

ROGELIO L. SULE, COMPLAINANT, VS. JUDGE JONATHAN S. BITENG, MUNICIPAL TRIAL COURT, CANDON, ILOCOS SUR, RESPONDENT.

A.M. No. MTJ-95-1018. April 18, 1995

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In a sworn letter-complaint dated 13 June 1994, the complainant, who is the father of the victim in a murder case filed for preliminary investigation with the Municipal Trial Court (MTC) of Candon, Ilocos Sur, and docketed therein as Criminal Case No. 2751 (entitled *People of the Philippines vs. June Villalobos alias "Pacoy" and Jonnel Valdez alias "Buong"*), charged the respondent, who is the presiding judge of the said court, with gross ignorance of law.

The complainant avers that on 13 August 1993, the respondent granted with indecent haste the petition for bail of accused Villalobos and fixed the amount of bail at P50,000.00 without affording the prosecution an opportunity to be heard and despite his previous order of 3 August 1993 finding that both accused probably committed the crime of murder and recommending that no bail be granted because the evidence of their guilt was strong. Part of the said order reads:

After the preliminary investigation conducted by means of soul-searching questions, this court is of the belief that both accused probably committed the crime of Murder with the aggravating circumstances of nighttime, treachery and evident premeditation under Article 248 of the Revised Penal Code.

x x x Considering that evidence of guilt is strong and that the offense committed by accused is a capital offense, this Court recommends NO BAIL Order temporarily.

The respondent filed on 18 August 1994 his comment wherein he explicitly admits that he granted bail to accused Jose R. Villalobos in the amount of P50,000.00 without affording the prosecution an opportunity to be heard but alleges that he did so because "accused Jose R. Villalobos spontaneously voluntarily surrendered to the authorities as soon as he was informed that he was one of the suspect [sic] in the killing of the late Elmer Sule."

In his defense, he alleges that the records of Criminal Case No. 2751 had already been forwarded by his court to the Provincial Prosecutor of Ilocos Sur; that on 14 February 1994 the latter filed an information for murder against accused Villalobos and Valdez with Branch 23 of the Regional Trial Court of Ilocos Sur (Candon), which docketed the case as Criminal Case No. 1431--C; and that the Provincial Prosecutor's motion of 21 June 1994 to Cancel Bailbond and/or Declare the Order of the Municipal Trial Court Judge Granting the Same Void is still pending in the RTC.

He further contends that Villalobos' voluntary surrender is a mitigating circumstance and because of it he strongly believes that Villalobos will not flee or jump bail, and would be willing to submit himself to judicial process. He then concludes that the objection of the Provincial Prosecutor to the petition for bail would not have deterred him from granting it; thus, notice to the Provincial Prosecutor would have served no purpose. Moreover, no

miscarriage of justice was done as a result of the grant of bail because Villalobos always attended the proceedings in Criminal Case No. 1431-C, and if such miscarriage had so resulted, he would consider himself unfit to hold on to his position and would have no other recourse than to resign.

In their separate manifestations submitted in compliance with the resolution of 30 January 1994, the parties agreed to have this case decided on the merits on the basis of the pleadings they have filed.

The records disclose that the information in Criminal Case No. 2751 was filed with the respondent court on 30 July 1993. On 3 August 1993, the respondent issued the order[1] earlier adverted to holding that after a preliminary investigation conducted by means of soul-searching questions, he finds that both accused probably committed the crime of murder with the aggravating circumstances of nighttime, treachery, and evident premeditation under Article 248 of the Revised Penal Code and considering that the evidence of guilt against them is strong, recommending that no bail be granted to them.

On 13 August 1993, accused Jose R. Villalobos filed through counsel a petition for bail.[2] The petition did not contain any notice of hearing to the prosecution. On the same date, the respondent issued the following order granting the petition:

Before this Court is a PETITION FOR BAIL for Jose R. Villalobos only, as the accused Jonnel Valdez is still at large and has not yet been placed under the custody of the authorities. It appears in the records that accused Jose R. Villalobos voluntarily surrendered to the Candon, PNP Command, Candon, Ilocos Sur after the crime was committed. The actuations of the accused provide a ground to believe that if granted bail he will be submitting himself to court proceedings.

WHEREFORE, Jose R. Villalobos is hereby granted bail in the amount of FIFTY THOUSAND (P50,000.00) Pesos.

SO ORDERED.[3]

In its Memorandum of 27 December 1994, the Office of the Court Administrator makes the following findings and recommendation:

Records show that respondent Judge admitted that he granted the Petition for Bail filed by the accused charged with the crime of murder without affording the prosecution an opportunity to be heard. For denying the prosecution said opportunity, there was a violation of procedural due process and the order of the Court granting bail should be considered void on that ground (*People vs. Calo, Jr.*, G.R. 88531, June 18, 1990, En Banc, Bidin, J.). 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 could 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 (*Carpio vs. Judge Maglalang*, G.R. 78162, April 19, 1981, En Banc, Fernan, C.J.).

Per his service record, Judge Biteng is due for compulsory retirement on October 2001 and was appointed as MTC Judge on October 9, 1991.

x x x

PREMISES CONSIDERED, it is respectfully recommended that Judge Jonathan S. Biteng, MTC, Candon, Ilocos Sur, be DIRECTED to pay a fine of Five Thousand Pesos (P5,000.00) for issuing an order granting the Petition for Bail without giving the prosecution an opportunity to be heard, with a stern warning that commission of similar offense in the future will be dealt with more severely.

With his open admission that he granted bail to the accused without giving the prosecution any opportunity to be heard, the respondent deliberately disregarded decisions of this Court holding that such act amounts to a denial of due process,[4] and made himself administratively liable for gross ignorance of the law for which appropriate sanctions may be imposed. In *Libarios vs. Dabalos*,[5] we said:

It has been an established legal principle or rule that in cases where a person is accused of a capital offense, the trial court must conduct a hearing in a summary proceeding, to allow the prosecution an opportunity to present, within a reasonable time, all evidence it may desire to produce to prove that the evidence of guilt against the accused is strong, before resolving the issue of bail for the temporary release of the accused. Failure to conduct a hearing before fixing bail in the instant case amounted to a violation of due process. Irrespective of respondent judge's opinion that the evidence of guilt against herein accused is not strong, the law and settled jurisprudence demanded that a hearing be conducted before bail was fixed for the temporary release of accused Calo, Jr. and Allocod, if bail was at all justified. Respondent judge's disregard of an established rule of law by depriving the prosecution of the opportunity to prove that the evidence of guilt against the accused was strong, amounted to gross ignorance of the law, which is subject to disciplinary action. (Citation omitted)

The respondent's ignorance of the law in this case was compounded when he acted on the petition for bail on the very day it was filed although he knew that the petition was a mere scrap of paper since it contained no notice of hearing to the prosecution;[6] when he granted the petition for bail without any further evidence at all, forgetting, as if he had suddenly suffered amnesia, that a few days earlier he had found "after a preliminary investigation conducted by means of soul-searching questions," that "evidence of guilt is strong" against both accused for the crime of murder; and when he considered voluntary surrender as the sole basis for the admission to bail.

Clearly, when he abandoned with no new fact to lean on a judgment he had formed on the basis of evidence before him and after "soul-searching questions," the respondent judge not only acted whimsically and capriciously, he also exhibited some degree of incompetence which became apparent when he granted bail solely on account of the voluntary surrender of accused Villalobos. There is yet to be a law or jurisprudence to support this novel and strange proposition. Voluntary surrender as a mitigating circumstance can only be considered for the purpose of decreasing the penalty in conformity with the rules prescribed in Article 62 of the Revised Penal Code or in the application of penalties pursuant to Articles 63, 64, and 65 of the said Code, but not in determining whether an accused charged with a capital offense should be granted bail.

Section 13, Article III of the Constitution provides that "[a]ll persons, except those charged with offenses punishable with reclusion perpetua when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law." What is to be considered is prima facie evidence, not the penalty that may be imposed taking into account modifying circumstances. Even if he were correct in appreciating the mitigating circumstance, the respondent could not have reached a similar conclusion because he had earlier ruled that the commission of the crime was attended by the "aggravating circumstance of nighttime, treachery, and evident premeditation," circumstances which the complaint characterizes as qualifying circumstances. With voluntary surrender offsetting one of them, the penalty to be imposed would still be reclusion perpetua.[7]

We also find completely unacceptable the respondent's explanation that notice to the prosecutor would have been an idle ceremony because in view of the voluntary surrender of accused Villalobos, he was already predisposed to grant the petition for bail. This aggravates his unfamiliarity with the constitutional mandate and the substantive and the procedural principles involved in the grant of bail in cases involving capital offenses.

WHEREFORE, for gross ignorance of law and incompetence, respondent JUDGE JONATHAN S. BITENG is

hereby ordered to pay a FINE of TWENTY THOUSAND PESOS (P20,000.00) and WARNED that the commission of the same or similar acts in the future shall be dealt with more severely.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Regalado, Romero, Bellosillo, Melo, Quiason, Puno, Vitug, Kapunan, Mendoza, and Francisco, JJ., concur.

[1] Annex "F" of letter-complaint.

[2] Annex "D" of letter-complaint.

[3] Annex "D-1," Id.

[4] People vs. San Diego, 26 SCRA 522 [1968]; People vs. Bocar, 27 SCRA 512 [1969]; Mendoza vs. CFI of Quezon, 51 SCRA 369 [1973]; People vs. Sola, 103 SCRA 393 [1981]; People vs. Dacudao, 170 SCRA 489 [1989]; People vs. Calo, 186 SCRA 620 [1990]; Carpio vs. Maglalang, 196 SCRA 41 [1991]; Libarios vs. Dabalos, 199 SCRA 48 [1991]; People vs. Nano, 205 SCRA 155 [1992]; Pico vs. Combong, 215 SCRA 421 [1992]; Medina vs. De Guia, 219 SCRA 153 [1993]; Borinaga vs. Tamin, 226 SCRA 206 [1993].

[5] Supra note 4. See also Aurillo vs. Francisco, 235 SCRA 283 [1994].

[6] Bank of the Philippine Islands vs. Far East Molasses Corp., 198 SCRA 689 [1991], citing cases.

[7] It should have been the death penalty if its imposition were not then prohibited by the Constitution. See People vs. Muñoz, 170 SCRA 107 [1989]; People vs. Sadia, 203 SCRA 62 [1991]; People vs. Rostata, 218 SCRA 657 [1993].

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