

**IN THE MATTER OF THE PETITION FOR HABEAS CORPUS FOR MA.
DEL SOCORRO SOBREMONTTE, MRS. ENRIQUETA SOBREMONTTE,
PETITIONER, VS. MINISTER JUAN PONCE ENRILE, GEN. FABIAN VER,
COL. RUTH...**

G.R. No. L-60602. September 30, 1982

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

The filing of this petition for a writ of habeas corpus could have been averted had the authorities concerned promptly responded to the inquiries made by petitioner Enriqueta Sobremonte as to the whereabouts of her daughter Socorro Sobremonte.

This petition was filed by Enriqueta Sobremonte on June 2, 1982, seeking the release of Socorro from the custody of respondents. The petition averred that in the morning of May 6, 1982, Socorro left the family residence with the intention of flying to the Visayas in the company of some friends; that on May 16, 1982, petitioner received information that Socorro had been arrested by operatives of the Aviation Security Command (AVSECOM) at the Manila Domestic Airport; that on May 18, petitioner went to the office of the AVSECOM at the Manila Domestic Airport to make inquiries as to the whereabouts of her daughter; that one Lt. Estanislao, apparently the person in charge of the office, told petitioner that her daughter was not in the custody of his command, but he advised her to return after one day; that the following day, Lt. Estanislao confirmed that Socorro had indeed been arrested by elements of the AVSECOM and that she was brought to the "G-2" office in Malacañang, and later to the Intelligence Service of the Armed Forces of the Philippines (ISAFP) at Camp Aguinaldo; that when petitioner went to Malacañang, she did not find any "G-2" office at the place; that she then proceeded to the ISAFP Office in Camp Aguinaldo, but the sentries did not allow her to see any responsible officer of the ISAFP; that her formal letter addressed to the ISAFP as well as her inquiries with the Office of Detainee Affairs had been ignored; that the adamant refusal of the military authorities to inform petitioner of the whereabouts of her daughter raised well grounded suspicions that force, violence, threats and intimidation were being exerted upon Socorro to extract her confession in violation of her constitutional rights; that to the best of petitioner's knowledge, no criminal charges had been filed against her daughter; that the latter had been arrested without benefit of a warrant of arrest; and that her daughter's right to communicate with, and be visited by, her relatives, counsel and friends had been grossly violated.

On June 3, 1982, the day after the filing of the petition, this Court issued a resolution setting the hearing on Tuesday, June 15, 1982, and requiring respondents to make a return of the writ on or before Friday, June 18, 1982.

The return filed by the respondents, through the Solicitor General, sought the dismissal of the petition on the ground that the remedy of habeas corpus is unavailing because Socorro Sobremonte had been detained pursuant to a valid order of the court. The return alleged that Socorro was in fact arrested on May 8, 1982 by elements of the

AVSECOM at the Manila Domestic Airport because AVSECOM personnel discovered during the routine inspection of her luggage that it contained voluminous subversive printed materials such as the 'KALAYAAN', 'SUNDAN', 'LIBERATION' 'ANG BAYAN', 'PAGSASANAY NG KADRE', 'SALIGANG BATAS NG KM', and 'BURADOR'; that since possession of these subversive materials constitutes violation of PD No. 33, the said materials were seized, while Socorro was taken in custody; that the AVSECOM later turned her over to the ISAFP at Camp Aguinaldo; that on May 10, 1982, she was brought to the office of the city fiscal of Pasay City for inquest proceedings; that on the bases of the findings of Asst. Fiscal Francisco Beron, the inquest officer, that there existed prima facie evidence that Socorro Sobremonte committed the offense charged, the corresponding information for violation of PD No. 33 was filed against her before the Court of First Instance of Rizal, docketed as Criminal Case No. 82-1425-P; that bailbond in the amount of P1,000.00 was recommended for her temporary release; and that thereafter, the court committed the person of Socorro Sobremonte to the custody of the ISAFP.

After the hearing of the petition on June 15, 1982, this Court issued the following resolution:

"At the hearing of this case this morning, Attorney Fulgencio Factoran, Jr. appeared and argued for petitioners. Assistant Solicitor General Reynato Puno, Assistant Solicitor General Zoilo Andin and Trial Attorney Jesselito Latoja appeared for respondents. Assistant Solicitor General Puno argued for the respondents. Petitioner Mrs. Enriqueta Sobremonte and detainee Ma. del Socorro Sobremonte were present and answered questions from the Court. The Court Resolved to GRANT: (1) Attorney Factoran a period of five (5) days from date within which to file a (a) traverse to the return of the writ of habeas corpus filed by the Solicitor General, and (b) manifestation regarding the complaints of and the tortures suffered by the detainee while under the custody of the respondent military authorities; and (2) Assistant Solicitor General Puno, likewise a period of five (5) days from receipt of the traverse to the return of the writ to file a reply thereto, the attention of the parties being called to the new issues raised during the hearing."

It appears that immediately after the June 15 hearing, Socorro was released from custody upon her posting of a bond in Criminal Case No. 82-1425-P.

On June 21, 1982, petitioner's counsel filed a traverse, alleging that Socorro had been maltreated during her detention at the headquarters of ISAFP, the details of which are recited thus:

"a. During her month-long detention, she was not allowed regular sleeping hours. Most of the time, she was allowed only two to three hours of sleep a night. There were occasions when she was not given any respite during interrogations, various operatives alternating to question her at longer than 24 hour stretches.

"b. On at least two (2) occasions, she was required to be on her feet, while being interrogated, from about 9:00 p.m. to 7:00 a.m.

"c. Most of the time during interrogation, she was blindfolded.

"d. Bullets were inserted between her fingers, and then her whole hand pressed by her interrogators.

"e. Her head was knocked several times against the wall when she was unable to answer certain questions.

"f. She was slapped on her face, her ears, the top of her head and her nape.

"g. While blindfolded, a revolver was pressed against her temple, the chamber rotated, and the trigger pulled, while she was being told that the gun was only partly loaded.

"h. She was subjected to electric shock.

"i. She was threatened with rape and there was an attempt to remove her clothes, which she resisted.

"j. She was threatened with salvaging and immediate execution by "firing squad" if she continued to refuse to

cooperate."

In addition, petitioner's counsel alleged that when Socorro was first taken into custody by the AVSECOM operatives, she was not informed that she was being arrested, but merely told that she was to be investigated in connection with the reading materials found among her belongings; that in fact, she was also given the assurance that she would be able to catch a later flight for Iloilo; that she was never informed of the accusation against her, and she learned for the first time that she was being charged with violation of PD No. 33 when respondents filed their return to the writ; and that during the inquest proceedings before the Asst. City Fiscal, no copies of the affidavits executed by her accusers were ever shown to her, neither was she allowed the opportunity to confront her accusers, nor was she given the chance to read any of the documents presented during the inquest proceedings.

Respondents, in their reply, dated July 16, 1982, flatly denied the above allegations contained in the traverse. Attached to said reply were copies of various documents substantiating such denials, to wit: Annex 1, a copy of the order issued by Judge Manuel Romillo, Jr. of the Court of First Instance of Rizal, dated May 10, 1982, directing the issuance of a "Remittance" of Socorro's custody to the ISAFP; Annex 2, a copy of the certification dated May 8, 1982, signed by Socorro, acknowledging possession of the subversive materials in question; Annex 3, a copy of the document entitled "Waiver" dated May 8, 1982, likewise signed by Socorro, waiving her rights under Article 124 and 125 of the Revised Penal Code wherein she stated that she was being accorded humane treatment by her custodians; Annex 4, a copy of the affidavit executed by Asst. Fiscal Beron to the effect that Socorro had been informed of the nature of the accusation against her, of her right to remain silent and to counsel and of the fact that she had been shown the evidence against her; and Annex 5, a copy of the statement given and signed by Socorro before Lt. Estanislao of the AVSECOM on May 8, 1982. The genuineness and due execution of the above documents have not been controverted.

Not being a trier of facts, this Court will not now attempt to inquire into the veracity of the above allegations and their corresponding denials. It needs only be stated that redress for the alleged violation of Socorro's constitutional rights may be secured through appropriate civil, criminal or administrative charges.[1]

Socorro's release from detention upon her filing of a bailbond on June 15, 1982 has, for all intents and purposes, rendered this petition moot and academic. "No rule is better established and better known than the one which provides that the writ of habeas corpus will not issue in behalf of a person not actually restrained of his liberty; a person discharged on bail is not imprisoned or restrained of his liberty in such a way as to entitle him to the writ of habeas corpus." [2]

Thus, all the effort, energy and manhours expended by the parties and their counsel, including this Court, with respect to the instant petition have come to naught. But all these could have been avoided had the officers of the AVSECOM and the ISAFP responded promptly to the inquiries of petitioner instead of giving her the 'runaround' by referring her from one office to another. Needless to state, this 'round-around' treatment generally leaves a negative and unfavorable impression upon the inquirer, as it obviously did to petitioner.

Respondents claim that the reason petitioner was not able to visit Socorro at the ISAFP could be that she and her relatives did not make a "formal request for visits addressed to any responsible officer of the ISAFP." [3] This claim is without factual basis, for it is undisputed that on May 27, 1982, Atty. Factoran, on behalf of petitioner, did send a letter to the ISAFP, Camp Aguinaldo, copy of which letter was presented at the hearing on June 15, 1982. Portions thereof read as follows:

"We would, therefore, like to officially inquire whether you have in your custody one Ma. Del. Socorro Sobremonte, female, 26 years old, single, under 5' tall, bespectacled, and a photograph of whom is enclosed herewith for easy reference. Your cooperation in this regard is most earnestly requested in the interest of her

mother whose anxiety about Socorro's well being intensifies for each day that no reliable word is had of her whereabouts."

That respondents failed to answer said letter is not disputed in their reply to petitioner's traverse.

One can easily imagine the difficulty to be encountered by a person dealing with the ISAFP where, as stated by the Solicitor General, "for security reasons, visits are restricted because of the nature of the premises and civilians are not allowed to enter without proper authorization." [4] Many government offices maintain an information-assistance office or center to aid the public dealing with them. Surely, it would not be too much of a drain on the budget of the ISAFP if it were to establish a similar division or office manned by properly trained personnel. In this way, a repetition of petitioner's plight would be avoided.

WHEREFORE, the petition is hereby dismissed. No costs.

SO ORDERED.

Barredo, Makasiar, Concepcion, Jr., Guerrero, Abad Santos, De Castro, Melencio-Herrera, Plana, Vasquez, Relova, and Gutierrez, Jr., JJ., concur.

Fernando, C.J., concurs and adds a few words.

Teehankee, J., see his brief concurrence.

Aquino, J., in the result.

[1] Villaber vs. Diego, et al., 108 SCRA 468.

[2] Gonzales vs. Viola, et al., 61 Phil. 284; Tan Me Nio vs. Collector of Customs, 34 Phil. 944.

[3] p. 12, reply to petitioner's traverse.

[4] p. 12, respondents' reply.

CONCURS AND ADDS THIS BRIEF OBSERVATION

FERNANDO, C.J.:

The dismissal of the petition is warranted. The detained person having been released, the writ of liberty has served its purpose. I am therefore in agreement with the well-written opinion of Justice Escolin. Its conformity to accepted legal principles is beyond question.

Why this brief observation then? May I say that the Court has all the while, before, during, and after the lifting of martial law, adopted the most liberal attitude in applications for the writ of habeas corpus. It will continue to do so. As pointed out in the brief concurrence of Justice Teehankee, an allegation that during detention maltreatment was inflicted is not ignored. Nor should it be. For if proven, criminal prosecution lies. Or the offended party, if so minded, may thereafter file an administrative complaint or a civil action for damages. Moreover, during the pendency of the habeas corpus petition before this Court, a Commissioner may be appointed to inquire into an allegation of such character.

The problem that faces us in a case like the present is what is to be done. There was an imputation of maltreatment. If the case were still pending, it would not be amiss if such a step were taken. That is not the situation now. It is no longer before us. I am far from certain then that after such dismissal, the Court may still appoint a Commissioner. Our jurisdiction being at an end, it is for the executive department to act on the matter.

There are, in addition, practical considerations that reinforce the above conclusion. This Court is not a trier of facts, as noted in the opinion of Justice Escolin. To refer the matter then to a Commissioner at this stage, even if the loss of jurisdiction with the dismissal be glossed over, may be productive of further delay. That could be avoided if the attention of the concerned executive officials is called. Further loss of time would thus be avoided.

That for me, is the appropriate solution. There could be an inquiry into such charges of maltreatment so that thereafter resort may be had to the remedies mandated by law for the redress of whatever grievances may have been shown.

In expressing anew my concurrence with the commendable opinion of Justice Escolin, may I emphasize the obvious merit of the observation made in its last paragraph.

CONCURRING OPINION

TEEHANKEE, J.:

I concur. The serious charges of maltreatment of the detained student, Ma. del Socorro Sobremonete, a 3rd year AB undergraduate student at Trinity College during her detention at the ISAFP as set forth in the Court's decision (at page 4) should be ordered investigated by the Court through the appointment of a competent investigator "to act as Commissioner of the Court and receive evidence of the charges made by petitioner(s) before this Court of alleged torture and violation of their constitutional rights," as was ordered by this Court per its Resolution of July 22, 1982 in the Morales and Moncupa habeas corpus cases (G.R. Nos. 61016 and 61107).

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