

LT. COL. ONOFRE E. LACAMBRA, (RET.), PETITIONER, VS. HON. EUGENIO E. RAMOS, PRESIDING JUDGE, BRANCH 39, RTC LINGAYEN, PANGASINAN, HON. LAURENCIA N. ABELON, ASST. PROVINCIAL PROS...

G.R. No. 100359. May 20, 1994

Ponente: ROMERO, J.

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ROMERO, J.:

At about 4:30 in the afternoon of August 26, 1989, one Ramon Tamondong was killed inside the house of retired Lt. Col. Onofre E. Lacambra at La Patria Subdivision, Binalonan, Pangasinan.

The following day, two criminal complaints were filed with the Municipal Trial Court of Binalonan - Laoac against Lacambra docketed as Criminal Case No. 5913 for violation of P.D. 1866. These cases referred to the alleged killing of Ramon Tamondong by Lacambra with the use of an unlicensed firearm in the Municipality of Binalonan, Pangasinan on August 26, 1989.

On the other hand, Lt. Col. Lacambra filed an "Affidavit with complaint" on August 28, 1989 with the Binalonan INP, alleging that he was assaulted and/or attacked by seven (7) armed and drunk men while he was viewing television inside his house and that during the attack, "one Ramon Tamondong was shot and killed by one of his own companions while grappling for possession of a gun" with which to shoot Lacambra.

The criminal complaint was referred to the fiscal's office in Urdaneta, Pangasinan which in turn referred said complaint back to the Binalonan INP station commander for a "thorough investigation." The referral-letter was signed by then Asst. Provincial Prosecutor Jose Antonio Guillermo, now Pangasinan provincial prosecutor.

On the same date (August 28, 1989), the MCTC issued a subpoena requiring Lacambra to submit his counter-affidavit pursuant to Sec. 3, Rule 110 of the 1985 Rules on Criminal Procedure. No counter-affidavit was filed because according to the returns dated August 30, 1989, Lacambra could not be contacted at his residence and his present address was unknown.

On August 30, 1989, MCTC Judge Cristobal Suller issued a resolution finding the evidence against the accused strong. He ordered the issuance of a warrant of arrest, recommending no bail for his provisional liberty.

Lacambra was arrested on September 4, 1989 at which date he submitted an "Affidavit with Complaint" which was treated by the Court as his counter-affidavit. On the same day, the court issued an Order giving no credence to Lacambra's version of the incident and affirming its resolution of August 30, 1989. It also ordered that the records of the cases be forwarded to the Office of the Provincial Fiscal in Lingayen, Pangasinan for further proceedings and that the accused be transferred to the provincial jail therein. The following day (September 5, 1989), a commitment order was issued by MCTC Judge Suller addressed to the provincial warden in Lingayen for Lacambra's commitment in accordance with the order of Executive Judge Antonio M. Belen.

On September 6, 1989, an Information for illegal possession of firearm was filed by Asst. Provincial Prosecutor Teofilo A. Chiong, Jr., approved by 2nd Asst. Provincial Prosecutor Laurencia N. Abelon by authority of the provincial prosecutor docketed as Criminal Case No. L-4130 in the RTC Branch 39, Lingayen, Pangasinan.

On September 9, 1989, an Information for murder was filed by 2nd Asst. Provincial Prosecutor Conrado V. Peregrino, approved by provincial prosecutor Rodolfo R. Aquino, docketed as Criminal Case No. L-4132 in the RTC Branch 39, Lingayen, Pangasinan.

On September 18, 1989, the provincial prosecutor indorsed to Asst. Provincial Prosecutor Abelon a motion for reconsideration and a supplemental counter-affidavit with motion to dismiss filed by the accused in connection with the instant case for reinvestigation. Thus, Lacambra's arraignment was deferred pending reinvestigation.

After conducting a reinvestigation, Asst. Provincial Prosecutor Abelon sustained the MCTC's finding and upheld the filing of the corresponding informations for murder and illegal possession of firearm pursuant to the resolution dated November 25, 1989 duly approved by the provincial prosecutor.

Arraignment and pre-trial were set for November 6, 1989 but these were postponed to November 26, 1989 upon Lacambra's motion. The arraignment failed to materialize, however, due to Lacambra's urgent motion filed in the Department of Justice to defer the same by reason of a petition for review of the resolution regarding the reinvestigation conducted by the fiscal. Proceedings were further delayed because of the withdrawal of Lacambra's counsels de parte for one reason or another.

The petitions for review were not given due course by the Department of Justice. Two (2) motions for reconsideration of the denial of said petitions for review were filed but were similarly denied.

On February 13, 1990, Lacambra filed a motion to quash which was set for hearing on February 27, 1990 and later reset to March 7, 1990. The motion was eventually denied in an Order dated August 10, 1990.

Arraignment and pre-trial were set for August 27, 1990 on motion of Lacambra's counsel approved by the court. On September 24, 1990, arraignment was again held in abeyance due to the filing of a petition for habeas corpus filed by Lacambra in G.R. No. 94600 in this Court. The said petition was, however, dismissed in a resolution dated November 20, 1990 for failure to show any grave abuse of discretion. Lacambra filed a motion for reconsideration of the resolution which was denied with finality in another resolution dated February 7, 1991.

Arraignment and pre-trial were rescheduled on January 23, 1991 and again on February 26, 1991, during which setting, Lacambra's counsel manifested that his appearance for his client was limited to the petition for habeas corpus. The accused informed the court that he would engage the services of another lawyer, Atty. Juanito Alarcio.

Arraignment was reset to April 1, 1991 but due to Atty. Alarcio's unavailability, the same was moved to April 5, 1991. Said lawyer entered his formal appearance on April 10, 1991 but upon his claim that he was not yet ready for arraignment, the same was reset to May 7, 1991.

On May 2, 1991, Lacambra thru counsel filed anew a motion for reconsideration which was set for hearing on May 7, 1991, after which the court denied the motion. Arraignment was reset to May 23, 1991. According to the court order, the assignment was intransferrable in character. However, Atty. Alarcio withdrew his appearance as Lacambra's counsel on May 20, 1991.

On May 23, 1991, the court appointed Atty. Rufino Herrera as counsel de oficio for the accused. After the informations were read to him, the accused refused to plead either guilty or not guilty to the charges; hence the court ordered that one of "not guilty" be entered in the records. Hearing was set for June 20, 1991.

On said date, Atty. Herrera informed the court that the accused had filed a petition for certiorari and prohibition in this Court to annul the criminal informations filed in these cases and to restrain assistant provincial prosecutor Abelon from prosecuting the same with a prayer that petitioner be released from detention and custody of the provincial jail warden at Lingayen, Pangasinan pending resolution of the petition. As a consequence, the proceedings were held in abeyance by Judge Eugenio E. Ramos who took over the cases from Hon. Antonio M. Belen.

The petitioner, in his urgent ex-parte motion, sought the issuance of a "writ of liberty," alleging that his detention is illegal. On November 18, 1992, the Court denied with finality the petitioner's motion for release from detention pending resolution of the petition for certiorari and prohibition. Also, in an en banc resolution dated November 20, 1990 in G.R. No. 94600 (In re: Petition for habeas corpus of Lacambra v. Hon. Cristobal Suller), it resolved that the writ of habeas corpus did not lie and petitioner's motion seeking his release could not be granted, it appearing that the petitioner was held in detention by virtue of valid warrants of arrest and commitment orders. Moreover, the allegations that the writ of habeas corpus was illegally issued, the information was falsified and that the commitment order was void are matters which the respondent RTC shall take into account when it hears the case.

Petitioner Lacambra contends that:

- 1) The court acquired no jurisdiction over the subject matter of the offenses involved, alleging that the charges are supported by false documents; and
- 2) The arraignment of the accused on May 23, 1991 was against his will and constituted grave abuse of discretion.

The petition is devoid of merit.

The jurisdiction of this Court to hear and try these cases has been upheld in an en banc resolution dated November 20, 1990, in connection with G.R. No. 94600, the petition for habeas corpus.

The criminal complaints, supported by the sworn statements of Danilo Usman, Julian Tamondong and Arnold Ignacio, for murder and illegal possession of firearm dated August 27, 1989 (docketed as Criminal Cases Nos. 5912 and 5913) were originally filed with the MCTC which conducted the required preliminary investigation and which found prima facie cases of murder and illegal possession of firearm against Lacambra. Jurisdiction over the person was acquired by virtue of a valid warrant of arrest issued by the MCTC. He has since been under detention pursuant to valid processes of the court. The case records were transmitted by the MCTC to the Office of the Provincial Prosecutor, Lingayen, Pangasinan, for further proceedings, after which the informations for murder and illegal possession of firearm were filed before the RTC Branch 39, Lingayen, Pangasinan.

The Court cannot help but note the series of legal maneuvers resorted to and repeated importunings of the accused or his counsel, which resulted in the protracted trial of this case, thus making a mockery of the judicial process, not to mention the injustice caused by the delay to the victim's family.

WHEREFORE, the petition is hereby DENIED. The court a quo, RTC Branch 39 of Lingayen, Pangasinan is ordered to conduct a continuous trial of this case immediately upon receipt hereof and to render its decision within three months from the date the case is submitted for decision.

SO ORDERED.

Feliciano, (Chairman), Bidin, Melo, and Vitug, JJ., concur.

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