One (1) pc. ring w/ diamond stone,

14 KWG mounting P 250.00

Two (2) pcs. of 14 YG part bracelet

P 200.00

Three (3) pcs. of men's ring 14 KYG P 1,500.00

One (1) pc. pendant 14 KYG P 2,000.00

One (1) pc. loose diamond about

4.50 karats antigo P27,000.00

One (1) pc. loose diamond about

2.05 carats each antigo cut P20,000.00

One (1) pc. Cannon camera w/black case P 1,200.00

One (1) pc. Yashika camera w/lens cover P 1,300.00

One (1) PC. Cannon camera w/black case P 1,100.00

Private respondents opposed the admission of the Amended Information. The respondent court resolved to deny the proposed amendments contained in the Amended Information in the previously referred to order dated 10 February 1977. Petitioner moved for reconsideration of the aforesaid order but the respondent court, on 22 February 1977, denied said motion; hence, this petition.

Amendment of an information under Sec. 14, Rule 110 of the 1985 Rules on Criminal Procedure (formerly, Section 13, Rule 110 of the old Rules on Criminal Procedure) may be made at any time before the accused enters a plea to the charge. Thereafter and during the trial, amendments to the information may also be allowed, as to matters of form, provided that no prejudice is caused to the rights of the accused. The test as to when the rights of an accused are prejudiced by the amendment of a complaint or information is when a defense under the complaint or information, as it originally stood, would no longer be available after the amendment is made, and when any evidence the accused might have, would be inapplicable to the complaint or information as amended[3].

On the other hand, an amendment which merely states with additional precision something which is already contained in the original information, and which, therefore, adds nothing essential for conviction for the crime charged is an amendment to form that can be made at anytime[4].

The proposed amendments in the amended information, in the instant case, are clearly substantial and have the effect of changing the crime charged from "Robbery" punishable under Article 209 to "Robbery in an Uninhabited Place" punishable under Art. 302 of the Revised Penal Code, thereby exposing the private respondents-accused to a higher penalty as compared to the penalty imposable for the offense charged in the original information to which the accused had already entered a plea of "not guilty" during their arraignment.

Moreover, the change in the items, articles and jewelries allegedly stolen into entirely different articles from those originally complained of, affects the essence of the imputed crime, and would deprive the accused of the opportunity to meet all the allegations in the amended information, in the preparation of their defenses to the charge filed against them. It will be observed that private respondents were accused as accessories-after-the-fact of the minor Ricardo Cabaloza who had already been convicted of robbery of the items listed in the original information. To charge them now as accessories-after-the-fact for a crime different from that committed by the principal, would be manifestly incongruous as to be allowed by the Court.

The allegation of conspiracy among all the private respondents-accused, which was not previously included in the original information, is likewise a substantial amendment saddling the respondents with the need of a new defense in order to meet a different situation in the trial court. In *People v. Zulueta*[5], it was held that:

"Surely the preparations made by herein accused to face the original charges will have to be radically modified to meet the new situation. For undoubtedly the allegation of conspiracy enables the prosecution to attribute and

ascribe to the accused Zulueta all the acts, knowledge, admissions and even omissions of his co-conspirator Angel Llanes in furtherance of the conspiracy. The amendment thereby widens the battlefield to allow the use by the prosecution of newly discovered weapons, to the evident discomfiture of the opposite camp. Thus it would seem inequitable to sanction the tactical movement at this stage of the controversy, bearing in mind that the accused is only guaranteed two-days' preparation for trial. Needless to emphasize, as in criminal cases, the liberty, even the life, of the accused is at stake, it is always wise and proper that he be fully apprised of the charges, to avoid any possible surprise that may lead to injustice. The prosecution has too many facilities to covet the added advantage of meeting unprepared adversaries".

To allow at this stage the proposed amendment alleging conspiracy among all the accused, will make all of the latter liable not only for their own individual transgressions or acts but also for the acts of their co-conspirators.

WHEREFORE, the petition is DISMISSED. The orders of the respondent court, dated 10 February 1977 and 22 February 1977 are AFFIRMED. The temporary restraining order issued on 21 March 1977 is LIFTED.

This decision is immediately executory.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Paras, and Sarmiento, JJ., concur.

[1] Rollo, p. 14

[2] Amended Information, Rollo, p. 17

[3] Sec. 2 CJS, Sec. 240, pp. 1249-1250

[4] U.S. vs. Alabot, 38 Phil 698

[5] 89 Phil. 755

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