

RHEA COROZA DALDE-OBRA, PETITIONER, VS. HON. LEILA DE LIMA, IN HER OFFICIAL CAPACITY AS THE SECRETARY OF THE DEPARTMENT OF JUSTICE, PNP-NCRPO-HSDP-DIDM AND VINSON CHUA, RESPONDE...

Ponente: BRUSELAS, JR. J.

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BRUSELAS, JR. J.:

In this Rule 65 certiorari petition, the petitioner seeks to set aside the resolutions of 21 June 2013[1] and 30 October 2014[2] both issued by the public respondent Secretary of the Department of Justice. The petitioner contends that the finding of the public respondent was gravely erroneous and marred with grave abuse of discretion as there was actually no evidence on record that could determine probable cause for the crimes of murder and frustrated murder against her. She further contends that the public respondent grossly overlooked and failed to apply the 'totality of circumstances test' when heavy reliance was placed on the statement of the security guard purportedly identifying her as the author of the crime. She claims that the security guard's statement was seriously doubtful, dubious and undeserving of any credence thus negating the existence of probable cause that she committed the crime charged against her.

The petition, however, bears two noted deficiencies. First, no Affidavit of Service was attached which is in violation of Section 13, Rule 13 of the Rules of Court. Second, the petitioner's counsel failed to indicate the dates of issuance of his IBP and PTR serial numbers. We also note that the MCLE compliance serial number does not appear to be in conformity with the fourth compliance period.

Even if we turn a blind eye to the noted deficiencies, the petition should be outrightly dismissed. The determination of probable cause for purposes of filing of information in court is essentially an executive function that is lodged, at the first instance, with the public prosecutor and, ultimately, with the Secretary of Justice.[3] The prosecutor and the Secretary of Justice have wide latitude of discretion in the conduct of preliminary investigation;[4] and their findings with respect to the existence or non-existence of probable cause are generally not subject to review by the Court.

Consistent with this rule, the settled policy of non-interference in the prosecutor's exercise of discretion requires the courts to leave to the prosecutor and to the Secretary of Justice the determination of what constitutes sufficient evidence to establish probable cause.[5] 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.[6]

To justify judicial intrusion into what is fundamentally the domain of the Executive, the petitioner must clearly show that the prosecutor and the Secretary of Justice gravely abused their discretion amounting to lack or excess of jurisdiction in making their determination and in arriving at the conclusion that they reached.

An examination of the resolutions issued by Associate Prosecution Attorney II Gerard E. Gaerlan as approved by Prosecutor General Claro A. Arellano[7] and of the Secretary of Justice[8] shows that the finding of probable

cause was anchored on the sufficiency of evidence to establish the petitioner's direct, personal and actual participation in the offense charged. As the prosecutor found, and affirmed by the Secretary of Justice, the complainants were able to establish positive identification of the petitioner by witness security guard Reynaldo T. Busalanan. The witness was able to identify the petitioner through her physical appearance and familiarity of her voice when she was heard saying, "Paabot itong regalo kay Yvonne Chua galing ito sa Mama niya", and "Alam niya na yan" while she was handling over the gift box to the witness Busalanan.

To our mind, the witnesses' affidavits, the follow-up investigation by the police, named Task Group "Mahogany", and other pieces of evidence are sufficient to form a reasonable ground to believe that the crime of murder and frustrated murder were committed and that the petitioner was probably its author.

A preliminary investigation is not the occasion for the full and exhaustive display of complainant's evidence. The presence or absence of the elements of the crime is evidentiary in nature and is a matter of defense that may be passed upon after a full-blown trial on the merits. In fine, the validity and merits of a party's defense or accusation, as well as the admissibility of testimonies and evidence, are better ventilated during the trial proper rather than at the preliminary investigation level.[9]

The term probable cause does not mean "actual or positive cause" nor does it import absolute certainty. It is merely based on opinion and reasonable belief. Thus, a finding of probable cause does not require an inquiry into whether there is sufficient evidence to procure a conviction. It is enough that it is believed that the act or omission complained of constitutes the offense charged.[10]

Contrary to petitioner's claim, there is no showing that the respondent Secretary of Justice gravely abused her discretion when she affirmed the findings of the prosecutor. Besides, the petitioner still has other remedy which is to file a motion to quash the information. Thus, the instant petition is prematurely resorted to since it does not appear that petitioner had no other plain, speedy and adequate remedy in the ordinary course of law.

WHEREFORE, the petition is DISMISSED OUTRIGHT.

IT IS SO ORDERED.

Bueser and [*]Paredes, JJ., concur.

[*]Acting Junior Member per Office Order No. 55-15-ABR dated 2/23/15.

[1] Rollo, p. 122.

[2] Rollo, p. 134.

[3] Baron A. Villanueva, et al. vs. Edna R. Caparas, GR No. 190969, 30 January 2013, 689 SCRA 679.

[4] Callo-Claridad vs. Esteban, GR No. 191567, 20 March 2013, 694 SCRA 185.

[5] Id.

[6] Elma vs. Jacobi, GR No. 155996, 27 June 2012, 675 SCRA 20.

[7] Dated 11 July 2011, rollo, p. 88

[8] Dated 21 June 2013, supra note 1.

[9] Lee vs. KBC Bank N.V., GR No. 164673, 15 January 2010, 610 SCRA 117.

[10] Unilever Philippines, Inc. vs. Tan, GR No. 179367, 29 January 2014.

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