

HON. FRANKLIN DRILON, HON. RAMON ESGUERRA, STATE PROSECUTOR REYNALDO LUGTU, ALL OF THE DEPARTMENT OF JUSTICE, MANILA, PETITIONERS, V. THE COURT OF APPEALS AND DR. RODOLFO V. AGU...

G.R. No. 115825. July 05, 1996

Ponente: ROMERO, J.

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ROMERO, J.:

In this petition, respondent Court of Appeals is alleged to have erred in finding petitioner State Prosecutor Reynaldo Lugtu as having committed grave abuse of discretion and after effectively discharging private respondent Dr. Rodolfo Aguila, Jr. from the information for Kidnapping with Frustrated Murder.

On January 2, 1993, Godofredo Añonuevo was allegedly shot in the back by Manolo Ramos. Añonuevo was reportedly seized from Lipa City, mauled and then taken to a hospital for head injuries. He was then brought before Marcia Reyes who asked him why he revealed her secrets concerning her indebtedness. Later he was taken to a poultry farm in Concepcion, Batangas where he was shot and subsequently brought to the Batangas Regional Hospital in Batangas City. The following day Añonuevo was transferred to St. Patrick's Hospital in the same city allegedly because he was intentionally not being treated at the previous hospital.

The victim gave three statements on different days in order to fully narrate the events relating to the crime.[1] In a letter dated February 13, 1993, counsel for private respondent Añonuevo requested herein petitioner, then Justice Secretary Franklin Drilon, to order the transfer of preliminary investigations in the case from Batangas to the Office of the State Prosecutor at the Department of Justice in Manila. The Secretary of Justice granted the request and issued Department Order No. 72 designating State Prosecutor Reynaldo Lugtu, also a petitioner in this case, as Acting Prosecutor of Batangas City in the investigation of the case.

After the preliminary investigation was conducted, State Prosecutor Lugtu rendered a Resolution on October 20, 1993, finding that a prima facie case for kidnapping with frustrated murder exist against Manolo Ramos, Agapito Reyes, Marcia M. Reyes, Egay Perez, Ariel Hubilla, Dr. Rodolfo V. Aguila, Jr. and Adoracion Moraleja and recommending that an information be filed against them.

On November 11, 1993, the State Prosecutor filed an Information with the Regional Trial Court of Batangas City, charging the aforementioned persons with Kidnapping with Frustrated Murder. The case was docketed as Criminal Case No. 6878.

Subsequently, the petition for review and/or reinvestigation filed by the aforementioned accused, was denied by Undersecretary Ramon Esguerra on January 10, 1994. The latter, who is also petitioner in instant case, likewise denied their motion for reconsideration on February 3, 1994.

On February 8, 1994, the Supreme Court ordered the records in Criminal Case No. 6878 transmitted to the Executive Judge of the Regional Trial Court of Manila for re-raffle.[2] After being re-raffled, the same was

assigned to Branch 11 of the Regional Trial Court of Manila as Case No. CR 94-133438.

On February 19, 1994, the accused in said case filed with respondent Court of Appeals a petition for certiorari and prohibition with prayer for temporary restraining order and writ of preliminary injunction[3] seeking to have the resolution of State Prosecutor Lugtu set aside. A temporary restraining order prohibiting respondents, herein petitioners, from proceeding any aspect of Criminal Case No. 6878 ("People of the Philippines v. Dr. Rodolfo V. Aguila, Jr., et al.") was forthwith issued by respondent court on March 3, 1994.[4]

Apparently unaware that the re-raffle had already been conducted, the accused filed with the Executive Judge of the Regional Trial Court of Manila a motion to hold in abeyance the issuance of the warrant of arrest and to defer the raffle.

On March 11, 1994, Branch 11 of the Regional Trial Court of Manila, not knowing of accused's motion, issued the order of Arrest against the latter.

Respondent court formulated the issue thus: whether or not the criminal prosecution can be restrained upon the claim of the accused that the state prosecutor's resolution is a mistake and that factually, no prima facie case has been made out for the offense charged against them.

The Court of Appeals found that there was a prima facie case of the offense charged against all accused with the exception of private respondent Dr. Rodolfo V. Aguila,[5] as follows:

"The situation of petitioner Dr. Rodolfo V. Aguila, Jr. is different from that of his co-petitioners. The evidence concerning the shooting and the taking of the victim indicated the participation of the petitioners but not that of Dr. Rodolfo Aguila, Jr. We have scanned the statements of the witnesses in relation to the resolution of State Prosecutor Reynaldo Lugtu and there is nothing to indicate the participation of Dr. Aguila either in the purported kidnapping or in that of frustrated murder. He is a doctor of medicine and his presence in the case as more than amply shown in the statements of Añonuevo was avowedly only in connection with the treatment of Añonuevo's injury. There was no mention at all in the first two (2) statements he made and the only time Añonuevo mentioned Dr. Aguila was in the third statement made more than a month after the purported incident on February 7, 1993 when in answer to one (1) question, he had mentioned the name of Dr. Rodolfo Aguila, Jr. and by another answer to another question, had voiced out his suspicion concerning said petitioner x x x." [6] (Italics supplied)

Hence, the instant petition by then Secretary of Justice Franklin Drilon, Undersecretary Ramon Esguerra and State Prosecutor Reynaldo Lugtu, where they allege that the latter committed no grave abuse of discretion and that the Court of Appeals erred permanently enjoining the Regional Trial Court of Manila from proceeding against private respondent Dr. Rodolfo V. Aguila in the criminal case for kidnapping with frustrated murder (Criminal Case No. 94-133438).

The Court finds merit in and rules to grant the petition.

The purpose of a preliminary investigation is to establish probable cause[7] and "to secure the innocent against hasty, malicious and oppressive prosecution x x x"[8] It is inquiry to determine whether a crime has been committed[9] and whether there is probable cause to believe that the accused is guilty thereof.[10] The investigating judge or prosecuting officer acts upon probable cause and reasonable belief.[11]

Probable cause need not be based on clear and convincing evidence of guilt, neither on evidence establishing guilt beyond reasonable doubt and definitely not on evidence establishing absolute certainty of guilt.[12] It implies probability of guilt[13] and requires more than "bare suspicion" but "less than evidences which would justify conviction." [14]

Probable cause should be determined in a summary but scrupulous manner to prevent material damage to a potential accused's constitutional right of liberty^[15] and the guarantees of freedom and fair play.^[16] The preliminary investigation is not the occasion for the full and exhaustive display of the parties' evidence. It is for the presentation of such evidence as may engender a well-grounded belief that an offense has been committed and that the accused is probably guilty thereof.^[17] It is a means of discovering the persons who may be reasonably charged with a crime.^[18] The validity and merits of a party's defense and accusation, as well as admissibility of testimonies and evidence, are better ventilated during trial proper than at the preliminary investigation level.^[19]

Petitioner State Prosecutor did not gravely abuse his discretion when he found probable cause against private respondent Rodolfo V. Aguila, Jr. Part of the prosecutor's resolution reads:

"On January 2, 1993, at about 8:00 o'clock in the morning, however, after the said December 18, 1992 incident, while Godofredo Añonuevo, a former caretaker of Good Harvest Poultry Farm was at Tambo, Lipa City, he (Añonuevo) met Pete Reyes, Ariel Hubilla and Egay Perez, who were then on board a car. Because of fear, Añonuevo tried to run away but the group ran after him and caught him later. The group then forced him to board a Ford Fiera where they beat him hitting his head and face causing him injuries. Because of this injuries, the group brought him to a hospital in Lipa City where he was treated for head injuries. While they were in said hospital, Dr. Rodolfo Aguila and Manolo "momoy" Ramos, a cousin-bodyguard and hit man of spouses Agapito and Marcia Reyes arrived. After said treatment, Añonuevo was brought to the office of Atty. Gregorio "boy" Moraleja in Batangas City where Marcia Reyes confronted and asked him why he told on their secrets concerning her indebtedness. At about 3:30 o'clock in the afternoon of the same day, the group brought Añonuevo to the house of Adoracion Moraleja, mother of Marcia, at Bgy. Concepcion. Thereat, he was brought back to the backyard and was told that he would have rest. It was at this juncture that Momoy Ramos shot him at his back with a .38 cal. revolver, causing him to fall on the ground. Añonuevo was on this position when Jojo kicked him. Momoy Ramos who was then with @ Jojo, Ferdinand, Ex Moraleja, Polie Tikatik, Apeng Marcadayda, Ronie, Rez, Sandra Moraleja, Nixon (brother-in-law of Marcia Reyes), Arbolante, Ariel Hubilla, Larry, Mio Alano, Dr. Rodolfo Aguila and Adoracion Moraleja, was about to shoot him again but was prevented by Dr. Aguila, Ferdinand and the father of Momoy (Teofilo Ramos). Over the objections of Momoy Ramos who was then very insistent to finish him off right then and there, Añonuevo was then loaded in the van and brought to Batangas Regional Hospital where he was transferred from one room to another without receiving any medical attention for about three (3) hours. He suspected that Dr. Aguila actually wanted him to die because he did not give him any medical attention and even warned him not to talk with the police nor give then any information concerning the incident. He even added that he saw Dr. Aguila, Marcia Reyes, Pete Reyes, Ferdinand Moraleja, Ex Morales and several others talking with each other in an alley in the hospital.

After the said more than three (3) hours, Dionisio Tan, Jr., arrived in the hospital and after being informed of Añonuevo's condition talked with Dr. Aguila and requested that Añonuevo be brought out of the hospital and transferred to another hospital. Dr. Aguila however refused and a heated argument ensued between them. It was at his instance that Añonuevo himself pleaded to Dionisio Tan, Jr., to transfer him to another hospital as Dr. Aguila would want him killed. Añonuevo was eventually transferred to St. Patrick Hospital by Jun Tan (Dionisio, Jr.). According to him, the group has decided to kill him because he was the former caretaker of spouses Agapito and Marcia Reyes and he now sided with Mrs. Tan in the dispute between the two."^[20]

The Prosecutor's report made clear that, based on the victim's third sworn statement dated February 7, 1993, respondent Dr. Aguila, Jr. was in the company of the other accused during the shooting incident; that he suspected respondent Dr. Aguila wanted him to die because the latter did not give him medical attention while at Batangas Regional Hospital; that the respondent even warned him not to talk with the police regarding the shooting incident and that he saw respondent talking with the other accused in the hospital.

Godofredo Añonuevo's second statement, given the morning after the shooting incident, reads:

"47. T: - Sino ang tumawag kay Momoy?

S: - Si Dr. Rodolfo Aguila, si Fernan, at ang ama ni Momoy.

xxx xxx xxx

51. T: - Kasama pa rin ba si Momoy noong pagkadala sa iyo doon sa Bats Regional Hospital?

S: - Hindi po, si Dr. Mocs Aguila."^[21]

The victim's third statement reads:

"06. Tanong:Nabanggit mo rin sa iyong unang salaysay (Tanong # 50) na ikaw ay dinala sa hospital, Batangas Regional Hospital ikaw ba naman ay nabigyan/inintindi sa nabanggit na hospital upang mabigyan ng lunas?

Sagot:Hindi po ako nabigyan ng lunas at ako po ay hindi dinala man lamang sa Emergency Room sa halip ako po ay pinaikot-ikot sa ibat-ibang kuwarto ng hospital na ang sapalagay ko ay ibig na akong mamatay ni Dr. Rodolfo Aguila.

07. Tanong:Bakit mo naman nasabing gusto kang patayin ni Dr. Aguila?

Sagot:Sa dahilang hindi nga po ako ginamot samantalang halos humigit kumulang sa tatlong oras na po ako sa loob ng hospital na nabanggit at ang sabi pa nga sa akin ni Dr. Aguila na kung may dadating na pulis ay huwag akong magsasalita at magbigay ng report tungkol sa nangyari sa akin at ang pagkaalam ko nga po ay itong si Dr. Aguila ay bayaw nitong si MARCIA REYES at napansin ko pa nga na sila ay nag-uusap pa habang ako naman ay halos mamatay na sa tinamo kong sugat dahilang sa pagkakabaril sa akin ni Momoy.

08. Tanong:Binanggit mong nag-uusap sila, sino itong tinutukoy mong tao?

Sagot:Sila, Dr. Aguila, Marcia Reyes, Pete Reyes, Fernan Moraleja, Ex Moraleja at iba pang hindi ko kilala.

09. Tanong:Paano mo naman nakita at saan sila nag-uusap?

Sagot:Doon po sa loob ng hospital malapit sa aking kinalalagyan doon sa alley ng hospital (Batangas Regional Hospital).

10. Tanong:Matapos na ikaw ay hindi nalapatan ng gamot sa nasabing hospital ano pa ang mga sumunod na pangyayari?

Sagot:Dumating po ang aking amo si DIONISIO I. TAN JR. at siya ay nakipag-usap kay Dr. Aguila kung bakit hindi ako ginagamot at noong ako po ay ilalabas ng hospital ay ayaw pumayag ng doktor na nabanggit na ako ay lilipat sa ibang hospital ang nangyari po ay nagkasigawan sila (Dr. Aguila at Dionisio Tan Jr.) ang ginawa ko ay tinawag ko ang aking amo at sinabi ko na ilipat ako ng ibang hospital sa dahilang gusto akong patayin ni Dr. Aguila."^[22] (Italics supplied.)

The foregoing narration shows that Dr. Aguila had some participation in the plot against Añonuevo. Taken altogether, all these constitute probable cause against private respondent Dr. Rodolfo Aguila, Jr.

Moreover, the determination of the persons to be prosecuted rests primarily with the prosecutor who is vested with quasi-judicial discretion in the discharge of this function.^[23] We have also ruled that the courts should give credence, in the absence of a clear showing of arbitrariness, to the finding and determination of probable cause by prosecutors in a preliminary investigation.^[24]

To reiterate, such a finding of probable cause does not ensure a conviction, or a conclusive finding of guilt beyond reasonable doubt. The allegations adduced by the prosecution will be put to test in a full-blown trial where evidence shall be analyzed, weighed, given credence or disproved.

The Court hereby rules that petitioner State Prosecutor did not commit grave abuse of discretion in finding

probable cause to hold private respondent Dr. Rodolfo Aguila, Jr. for trial.

WHEREFORE, the instant petition is hereby GRANTED. The Decision of the Court of Appeals in CA G.R. SP No. 33372, "Manolo Ramos, et al. v. Hon. Franklin Drilon, et al.," is hereby MODIFIED so as to include Dr. Rodolfo V. Aguila in the Information for Kidnapping with Frustrated Murder. The temporary restraining order dated March 3, 1994 and made permanent on June 8, 1994, enjoining petitioners from proceeding against private respondent Dr. Rodolfo V. Aguila, Jr. in Criminal Case No. CR-94-133438 is hereby LIFTED.

SO ORDERED.

Regalado, (Chairman), Puno, Mendoza, and Torres, Jr., JJ., concur.

[1] On January 2, 1993, Añonuevo gave a statement before SPO4 Demetrio Berancia at the Batangas Regional Hospital. On January 3, 1993, PO2 Oscar M. Fernandez took down Añonuevo's statement at the St. Patrick's Hospital. On February 7, 1993, Añonuevo gave a statement before SPO1 Valentin E. Iballo at the CIS Office in Batangas City.

[2] A.M. No. 94-1-45-RTC, Re: Request for transfer of venue of Criminal Case No. 6878; Records, p. 193.

[3] CA G.R. SP No. 33372, "Manolo Ramos v. Hon. Franklin Drilon, et al."

[4] Records, pp. 122-123.

[5] Decision dated June 8, 1994, penned by Justice Cezar D. Francisco and concurred in by Justices Nathanael P. De Pano, Jr. and Buenaventura J. Guerrero, Rollo, pp. 26-49.

[6] Rollo, p. 36.

[7] Circular No. 12, Subject: Guidelines on Issuance of Warrants of Arrest under Article III, Section 2, 1987 Constitution, June 30, 1987.

[8] Salonga v. Cruz Paño, 134 SCRA 438, 461-462, G.R. No. L-59524, February 18, 1985 citing Trocio v. Manta, 118 SCRA 241.

Rule 112, Section 1 of the Revised Rules of Criminal Procedure provides: Preliminary investigation is an inquiry or proceeding for the purpose of determining whether there is sufficient ground to engender a well-founded belief that a crime cognizable by the Regional Trial Court has been committed and that the respondent is probably guilty thereof, and should be held for trial.

[9] Mercado v. CA, 245 SCRA 594, G.R. No. 109036, July 5, 1995.

[10] Cruz, Jr. v. People, 233 SCRA 439, G.R. No. 110436, June 27, 1994; Paderanga v. Drilon, 196 SCRA 86, 92 G.R. No. 96080, April 19, 1991.

[11] Circular No. 12, citing Hashim v. Boncan, 71 Phil. 216.

[12] Webb v. De Leon, 247 SCRA 652, G.R. No. 121234, August 23, 1995.

[13] Ibid., at 676.

[14] Ibid., at 676, citing Brinegar v. US, 338 U.S. 160 (1949).

[15] Ibid., at 667-668.

[16] Salonga v. Cruz Paño, supra, at 462.

[17] Hashim v. Boncan, supra, cited in Circular No. 12, June 30, 1987; People v. Santos 236 SCRA 689, G.R. No. 106213, September 23, 1994.

[18] Paderanga v. Drilon, supra, at 90.

[19] Concurring opinion of Justice Ricardo J. Francisco in Webb v. De Leon, supra, at 694.

[20] Rollo, pp. 18-20.

[21] Malayang Salaysay ni Godofredo Añonuevo na Ibinigay kay PO II Oscar M. Fernandez, PNP Dito sa Saint Patrick Hospital, Batangas City Ngayong Ika-03 ng Enero 1993 Oras na Humigit Kumulang sa Alas 9:00 ng Umaga sa Harap ni P/Supt. Tito G. Palaming PNP, Records, pp. 152-153.

[22] Malayang Salaysay ni Godofredo Añonuevo na Ibinigay kay SPO1 Valentino E. Ibalio PNP Dito sa Himpilan ng Batangas CIS Provincial office Camp M. Malvar, Kumintang Ilaya Batangas City sa Harap ni PO3 Policarpio Olea, PNP Ngayong Ika-7 ng Pebrero 1993, Records, pp. 181-182.

[23] People v. Devaras, 228, SCRA 482, G.R. No. 100938-39, December 15, 1993; Lim v. CA, 222 SCRA 279, G.R. No. 100311, May 18, 1993; Paderanga v. Drilon, supra, at 90.

[24] Concurring opinion of Justice Ricardo J. Francisco, supra.

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