

EMETERIO DUQUE, PETITIONER, VS. CAPTAIN VINARAO (MPD) OF THE HEADQUARTERS MANILA POLICE DEPARTMENT, U.N. AVENUE, MANILA, CAPTAIN CASTILLO OF THE METROCOM DETAILED AT MALACAÑANG ...

G.R. No. L-40060. March 21, 1975

Ponente: FERNANDO, J.

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FERNANDO, J.:

In this petition for habeas corpus filed by Emeterio Duque on January 31, 1975, it was alleged: "That on January 11, 1975 at 3:00 p.m., your petitioner was forcibly taken from his residence by individuals posing as Captain Vinarao (MPD), Captain Castillo and others, all in civilian clothes, and was confined, restrained and deprived of his liberty in the detention cell at the Headquarters Manila Police Department, U.N. Ave., Manila and later transferred to the detention cell at Camp Crame, Quezon City; That no formal complaint or accusation for any specific offense has been filed against him, nor any judicial writ or order for his commitment has at any time been issued so far; That your petitioner did not commit any offense for which he may be arrested or deprived of his liberty without any formal charge or judicial warrant; That the new constitution being in full operation and the civil courts has not been abolished, the confinement of your petitioner under circumstances above-narrated is utterly illegal, unjust and without any jurisdiction." [1] The prayer was for petitioner to be "set at liberty without delay." [2]

On the very same day, this Court issued this resolution: "Considering the allegations contained, the issues raised and the arguments adduced in the petition for habeas corpus, the Court Resolved: (a) to [issue] a writ of habeas corpus returnable to this Court on Monday, February 3, 1975 at 10:30 a.m.; and (b) to require the respondents to file an [answer] thereto, not later than the aforesaid date and time and not to move to dismiss the petition." [3]

On February 3, 1975, there was a return of the writ and answer to the petition filed by the principal respondent Captain Exequiel L. Castillo of the PC Metrocom. There was a specific denial of the allegations in the petition, the truth of the matter according to him being as follows: "a. Petitioner Emeterio Duque y Alcaraz and his wife, Nena Duque y Lacandazo, were lawfully arrested and taken into custody by Captain Vicente Vinarao of the Manila Metropolitan Police, and Captain Exequiel L. Castillo, Corporal Dante Victorino and Airman Second Class Abel Barrameda, all of Western Sector, PC [Metrocom], on January 11, 1975, at about 4:45 o'clock in the afternoon, by virtue of Arrest, Search and Seizure Order No. 4347, dated January 6, 1975, issued by the Secretary of National Defense, pursuant to the provisions of General Order No. 2-A, dated September 26, 1972, issued by the President of the Philippines, * * *; b. Captain Vicente Vinarao and Captain Exequiel L. Castillo did not pose as law enforcement officers inasmuch as they were at that time and up to the present peace officers vested with authority to arrest Emeterio Duque and Nena Duque; c. Immediately after the arrest of Emeterio Duque and Nena Duque they were brought to the Office of the [Metrocom] Investigation Detachment, Camp Crame, Quezon City for investigation; d. Because of the physical condition of the petitioner's wife, Nena L. Duque, who was in the family way, she was released for humanitarian reasons upon authority of the Commanding General PC

[Metrocom] and in consonance with established practice of the Command for the Administration of Detainees that, as much as possible, husband and wife should not be detained at the same time; e. On the same date, petitioner, Emeterio Duque, was referred to 1st Lt. Corazon B. Valenzuela, Medical Corps (PC), Commanding Officer of the [Metrocom] Dispensary, for physical examination, [it being shown that there was no evidence of external physical injury]; f. After petitioner was medically examined, he was referred, together with his record, to the [Metrocom] Staff Judge Advocate for inquest; g. Subsequently, the Commanding General, PC [Metrocom], issued Commitment Order No. 830, dated January 12, 1975, for the detention of the petitioner at the [Metrocom] Detention Center of the VI Regional Command for the Administration of Detainees."[4] Accordingly, it is his submission that there is no basis for the charge that no formal complaint or accusation for any specific offense had been filed against petitioner or that no writ or order for his commitment had been issued, his arrest being by virtue of an Arrest, Search and Seizure Order issued by the Secretary of National Defense "in consonance with General Order No. 2-A paragraph 9 for violation of paragraph 3, Article 202, of the Revised Penal Code in relation to Sections 1(c) & (e) of Commonwealth Act 616, * * *." [5] Such a contention was repeated in the special and affirmative defenses interposed, with the further plea that Proclamation No. 1081 having been upheld, there is justification for the detention of petitioner.[6]

On February 3, 1975, when the case was called for hearing, petitioner and respondents were duly represented. There was on the part of the Solicitor General, on behalf of respondents, an urgent motion for its transfer, and the case was reset for Wednesday, February 5, 1975. Accordingly, on that day, the matter was duly heard. It was stressed in the hearing, in a remark by Justice Barredo, that in all detention cases by the military, there must be "specific charges that might be related to national security, otherwise, the protection of freedom will be meaningless." [7] It was likewise made clear to respondents that even where the matter is within the competence of military tribunals, on a showing that there is a violation of constitutional rights, the jurisdiction may be deemed as having been ousted.[8] The matter then becomes one appropriate for judicial inquiry.[9] There was, however, a manifestation first made orally and then set forth in writing by petitioner: "[Petitioner], thru counsel and to this Honorable tribunal, respectfully gives notice of his desire to withdraw the above-entitled petition for habeas corpus, which was filed because he was then being detained only for vagrancy and prostitution (Article 202, RPC)." [10] With the detention being further based on an alleged violation of the Espionage Act,[11] which under General Order No. 49[12] continues to be within the jurisdiction of military tribunals, the submission of Solicitor General Estelito P. Mendoza that the continued detention of petitioner is justified by the demands of national security, as made clear in a certification by the Judge Advocate General Guillermo S. Santos to that effect, is not devoid of plausibility.

At any rate, no further inquiry need be made as petitioner had voluntarily sought the withdrawal of this pending proceeding.[13]

WHEREFORE, the petition for habeas corpus is considered withdrawn and the case terminated.

Makalintal, C.J., Barredo, Antonio, and Fernandez, JJ., concur.

Aquino, J., on sick leave.

[1] Petition, pars. 2-5.

[2] Ibid, Prayer.

[3] Resolution of this Court dated January 31, 1975.

[4] Return of the Writ and Answer to the Petition, par. 2a, b, c, d, e, f, g.

[5] Ibid, par. 3.

[6] There was also an Answer and Return filed by respondent Captain Vicente G. Vinarao of the Manila Police Department.

[7] T.s.n., 6-7.

[8] Cf. Cabiling v. The Prison Officer of the Military Prisons, 75 Phil. 1 (1945).

[9] Cf. Conde v. Rivera, 45 Phil. 650 (1924); Harden v. Director of Prisons, 81 Phil. 741 (1948); Abriol v. Homeres, 84 Phil. 525 (1949); Chavez v. Court of Appeals, L-29169, Aug. 19, 1968, 24 SCRA 663; Celeste v. People, L-21435, Jan. 30, 1970, 31 SCRA 391.

[10] Notice of Withdrawal dated February 5, 1975.

[11] Com. Act No. 616 (1941).

[12] G.O. No. 49 (1974).

[13] Cf. Patron v. Commanding Officer, III PC Zone, Cebu City, L-37083, May 30, 1974, 57 SCRA 229.

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