

WILSON CHUA, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 103397. August 28, 1996

Ponente: HERMOSISIMA, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-103397/>

HERMOSISIMA, JR., J.:

Most crimes are conceived, planned and resolved to be committed in secret. As a consequence, the facts which would sustain a conviction are known only to the participes criminis themselves. In view of this, Section 9, Rule 119 of the Revised Rules of Court allows the dismissal of an information as to one of several persons accused of a crime in order that he may be utilized as a witness for the state on condition that he testifies against his co-accused in the commission of the crime. The transaction is in the nature of a contract between the State and the criminal that, in recompense for his exemption or immunity from criminal liability, he shall honestly and fairly make a full disclosure of the crime upon the trial of a confederate, whether the confederate is convicted or not.

This, of course, sets a premium on treachery, but the state maintains that, without the aid of said witnesses, many guilty parties would escape punishment where the facts, which would sustain a conviction, are known only to the conspirators themselves.

Countless crimes would go unpunished as insolent and contumacious criminals would oft-times defy the law with impunity if the rules of criminal procedure were so construed or applied as to seal hermetically the mouths of accomplices, informers and participes in general.[1]

In the light of this perspective, we are called upon to resolve whether or not there is absolute necessity for the testimony of the accused sought to be discharged in this case and whether or not the said accused does not appear to be the most guilty.

This is a petition for review on certiorari of the Decision of the Court of Appeals, dated September 25, 1991, in CA-G.R. SP No. 25348, entitled "People of the Philippines v. Hon. Jesus R. Tabilon x x x and Wilson Chua" and of the Resolution, dated January 7, 1992, denying petitioner's motion for reconsideration.

The antecedent facts are undisputed.

On July 5, 1991, a petition for certiorari and mandamus was filed by the Office of the Solicitor General in behalf of the People of the Philippines to set aside and declare null and void the Order of the Regional Trial Court, Branch XLII, Dumaguete City, upon the ground that the court a quo acted on the Solicitor General's petition with grave abuse of discretion. The order in question denied the state's motion for the discharge of accused Arcadio Enriquez in Criminal Case No. 9381 as a state witness against his co-accused, Wilson Chua.

A criminal case for Falsification of Private Documents was filed by complainant Tolong Aquaculture Corporation (TAC) against petitioner, Wilson Chua, from whom the complainant, TAC, leased several earth-moving equipment, and Arcadio Enriquez, the project accountant of TAC. The complaint of TAC was that Chua instigated and indorsed Enriquez to make alterations and changes in the Daily Equipment Utilization Reports

(DEUR) to enable Chua to charge more than what was legally due him for the use of the equipment. The Inquest Prosecutor dismissed the complaint on December 19, 1989, on the ground of lack of probable cause. On appeal by complainant TAC to the Department of Justice, the prosecutor was ordered to file the corresponding information on the ground that "there exists a prima facie case of Falsification of Private Documents." Subsequently, on July 27, 1990, the Provincial Prosecutor filed the corresponding information with the Regional Trial Court.

On November 26, 1990, the prosecution filed a motion to discharge accused Arcadio Enriquez so that he can be utilized as a state witness.

On December 5, 1990, the court a quo issued an Order denying the motion to discharge accused Enriquez as a state witness on two grounds, viz: (1) the prosecution failed to adduce evidence to the effect that all the requirements for the discharge of Enriquez had been complied with; and (2) that accused Enriquez, whose discharge is sought, appears to be in possession of the documents in question and has admitted that he was the one who falsified the same. Thus, the trial court was of the belief that Enriquez was the most guilty.

Dissatisfied, the People of the Philippines elevated the issue of discharge to the Court of Appeals by way of a petition for certiorari and mandamus. On September 15, 1991, the Court of Appeals granted the said petition, the pertinent portion of which, reads:

"x x x The Orders dated December 5, 1991; February 26, 1991 and March 25, 1991 in Criminal Case No. 9381 are hereby declared null and void and set aside; and the respondent court is hereby ordered to discharge the accused Arcadio Enriquez so that he may testify as a state witness in said case so that proceedings in said criminal case may continue." [2]

Subsequently, a motion for reconsideration filed by petitioner was denied by respondent court in a Resolution, dated January 7, 1992.

Hence, this petition.

Before us, petitioner raises the following issues, viz:

"Respondent Court erred-

1. In ordering the discharge of accused Arcadio Enriquez in the face (sic) of the fact that prosecution has not, up to the present time, presented any of its five witnesses listed in the information.
2. In not upholding the exclusive responsibility of the trial court in the matter of discharging an accused for use as a state witness.
3. In not holding that respondent People's motion to discharge dated November 26, 1990 is fatally inadequate.
4. In holding that accused Arcadio Enriquez does not appear to be the most guilty.
5. In holding that Judge Jesus L. Tabilon abused his discretion." [3]

Petitioner, in his first assignment of error, claims that respondent Court committed a grave error in ordering the discharge of accused Arcadio Enriquez in spite of the fact that the prosecution has not presented any of its five witnesses listed in the information. He further cites the case of *Flores v. Sandiganbayan*, [4] wherein we ruled that if there is an opposition to the discharge of an accused, the trial court must defer or hold in abeyance "its resolution on the motion until after the prosecution has presented all its other evidence." [5]

Petitioner's contention is bereft of merit.

The case of *Leo Flores* involves facts different from the case at bar. The information in the *Flores* case charged

Leo Flores and seven other accused of the crime of robbery of a bank. From the records of the preliminary investigation in the Tanodbayan, accused Abelardo Licaros who was sought to be discharged, appeared to be the most guilty and appeared to be the "mastermind" in the commission of the offense. In fact, even the National Bureau of Investigation, which investigated the case, recommended that the accused be charged as a principal. Furthermore, there was other evidence, as shown by the affidavits of the three security guards of the bank, that Modesto Licaros, the remaining accused, was among the bank robbers. When the motion for discharge of Abelardo Licaros was filed by the prosecution, accused Leo Flores opposed on the following grounds, to wit: (a) that there was no absolute necessity for the testimony of Abelardo Licaros for Modesto Licaros' conviction as there were three witnesses who could testify on the direct participation of Modesto Licaros; and (b) that Abelardo Licaros did not appear to be the least guilty. The Sandiganbayan ruled in favor of the motion filed by the prosecutor and issued a resolution ordering the discharge from the information of Abelardo Licaros. On appeal, this Court reversed the Sandiganbayan and upheld the objection of Leo Flores.

The ruling in Flores that "considering the opposition of herein petitioners to the motion for the discharge of Abelardo Licaros, particularly the contention that he is the most guilty and that his testimony is not absolutely necessary, the trial court should have held in abeyance or deferred its resolution on the motion until after the prosecution has presented all its other evidence," should be read in the context of the facts obtaining therein. It was imperative for the Sandiganbayan to hold in abeyance its resolution ordering the discharge of the accused until after the prosecution had presented all its other evidence because the testimonies of the three security guards might establish the participation of Modesto Licaros without needing the testimony of Abelardo Licaros. Likewise, the evidence might show that Abelardo Licaros was the most guilty.

In the case at bar, the Information charges only two defendants of having committed the offense of falsification of private documents, to wit: petitioner and Arcadio Enriquez. The allegations in the information show that the two had conspired to commit the crime charged. In the Flores case, the crime of bank robbery was done in public and was witnessed by several persons. In this case, the crime of falsification of private documents was done clandestinely. In fact, only two persons -- petitioner and Arcadio Enriquez -- had knowledge of the criminal conspiracy.

Clearly then, only one person can supply the DIRECT evidence required by Section 9, Rule 119 of the Revised Rules on Criminal Procedure and that is Arcadio Enriquez. Hence, the principle that, where a crime is contrived in secret, then the discharge of one of the conspirators is essential so he can testify against the other conspirators, is applicable in this case.[6]

With regard to the other witnesses listed in the Information who have not yet been called to the witness stand, they would not constitute DIRECT evidence of petitioner's guilt. This is because none of these witnesses was privy to the conspiracy between petitioner and Arcadio Enriquez. Their testimony would merely corroborate the testimony of Enriquez although such corroborative testimony is necessary to fulfill one of the conditions for the discharge of an accused as stated in Section 9, Rule 119 of the Revised Rules of Court, viz: "that the testimony of the discharge accused "can be substantially corroborated in its material points."

Furthermore, the said Rule does not require the prosecution to present all its other evidence before an accused can be discharged. An accused may be discharged at any time before the defendants have entered upon their defense. In fact even the Flores case which was heavily relied upon by petitioner, states that:

"At any rate, the discharge of an accused may be ordered at anytime before they (defendants) have entered upon their defense, that is, at any stage of the proceedings from the filing of the information to the time the defense starts to offer any evidence."

Petitioner also contends that respondent court gravely erred in not upholding the exclusive responsibility of the trial court in the matter of discharging an accused for use as a state witness, citing the case of *People v. Tabayoyong*,^[7] wherein we held that the discharge of an accused who may turn state witness is expressly left to the sound discretion of the trial court which has the exclusive responsibility to see that the conditions prescribed by the rules exist. While it is true that, as a general rule, the discharge or exclusion of a co-accused from the Information, in order that he may be utilized as a prosecution witness rests upon the sound discretion of the trial court,^[8] this discretion should be exercised by it strictly on the basis of the conditions therein set forth in Rule 119, Section 9 of the Rules on Criminal Procedure. The court's discretion is not absolute and arbitrary. Sound judicial discretion should be exercised with due regard to the proper administration of justice.^[9]

As regards the requisite that there must be absolute necessity for the testimony of the defendant whose discharge is requested, the trial court has to rely on the suggestions and the information presented by the public prosecutor. The reason is obvious. The public prosecutor should know better than the court, and the defense for that matter, as to which of the accused would best qualify to be discharged to become a state witness. He is also supposed to know the evidence in his possession and whom he needs to establish his case.^[10] Hence, in *People v. Court of Appeals*,^[11] we stated that:

"It is believed that the record justifies the discharge of Ngo Sin to be utilized as a State witness considering the absolute necessity of his testimony for the successful prosecution of the criminal charge if it has to be established that the accused Luciano Tan had planned and financed the theft. All conditions for discharge prescribed by Sec. 9, Rule 119 of the Rules of Court have been met. The Rules do not require absolute certainty in determining those conditions. Perforce, the Judge has to rely in a large part upon the suggestions and the considerations presented by the prosecuting officer.

'A trial judge cannot be expected or required to inform himself with absolute certainty at the very outset of the trial as to everything which may be developed in the course of the trial in regard to the guilty participation of the accused in the commission of the crime charged in the complaint. If that were practicable or possible, there would be little need for the formality of a trial. In coming to his conclusions as to the necessity for the testimony of the accused whose discharge is requested, as to the availability or non-availability of other direct or corroborative evidence; as to which of the accused is the 'most guilty' one; and the like, the judge must rely in large part upon the suggestions and the information furnished by the prosecuting officer. x x x.'"

In this case, the filing by the private prosecutor of the motion to discharge accused Enriquez was done with the conformity of the public prosecutor to apprise the trial court of the role and participation of petitioner in the commission of the crime charged. Furthermore, the trial court was informed that, if accused Enriquez was discharged as a state witness, he would testify:

"1. About the middle of February 1989, he was approached at his office in Tolong, Sta. Catalina, Negros Oriental, by respondent Chua, who engaged him in conversation x x x. Respondent Chua inquired into his work with TAC, his duties and responsibilities, salary, problems and difficulties, and then offered to help him out of his financial difficulties.

2. Respondent Chua induced and persuaded him to alter the DEURs, EORs, and logbooks that were under his control and possession, and to convert the idle hours to utilization hours so that respondent Chua could collect larger payments than he was lawfully entitled for the use of his leased equipment by TAC. Respondent Chua offered him a 50/50 cut of all monies received from TAC by reason of such conversion of idle hours into utilization hours.

3. He succumbed to such inducements and blandishments of respondent Chua, and thereafter started making alterations and changes in the DEURs, EORs, and logbooks in his possession, choosing such documents that seemed easy to change or alter without much risk of detention. [He will point out and identify the figures he

had falsified in the documents, DEURs, EORs, and the entries in the logbooks.]

4. When he arrived at the TAC prawn farm about mid-January 1989, he had only about P50.00 left in his possession. He applied for a job with Arnulfo Ilustre and Fernando Juanitez, both of whom he had met before during several construction projects of ECCO, the last of which was the construction of the NPC Angat Project in Bulacan in 1986. He pleaded with Ilustre and Juanitez to give him a job because he had no money at all, no work during the previous two years, and his family and children were suffering, especially his eldest son who was seriously ill and in and out of the hospital. Ilustre and Juanitez took pity on him and hired him.

xxx xxx xxx

6. The falsifications he made in the records for the rentals of respondent Chua's equipment between February 16 and February 28, 1989, illegally increased by P50,150 from the amount properly due respondent Chua. This "bloated amount" was received on March 4, 1989 by respondent Chua, who gave him on March 9, 1989 his "50/50 share" in the amount of P25,000.

7. Aside from the P25,000 he received on March 9, 1989, he had also received from respondent Chua the sums of P10,000, P5,000, P5,000, and P10,000, as his share in the loot extracted by respondent Chua from TAC by means of the falsifications the latter had induced him to make. He had sent to his wife immediately P15,000 out of the first P25,000 he received, and P2,000 to his sick son, who sadly died anyway.

8. Aside from these amounts, he had also received from respondent Chua several thousands of pesos for so-called commissions from the rentals paid by TAC for another bulldozer that he and Mr. Ilustre had been instrumental in convincing TAC to rent from respondent Chua.

9. Although the amounts he received from respondent Chua for the falsifications of the DEURs and other documents were less than the 50/50 share promised him, respondent Chua compensated for it by taking him, Juanitez, and Ilustre out drinking, night-clubbing, and womanizing on various occasions, all at respondent Chua's expense.[12]

Based on the foregoing allegations, only accused Enriquez can testify on its truthfulness as the said facts are based on his personal knowledge. Thus, there is absolute necessity for his testimony in order to provide direct evidence to petitioner's guilt.

The denial of the motion to discharge by the trial court is tantamount to grave abuse of discretion which this Court must correct.

On the contention of petitioner that respondent court failed to consider the motion to discharge as fatally inadequate as it states only three elements of discharge, viz: (1) that Enriquez is the least guilty; (2) that there is absolute necessity for his testimony; and (3) that Enriquez has not been convicted of any offense involving moral turpitude, petitioner seems to confuse a motion to discharge to that of an information or complaint. In an information or a complaint, all the elements necessary to constitute an offense or to state a cause of action must be alleged and failure to do so will constitute a ground for the other party to file a motion to quash, in the case of an information, or a motion to dismiss, in the case of a complaint. The motion to discharge will suffice if the allegations contained therein adequately inform the adverse party and the court a quo what relief the movant is praying for. The only requirement therefor was that a hearing on the motion be had.[13] It is at the hearing where the movant should show the presence of all the elements required by the rule for the discharge of an accused to be a state witness. In this particular case, we can state that this duty was complied with by the movant, as petitioner never claimed that he was ill-informed of the nature of the motion. In fact, he was given the opportunity to oppose it and he did so vehemently.

What then is the meaning of "absolute necessity" for the testimony of the accused whose discharge is sought?

The expedient should be availed of only when there is absolute necessity for the testimony of the accused whose discharge is requested, as when he alone has knowledge of the crime, and not when his testimony would simply corroborate or otherwise strengthen the evidence in the hands of the prosecution.[14]

When there is a conspiracy for example, and the crime is committed clandestinely, then the discharge of a conspirator is necessary to testify against the other conspirator. A conspiracy can be established by the testimony of a co-conspirator.[15] In a conspiracy which was done in secret, there is a necessity to discharge one of the accused to provide direct evidence of the commission of the crime.[16] For who else outside the conspiracy can testify on what was concocted between the conspirators, but they themselves?

In the case at bar, Judge Jesus Tabilon denied the motion to discharge Arcadio Enriquez in spite of the fact that there were only two participes criminis in the crime of falsification of private documents as alleged in the information, namely, petitioner and Enriquez. Moreover, the conspiracy to defraud Tolong Aquaculture Corporation was known to only two persons and all the other witnesses listed on the Information were not involved in the conspiracy, as their involvement came only after the end of the conspiracy. Also, it was petitioner who encashed the padded check payments and who principally benefited from the falsification of the private documents.

Thus, in the case of *People v. Court of Appeals*,[17] we ordered the trial court to allow the discharge of an accused because his testimony was absolutely necessary to prove conspiracy among the accused. Specifically, we ruled that:

"The Court therefore overrules respondent court's finding that there is no absolute necessity for the testimony of Roncesvalles. A careful examination of the records of the case supports the prosecution's stand to discharge Roncesvalles in order that he may testify for the government. The testimony of Roncesvalles is absolutely necessary to prove conspiracy among the accused who are charged of conspiring and confederating with each other in defrauding the Lucena Rural Bank in the amount of P30,000.00 under the pretext of an agricultural loan granted to accused Flavia N. Valdenor. Roncesvalles was the Assistant Chief Inspector of the Lucena Rural Bank and he was the one who signed the investigation report which contained false information as to the credit standing of accused Flavia Valdenor. Nobody is in a better position to testify and (sic) prove the existence of conspiracy than accused Roncesvalles, because he is an officer of the bank. There is ample basis for the Solicitor General's submittal that 'considering the foregoing circumstances and inasmuch as the other accused cannot be compelled to testify, certain facts necessary for the conviction of the accused would not be revealed unless accused Roncesvalles is allowed to testify for the State'; 'unless accused Roncesvalles is allowed to testify for the government, there is no other direct evidence available for the proper prosecution of the offense charged, i.e., the role or participation of his co-accused in the preparation and accomplishment of the falsified loan application and its supporting papers. The testimony of accused Roncesvalles will prove conspiracy among the perpetrators of the crime charged'; and 'unless this petition is given due course and granted, the accused in Criminal Case No. 0399 may be acquitted and the State irretrievably prejudiced. Because of the Rule on double jeopardy, the State has no other remedy except the instant petition.'"

Did the Court of Appeals err, as petitioner contends, in holding that Enriquez appears to be the least guilty?

The offense charged is falsification of private documents, the principal element of which is the damage, pecuniary or otherwise, caused to the victim. When Arcadio Enriquez falsified the company records of Tolong Aquaculture Corporation (TAC) in order to inflate the work hours of the equipment of Wilson Chua and allow him to inflate his billings for the use thereof, there was, as yet, no damage to TAC. Damage was caused when petitioner received the bloated checks and encashed them.

The testimonies of Steve Psinakis and Metodio Gono, as additional evidence against Arcadio Enriquez, cannot, by any stretch of the imagination, be the basis for concluding that petitioner is the most guilty. The fact that Arcadio

Enriquez was in dire need of money at the time he falsified the records does not eliminate the fact that petitioner was the mastermind. It only shows that Arcadio Enriquez was then highly vulnerable to the evil proposition of Wilson Chua.

If one induces another to commit a crime, the influence is the determining cause of the crime. Without the inducement, the crime would not have been committed.[18] Indeed, it is the inducer who sets into motion the execution of the criminal act. Without the inducement, accused Enriquez would not have falsified the records of the company. Thus, on the basis of the specific acts done by the two accused and bearing in mind the elements constitutive of the crime of falsification of private documents, petitioner is the "most guilty" as between the two accused.

Moreover, the rules do not disqualify an accused sought to be discharged as witness for the state based on the ground that he has committed the falsification himself or that he had actually committed the crime charged. The rules merely say that it is necessary that the said accused appears to be not the most guilty. We can only conclude that the guilt of an accused of the crime charged is not a basis why he may not be excluded as a witness for the state. As a matter of fact, the candid admission of the accused of his participation in a crime is a guaranty that he will testify truthfully in court. So, even if an accused actually participated in the offense charged in the information, he still qualifies as a state witness.[19]

Finally, while petitioner alleges that respondent court erred in holding that Judge Tabilon abused his discretion when he denied the motion to discharge accused Enriquez, our perusal of the records shows that the requirements for the discharge of accused Enriquez were met. Thus, the denial by Judge Jesus Tabilon of the motion to discharge appears to be whimsical, capricious and arbitrary.

The Court of Appeals correctly ruled:

"For reasons above indicated and construed in the light of the applicable law and jurisprudence on the matter, we find the respondent's refusal to order the discharge of the accused Enriquez so that he may testify for the prosecution, a grave abuse of discretion as it amounts to an evasion of a duty enjoined by law. (See Tavera-Luna vs. Noble, 67 Phil. 341). In refusing to order the discharge of Enriquez, the trial court is most likely letting a crime committed at the instance or not using another as a mere tool to perpetrate it, go unpunished." [20]

WHEREFORE, the petition is DENIED and the Decision of the Court of Appeals in C.A.-G.R. SP No. 25348 is AFFIRMED in toto.

SO ORDERED.

Padilla (Chairman), Bellosillo, Vitug, and Kapunan, JJ., concur.

[1] U.S. v. De Guzman, 30 Phil. 416 (1915).

[2] Decision of the Court of Appeals, pp. 9-10; Rollo, pp. 141-142.

[3] Rollo, p. 10.

[4] 124 SCRA 109 (1983).

[5] Petition, p. 10; Rollo, p. 11.

[6] People v. Salbino, 134 SCRA 492 (1985); People v. Villamor, 110 SCRA 199 (1981).

[7] 104 SCRA 724 (1981).

[8] U.S. v. De Guzman, 30 Phil. 416 (1915); U.S. v. Bonete, 40 Phil. 958 (1920).

[9] Ramos v. Sandiganbayan, 191 SCRA 671 (1990); People v. De Atras, 28 SCRA 389 (1969).

[10] People v. Ocimar, 212 SCRA 646 (1992).

[11] 124 SCRA 338 (1983).

[12] Rollo, pp. 97-100.

[13] People v. Hidalgo, 102 Phil. 719 (1957).

[14] Lugtu v. Court of Appeals, 183 SCRA 388 (1990); People v. Borja, 106 Phil. 1111 (1960).

[15] People v. Villamor, 110 SCRA 199 (1981).

[16] U.S. v. Barredo, 32 Phil. 444 (1915).

[17] 131 SCRA 107 (1984).

[18] U.S. v. Indanan, 24 Phil. 203 (1913).

[19] People v. Bayona, 108 Phil. 104 (1960).

[20] Rollo, p. 9.

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.