

THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. DIOSDADO DE ATRAS ALIAS “DADING”; PAT. ARROSTRE CALLANGA ALIAS “OESTE”; PAT. MACARIO GOROSPE ALIAS “MAC”; PAT. FAUS-TINO VALEROSO ...

G.R. No. L-27267. May 29, 1969

Ponente: DIZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/e078040ca9c7/>

DIZON, J.:

Original petition for certiorari with a prayer for the issuance of a writ of preliminary injunction filed by the People of the Philippines against the Honorable Jorge R. Coquia, in his capacity as Presiding Judge of the Court of First Instance of Mindoro (Mamburao) and the other respondents Diosdado de Atras, Arrostre Callanga, Macario Go-rospe, Faustino Valeroso, Jose Encarnacion, Rodolfo Bernar-do, and three others of unknown identity, praying that, after proper proceedings, the respondent judge be ordered to dis-charge Rodolfo Bernardo, one of several defendants in Cri-minal Case No. R-837, for murder, of the abovenamed court, so that he may testify therein as a state witness.

It appears that on June 1, 1966 an information for murder was filed in the abovementioned court against Atras, Callanga, Gorospe, Valeroso, Encarnacion and Rodolfo Ber-nardo (Criminal Case No. 837). On June 14 of the same year, the State opposed the motion for bail filed by the defendants and presented in support of its opposition the testimony of several witnesses, amongst them Judge Leandro Reyes of the Municipal Court of San Jose, Occiden-tal Mindoro, Dr. Ricardo Pascasio, Luciano Omus, Antonio Collantes and Salvador Tambagahan. It was understood in this connection that such evidence was to be considered as already presented for the purpose of the trial on the merits.

On September 12, 1966 the prosecution filed a motion for the discharge of defendant Rodolfo Bernardo so that he may be used as a state witness, alleging as reason therefor that his testimony was absolutely necessary to prove con-spiracy and that said defendant had expressed his willing-ness to be a state witness if so discharged.

On November 14, 1966, before the resumption of the trial on the merits, the respondent judge issued an order holding "in abeyance its ruling (upon the motion to dis-charge Bernardo) until it is satisfied with the conditions set forth by the law as seen from the evidence of the prosecution". Thereafter and after prosecution witness Sal-vador Tambagahan had been cross-examined, the prosecution presented its last witness in the person of Mrs. Guillerma Ortiz Vda. de Cruz whose testimony is, as alleged at pp. 3 and 4 of the petition under consideration, substantially as follows:

"That she was sleeping in her little house inside the Iglesia Ni Cristo compound on December 19, 1966 with her husband and children. Their house has only a sala where the family slept together under a big mosquito net; that at about 1 to 1:30 in the morning of December 20, 1963 she was awakened when a person woke her husband who was sleeping beside her. And then the person who woke her husband fired a gun hitting her husband who later died in a hospital. She iden-tified the triggerman as Diosdado de Atras, one of the accused

in this case, and also identified two persons, namely, Arrostre Callanga and Macario Gorospe, who were standing beside the trigger-man holding short guns at the time of the shoot-ing. These two persons are also accused in this case (p. 4, 5-58, T.S.N. Dec. 16, 1966;"

Before Mrs. Cruz could be examined, petitioner re-requested the court to make a final ruling on its motion to discharge defendant Bernardo. As a result, on December 19, 1966, the respondent judge issued the resolution complained of denying the motion aforesaid, stating therein, among other things, the following:

"This morning, counsel for the prosecution requested for a ruling on the said motion to discharge and upon manifesting to the Court that their last witness to be presented for the prosecution is Mrs. Guillerma Ortiz Vda. de Cruz, who is still on the witness stand under cross-examination and the other witness to be presented is Rodolfo Bernardo in case he is discharged from the information this Court hereby resolves the said motion to discharge.

"After going over the records, this Court finds that the said motion is without merit under Sec. 9, Rule 119 of the Rules of Court. It has been ruled in this connection that the discharge of a defendant to be utilized as a witness for the prosecution, should be availed of only if there is absolute necessity for the testimony of the accused whose discharge is re-requested or the accused is the only one who has knowledge of the crime and not when his testimony would simply corroborate or otherwise strengthen the evidence in the hands of the prosecution. (People vs. Ibanez, 92 Phil 933; People vs. Borja, G. R. No. L-14327, January 30, 1960) Furthermore, one of the requirements for the discharge of the defendant under Sec. 9, Rule 119 of the Rules of Court is that there is no other direct evidence of the prosecution for the offense committed except the testimony of the defendant. Such is not the situation in the case at bar."

x x x x x x x x x x

"The records show that there were three witnesses so far presented by the prosecution who allegedly saw the shooting incident and identified the accused. These witnesses are Luciano Omus, Salvador Tambagahan and Guillerma Vda. de Cruz, the last being the widow. Furthermore, the purpose of utilizing said Rodolfo Bernardo is to prove conspiracy of the accused.

"It is the rule that all the conditions set forth in the aforesaid rule (Sec. 9, Rule 119) must be complied with. For the law seeks to regulate the manner of enforcement of the regulations in the sound discretion of the court. (U. S. vs. Abanzado, 37 Phil. 658; Guiao vs. Figueroa, 94 Phil. 1018). The discharge of an accused that he may turn state witness is expressly left to the discretion of the court. The court has the exclusive responsibility to see that conditions prescribed by the rule exist. (People vs. Ibañez, supra). The grant of discretion in cases of this kind under this provision was not a grant of arbitrary discretion to be exercised with due regard to the correct administration of justice. (U. S. vs. Abanza-do, 37 Phil: 658)."

It appearing that at the time the motion to discharge Bernardo was filed three prosecution witnesses, namely, Luciano Omus, Salvador Tambagahan and Guillerma Vda. de Cruz, had already testified to the effect, inter alia, that they saw the shooting incident and had actually identified the defendants, it seems obvious that there is no absolute necessity for the testimony of Bernardo in order to prove the commission of the offense by the defendants nor even to prove conspiracy amongst them.

WHEREFORE, the writ prayed for is denied and the petition under consideration is hereby dismissed, without costs.

Reyes, J.B.L. (Acting C.J.), Makalintal, Zaldivar, Sanchez, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.