

MAYOR PABLO R. OLIVAREZ, PETITIONER, VS. HON. SANDIGANBAYAN (SECOND DIVISION) AND THE HON. OMBUDSMAN, SPECIAL PROSECUTOR ANIANO DESIERTO AND DEPUTY SPECIAL PROSECUTOR JOSE DE G....

G.R. No. 118533. October 04, 1995

Ponente: REGALADO, J.

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REGALADO, J.:

In this original action for certiorari and prohibition, petitioner Mayor Pablo R. Olivarez seeks to annul the following:

1. Resolution dated February 9, 1994 issued by Special Prosecutor (SP) Aniano Desierto and approved by Ombudsman Conrado M. Vasquez on February 15, 1994 reversing Special Prosecution Officer (SPO) I Cornelio Somido's recommendation to dismiss the case against petitioner;[1]
2. Resolution dated December 9, 1994 issued by Deputy Special Prosecutor (DSP) Jose De G. Ferrer and approved by Ombudsman Conrado Vasquez on December 23, 1994 reversing SPO III Angel Mayoralgo's recommendation to withdraw the case against petitioner for insufficiency of evidence;[2] and
3. Resolution dated January 16, 1995 issued by the Sandiganbayan denying petitioner's Motion to Strike Out and/or Review Result of Reinvestigation conducted by the Office of the Ombudsman.[3]

The facts are succinctly summarized in the Comment[4] of the Solicitor General as follows:

1. On December 15, 1992, Baclaran Credit Cooperative, Inc. (BCCI), through its board member Roger de Leon, charged petitioner Parañaque Mayor Dr. Pablo R. Olivarez with Violation of the Anti-Graft and Corrupt Practices Act for unreasonably refusing to issue a mayor's permit despite request and follow-ups to implement Parañaque Sangguniang Bayan Resolution No. 744, Series of 1992 which petitioner himself approved on October 6, 1992. Resolution No. 744 authorized BCCI to set up a night manufacturer's fair during the Christmas fiesta celebration of and at Baclaran for 60 days from November 11, 1992 to February 15, 1993 for which they will use a portion of the service road of Roxas Boulevard from the corner of Opeña to Rivera Streets (Annex "D", Petition). Attached to the affidavit-complaint were: (i) a letter dated October 29, 1992 of Councilor Winnie Esplana to Arch. Vita of Parañaque Engineering Department; (ii) four letters all dated November 13, 1992 of BCCI General Manager Mr. Steve Espina to petitioner, Arch. Vita, Municipal Health Officer Dr. Oscar de Leon and Municipal Treasurer Silvestre de Leon requesting assistance for the issuance of a mayor's permit; (iii) Letter dated November 24, 1992 of BCCI counsel Atty. Renato Dilag to petitioner formally demanding implementation of Res. 744 (Annex "H"); (iv) petitioner's reply letter dated November 27, 1992 to Atty. Dilag stating among others that the non-implementation of Res. 744 was due to BCCI's failure to apply for appropriate permit and license to operate the Night Manufacturers' Fair which was one of the conditions in the authorization (Annex "I").
2. On March 12, 1993, petitioner filed his counter-affidavit stating that the charge of violation of Sec. 3(f) of RA

3019 has no legal and factual basis because (a) BCCI, which actually started operation, never applied for a mayor's permit as evidenced by his letter reply to Atty. Dilag and the affidavit dated March 11, 1993 of Business Permit and License Office Officer-In-Charge Mrs. Elenita T. Paracale (Annex "J"). Moreover, the four letters of Mr. Steve Espina requesting assistance in the issuance of mayor's permit were not filed with the municipal office concerned.

3. In his Reply Affidavit dated April 1, 1993, complainant BCCI denied conducting actual operations but only commenced soliciting participants and would-be sponsors to the fair. Allegedly, BCCI exerted all possible efforts to secure the necessary permit but petitioner simply refused to issue the same unless it gives money to petitioner. Attached to the Reply-Affidavit was a copy of Executive Order dated Nov. 23, 1992 issued by petitioner granting a group of Baclaran-based organizations/associations of vendors the holding of "Christmas Agro-Industrial Fair Sa Baclaran" from November 28, 1992 to February 28, 1993 using certain portions of the National and Local Government Roads/Streets in Baclaran for fund raising (Annex "L").

4. Graft Investigation Officer (GIO) III Rogelio A. Ringpis conducted a preliminary investigation and issued on September 22, 1993 a resolution recommending the prosecution of petitioner for violation of Sec. 3(f) of R.A. No. 3019, as amended. The recommendation was approved by EPIB Head Raul Arnau and endorsed by Assistant Ombudsman Abelardo L. Aportadera to Special Prosecutor (SP) Aniano Desierto for review and possible preparation of criminal information. The endorsement was duly noted by Over-all Deputy Ombudsman Francisco A. Villa.

5. On December 22, 1993, Special Prosecutor (SP) II Luz L. Quinones-Marcos, upon review of the Ringpis resolution, recommended the filing of information against petitioner for violation of Sec. 3(e) instead of Sec. 3(f) of R.A. 3019. The recommendation was approved by Deputy Special Prosecutor (DSP) Jose De G. Ferrer and SP Desierto. On January 11, 1994, Ombudsman Conrado Vasquez approved the report and recommendation and directed the government prosecutors to file the necessary information against petitioner with the Sandiganbayan.

6. The Information for Violation of Sec. 3(e) of R.A. 3019 filed on February 16, 1994 and docketed as Criminal Case No. 20226, reads as follows:

"That in or about the month of November, 1992 or for sometime prior thereto, in the Municipality of Parañaque, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a public officer being then the duly elected Municipal Mayor of Parañaque, Metro Manila, with manifest partiality and evident bad faith in the exercise of his administrative and official functions, did then and there wilfully, unlawfully and criminally, without valid reason, refuse to issue a mayor's permit and/or refuse to act favorably on the application of the Baclaran Credit Cooperative, Inc. (BCCI) to operate a 'night fair' along the service road of Roxas Boulevard (Baclaran) for a period of sixty (60) days in accordance with Resolution No. 744 series of 1992 of the Municipal Council of Parañaque, and that instead the accused issued and signed an executive order on November 23, 1992 granting an unknown or unidentified group of Baclaran-based organizations/associations of vendors the privilege to operate a 'night fair' at certain portions of the national and local roads/streets in Baclaran, thus, causing undue injury to the Baclaran Credit Cooperative, Inc.

CONTRARY TO LAW."

(Annex "P")

7. On January 17, 1994, petitioner filed a Motion for Reconsideration and/or Reinvestigation allegedly to rectify error of law and on ground of newly discovered evidence (Annex "O"). Although opposed by the prosecution on January 24, 1994, the same was granted.

8. On February 7, 1994, Special Prosecu(tion) Officer (SPO) I Cornelio Somido to whom the reinvestigation was assigned, issued an order recommending the withdrawal of the information against petitioner for insufficiency of evidence. This recommendation approved by DSP de G. Ferrer was however disapproved by SP Desierto noting that:

"Respondent does not refute the allegation and evidence that complainant and representative approached him and he refused to issue the permit despite follow up. Neither does respondent claim that in refusing to issue the permit, he advised complainant and representatives that they had failed to comply with requirements. Bad faith is, therefore, evident in the respondent's persistent refusal to issue permit."

On February 9, 1994, Ombudsman Vasquez concurred with Special Prosecutor Desierto and disapproved the recommendation (Annex "A").

9. On February 18, 1994, petitioner voluntarily surrendered and posted a cash bail bond with the Sandiganbayan for his temporary release.

10. On February 21, 1994, petitioner filed an Omnibus Motion for a re-examination and re-assessment of the prosecution's report and documentary evidence with a view to set aside the determination of the existence of probable cause and ultimately the dismissal of the case (Annex "Q").

11. On March 3, 1994, the Sandiganbayan, after finding that sufficient probable cause exist(s) against petitioner, denied for lack of merit petitioner's Omnibus Motion in open court and proceeded to arraign him as scheduled that day. But in view of petitioner's refusal to enter any plea, the court ordered a plea of "not guilty" entered into his record.

12. On March 8, 1994, the prosecution filed a Motion to suspend Accused Pendente Lite.

13. On March 9, 14 and 15, 1994, petitioner filed a Motion to Set Aside Plea and To Reduce Denial Order Into Writing (With Entry of Appearance) (Annex "R"), Supplemental Motion to Set Aside Plea and Opposition to Motion to Suspend Accused and Supplemental Pleading with Additional Opposition to Motion to Suspend Accused (Annex "S"), respectively. Petitioner sought the following relief, to wit:

- a) to set aside plea of "not guilty" entered for him by the court during the arraignment on March 3, 1994;
- b) to dismiss the case after a re-study of probable cause;
- c) to order preliminary investigation for violation of Section 3 (e) of R.A. 3019;
- d) to deny the motion for suspension.

14. On March 23, 1994, the prosecution opposed the supplemental motions and prayed that the denial of petitioner's Omnibus Motion be maintained.

15. On April 4, 1994, the Sandiganbayan denied petitioner's motion but in the interest of justice and to avoid further delay in the prompt adjudication of the case due to technicalities, it set aside the proceedings conducted on March 3, 1994 including petitioner's arraignment thus revoking the plea of "not guilty" entered in his record. The arraignment was set to April 7, 1994 but further action on the prosecution's motion to suspend petitioner pendente lite was deferred, without prejudice to the reiteration or revival thereof at the proper time and upon notice (Annex "T").

16. On April 20, 1994, petitioner filed a motion for reconsideration which was granted on May 15, 1994 (Annex "V"). Consequently, the case was remanded to the Office of the Ombudsman for another reinvestigation to be terminated within 30 days from notice. Petitioner's arraignment was again reset to July 13, 1994 in the event of

adverse resolution on the re-investigation.

17. During this reinvestigation, petitioner filed a Memorandum with Additional Evidence to SP(O) III Berbano to whom the case was assigned (Annex "W"). Meantime, several scheduled arraignments were deferred on the ground that the reinvestigation has not been terminated and, later, the recommendation has yet to be acted upon by superior officers.

18. On September 23, 1994, SPO III Roger Berbano, Sr. issued a memorandum recommending the withdrawal of the Information on the ground that no probable cause exist(s) to indict petitioner for violation of Section 3 (e) of R.A. (3019). He alleged that to grant an exclusive mayor's permit demanded by BCCI will subject petitioner to liability for violation of R.A. 3019 for giving unwarranted benefit to BCCI. Moreover, BCCI failed to show compliance with the requirements of Res. 744, hence petitioner had all the reasons to refuse issuance of mayor's permit. Also, the issuance of Executive Order dated November 23, 1992 allowing Baclaran-based vendors associations to hold a night fair did not in any manner cause injury to BCCI as the authority given to them under Res. 744 was not exclusive. Petitioner merely considered the best interest of the municipality.

19. On October 3, 1994, complainant Manuel A. Vizcarra, formally requested the Ombudsman to disqualify SP(O) Berbano on the ground of lack of confidence, bias and undue delay in the reinvestigation of the case.

20. The reinvestigation was reassigned to SPO III Angel C. Mayoralgo who on November 3, 1994, recommended the dismissal of the case stating that petitioner "cannot be held liable for violation of either Section 3(f), the original charge, or Section 3(e), R.A. 3019, the pending charge against Mayor Olivarez, because he neither neglect[ed]/refuse[d] to act without sufficient justification on the letter request addressed to him, nor acted through manifest partiality, evident bad faith or gross inexcusable negligence causing undue injury to BCCI. If ever the latter sustained injury for the non-implementation of Council Resolution No. 744, S-92, the same is due to the fault and indiscretion of its officers."

21. On December 9, 1994, DSP de G. Ferrer reversed the recommendation with the following observation:

"Even discounting evident bad faith on the part of respondent for the sake of argument, he is liable under Sec. 3(e) of R.A. 3019 by giving unwarranted benefit THRU MANIFEST PARTIALITY, to another group on the flimsy reason that complainant failed to apply for a business permit.

The merits of respondent's justification (insufficient as it is) should be passed upon by the court."

(Annex "B")

The reversal was concurred (in) by SP Desierto and approved by Ombudsman Vasquez, who on December 27, 1994, directed the prosecution to proceed under the existing information.

22. On January 13, 1995, petitioner filed a Motion for Issuance of Subpoena Duces Tecum and Ad Testificandum to DSP Jose de G. Ferrer, SPO III Roger Berbano, Sr., and SPO III Angel Mayoralgo, Jr.

23. On January 16, 1995, petitioner filed a Motion to Strike Out and/or Review Result of Reinvestigation praying that:

"(a) the Ombudsman's Resolution of January 9, 1995 sustaining his original finding that probable cause (exists) against petitioner be stricken off the record;

(b) the information be dismissed

(c) or in the alternative, for the court to review Ombudsman's finding of probable cause against him" (Annex "X").

24. On January 16, 1995, the motion was denied by respondent Sandiganbayan. x x x. (Corrections in parentheses supplied.)

Hence, this petition.

Petitioner assails the discretionary power of the Ombudsman to review the recommendations of the government prosecutors and to approve or disapprove the same through a mere marginal note, without conducting another preliminary investigation. Similarly, petitioners fault respondent Sandiganbayan for, allegedly in grave abuse of discretion, refusing to review the finding of the Ombudsman that there exists probable cause to hold petitioner liable for violation of Republic Act No. 3019, considering that the Ombudsman did not comply with the guidelines set forth by respondent court in the conduct of the reinvestigation.

We shall first deal with the propriety or impropriety of the questioned marginal notes, dated February 9, 1994 and December 9, 1994, issued by then Special Prosecutor Aniano Desierto (now Ombudsman) and Deputy Special Prosecutor Jose de G. Ferrer, respectively. Petitioner contends that these marginal notes are null and void on the ground that the same were issued without the benefit of a new preliminary investigation and that the findings therein were not based on the facts and the evidence presented. It is likewise averred that the above-named government prosecutors were engaging in a fishing expedition when they changed theories, that is, from "evident bad faith" to "manifest partiality," but only after the Sandiganbayan had issued a Resolution declaring that the original finding of bad faith was unwarranted.

After a careful scrutiny of the issues raised in the petition for certiorari, the arguments in support thereof, as well as the comments of the public respondents thereon, we are not convinced that herein public respondents acted with grave abuse of discretion or without or in excess of jurisdiction.

The mere fact that the order to file the information against petitioner was contained in a marginal note is not sufficient to impute arbitrariness or caprice on the part of respondent special prosecutors, absent a clear showing that they gravely abused their discretion in disapproving the recommendation of the investigating prosecutors to dismiss or withdraw the case against petitioner. Neither are these marginal notes tainted with or indicative of vindictiveness or arbitrariness as imputed by petitioner. Public respondents disapproved the recommendation of the investigating prosecutors because they sincerely believed that there is sufficient evidence to indict the accused.

The Ombudsman's conformity thereto is but an exercise of his powers based upon constitutional mandate and the courts should not interfere in such exercise. The rule is based not only upon respect for the investigatory and prosecutory powers granted by the Constitution to the Office of the Ombudsman but upon practicality as well. Otherwise, the functions of the courts will be grievously hampered by innumerable petitions assailing the dismissal of investigatory proceedings conducted by the Office of the Ombudsman with regard to complaints filed before it, in much the same way that the courts would be extremely swamped if they could be compelled to review the exercise of discretion on the part of the fiscals or prosecuting attorneys each time they decide to file an information in court or dismiss a complaint by a private complainant.[5]

It may be true that, on the face thereof, the marginal notes seem to lack any factual or evidentiary basis for failure to specifically spell out the same. However, that is not all there is to it. What is actually involved here is a situation wherein, on the bases of the same findings of fact of the investigating prosecutors, respondent special prosecutors were of the opinion that, contrary to the former's recommendation, petitioner is probably guilty of the offense charged. Obviously, therefore, since it is merely a review of the conclusions arrived at by the investigating prosecutor, another or a new preliminary investigation is no longer necessary.

The case of Cruz, Jr. vs. People, et al.,[6] which involves substantially the same issues, has ruled on the matter in

this wise:

It may seem that the ratio decidendi for the Ombudsman's order may be wanting but this is not a case of a total absence of factual and legal bases nor a failure to appreciate the evidence presented. What is actually involved here is merely a review of the conclusion arrived at by the investigating prosecutor as a result of his study and analysis of the complaint, counter-affidavits, and the evidence submitted by the parties during the preliminary investigation. The Ombudsman here is not conducting anew another investigation but is merely determining the propriety and correctness of the recommendation given by the investigating prosecutor, that is, whether probable cause actually exists or not, on the basis of the findings of the latter. Verily, it is discretionary upon the Ombudsman if he will rely mainly on the findings of fact of the investigating prosecutor in making a review of the latter's report and recommendation, as the Ombudsman can very well make his own findings of fact. There is nothing to prevent him from acting one way or the other. As a matter of fact, Section 4, Rule 112 of the Rules of Court provides that "where the investigating assistant fiscal recommends the dismissal of the case but his findings are reversed by the provincial or city fiscal or the chief state prosecutor on the ground that a probable cause exists, the latter may, by himself, file the corresponding information against the respondent or direct any other assistant fiscal or state prosecutor to do so, without conducting another preliminary investigation."

With more reason may the Ombudsman not be faulted in arriving at a conclusion different from that of the investigating prosecutor on the basis of the same set of facts. It cannot be said that the Ombudsman committed a grave abuse of discretion simply because he opines contrarily to the prosecutor that, under the facts obtaining in the case, there is probable cause to believe that herein petitioner is guilty of the offense charged.

x x x (f)rom the tenor of respondent Ombudsman's statement, it is clear that he agreed with the findings of facts of the investigating prosecutor but disagreed with the latter's conclusion on the import and significance of said findings. On the basis of the findings of fact of the investigating prosecutor, which were not disputed by petitioner, respondent Ombudsman believed that there was sufficient ground to engender a well-founded belief that a crime had been committed and that petitioner is probably guilty thereof. (*Italics in the original text.*)

The alleged shift in theory from "evident bad faith" to "manifest partiality" fails to present a sufficient indicium that respondent prosecutors gravely abused their discretion. Manifest partiality, evident bad faith and gross inexcusable negligence are but elements of the offense defined in and punishable under Section 3(e) of Republic Act No. 3019 for which petitioner stands charged. The presence or absence of the elements of the crime are evidentiary in nature and are matters of defense, the truth of which can be best passed upon after a full-blown trial on the merits. Thus, the issue of whether there was bad faith or manifest partiality on the part of petitioner should best be determined, not in the preliminary investigation, but during the trial proper.[7]

It must here be stressed that a preliminary investigation is essentially inquisitorial, and it is often the only means of discovering the persons who may be seasonably charged with a crime, to enable the prosecutor to prepare his complaint or information. It is not a trial of the case on the merits and has no purpose except that of determining whether a crime has been committed and whether there is probable cause to believe that the accused is guilty thereof, and it does not place the persons against whom it is taken in jeopardy. It is not the occasion for the full and exhaustive display of the parties' evidence; it is for the presentation of such evidence only as may engender a well-grounded belief that an offense has been committed and that the accused is probably guilty thereof.[8]

Consequently, petitioner's asseveration that the reinvestigation is null and void because the respondent prosecutors failed to consider all the evidence presented in his defense has no leg to stand on. A perusal of the records will show that all the documentary evidence, as well as the additional documents submitted by petitioner during the reinvestigation, were thoroughly examined and fully evaluated in the determination of probable cause.

Probable cause, as explained in the aforecited case of *Pilapil*, is -

x x x a reasonable ground of presumption that a matter is, or may be, well founded, such a state of facts in the mind of the prosecutor as would lead a person of ordinary caution and prudence to believe, or entertain an honest or strong suspicion, that a thing is so. The term does not mean "actual and positive cause" nor does it import absolute certainty. It is merely based on opinion and reasonable belief. Thus, a finding of probable cause does not require an inquiry into whether there is sufficient evidence to procure a conviction. It is enough that it is believed that the act or omission complained of constitutes the offense charged. Precisely, there is a trial for the reception of evidence of the prosecution in support of the charge.

Whether an act was done causing undue injury to the government and whether the same was done with manifest partiality or evident bad faith can only be made out by proper and sufficient testimony. Necessarily, a conclusion can be arrived at when the case has already proceeded on sufficient proof.

x x x the court should not be guided by the rule that accused must be shown to be guilty beyond a reasonable doubt, but rather whether there is sufficient evidence which inclines the mind to believe, without necessarily leaving room for doubt, that accused is guilty thereof.[9]

We have meticulously analyzed the arguments raised by the parties in the various pleadings and motions, together with their documentary evidence, which all formed the basis for the issuance of the questioned resolutions, and we are convinced that there exists probable cause as to warrant the filing of charges against herein petitioner for a violation of Section 3 (e) of Republic Act No. 3019.

Petitioner's main defense is that BCCI was not issued a mayor's permit by reason of its failure to apply therefor and to comply with the conditions set forth in Sanguniang Bayan Resolution No. 744. There are several flaws to this argument.

First. The purported absence of an application for the issuance of a permit is actually more apparent than real. Initially, petitioner claims that he could not grant a permit to BCCI, which was allegedly demanding an exclusive authority to operate, on the pretext that he can be held liable for a violation of Republic Act No. 3019 for giving unwarranted benefits to BCCI to the detriment of other Baclaran-based vendors' associations. Subsequently, but in the same vein, petitioner tries to justify the issuance of an executive order granting a permit to the unidentified Baclaran-based vendors' associations, in that the same did not cause injury to BCCI since the authority to operate given to the latter is not exclusive.

It would appear, therefore, that petitioner had taken it upon himself to categorize and determine the exclusivity or non-exclusivity of the authority to operate granted to BCCI, depending on whether or not it would suit his purpose or predilection. The inconsistent stand taken by petitioner with regard to the true character of BCCI's authority to operate is indeed quite perplexing and suffices to cast sufficient doubt on the real motive behind the non-issuance of the required permit.

Second. It is asserted that the executive order granting a permit to the Baclaran-based vendors' associations was issued by petitioner supposedly in the best interest of the municipality as evidenced by its earnings from the night fair in the total amount of P13,512,948.00. While the avowed purpose may prove noble, still it miserably pales in contrast to what appears to be bad faith or manifest partiality on the part of petitioner in refusing to grant a permit to BCCI. Petitioner could not plausibly demonstrate how the issuance of a permit to BCCI would so adversely affect public interest as to warrant its denial. On the contrary, the Sangguniang Bayan of Parañaque had even passed a resolution, which notably was approved by herein petitioner, expressly allowing BCCI to hold the night fair. This is concrete proof that the grant of authority to operate in favor of BCCI was not at all contrary to law

and public policy, nor was it prejudicial to public interest.

Petitioner's suspected partiality may be gleaned from the fact that he issued a permit in favor of the unidentified Baclaran-based vendors' associations by the mere expedient of an executive order, whereas so many requirements were imposed on BCCI before it could be granted the same permit. Worse, petitioner failed to show, in apparent disregard of BCCI's right to equal protection, that BCCI and the unidentified Baclaran-based vendors' associations were not similarly situated as to give at least a semblance of legality to the apparent haste with which said executive order was issued. It would seem that if there was any interest served by such executive order, it was that of herein petitioner.

Petitioner likewise submits that no permit could be issued because BCCI never filed an application therefor with the proper office, that is, the Business Permit and Licensing Office. This is actually begging the question. It is not denied that on November 13, 1992, BCCI, through its general manager, wrote petitioner requesting for a permit to operate, but this was rejected outright by him on the theory that the application should be made with the proper municipal official. The indifference shown by petitioner to BCCI's application taints his actuations with dubiety.

As the mayor of the municipality, the officials referred to were definitely under his authority and he was not without recourse to take appropriate action on the letter-application of BCCI although the same was not strictly in accordance with normal procedure. There was nothing to prevent him from referring said letter-application to the licensing department, but which paradoxically he refused to do. Whether petitioner was impelled by any material interest or ulterior motive may be beyond us for the moment since this is a matter of evidence, but the environmental facts and circumstances are sufficient to create a belief in the mind of a reasonable man that this would not be completely improbable, absent countervailing clarification.

Lastly, it may not be amiss to add that petitioner, as a municipal mayor, is expressly authorized and has the power to issue permits and licenses for the holding of activities for any charitable or welfare purpose, pursuant to Section 444 (b) (3) (iv and v) of the Local Government Code of 1991 (Republic Act No. 7160). Hence, he cannot really feign total lack of authority to act on the letter-application of BCCI.

On the basis of the foregoing, we are reasonably convinced that there is enough evidence to warrant the filing of a formal charge in court against herein petitioner for a violation of Section 3(e) of Republic Act No. 3019.

Considering that the findings of fact by the Office of the Ombudsman are supported by substantial evidence, the same should be considered conclusive. Furthermore, the Ombudsman's findings are essentially factual in nature. Accordingly, in assailing said findings on the contention that the Ombudsman committed a grave abuse of discretion in holding that petitioner is liable for the offense charged, the petition at bar clearly raises questions of fact. The arguments therein are anchored on the propriety of or error in the Ombudsman's appreciation of the facts of the case.

Petitioner cannot be unaware of our oft-repeated injunction that this Court is not a trier of facts, more so in an application for the extraordinary writ of certiorari where neither questions of fact nor even of law are entertained, since only questions of lack or excess of jurisdiction or grave abuse of discretion are authorized.[10] On this issue, therefore, we find that no grave abuse of discretion has been committed by respondents which would warrant the granting of the writ of certiorari, especially where the circumstances attending the recourse therefore are strongly suggestive of dilatory purposes.

WHEREFORE, the petition is DISMISSED for lack of merit.

SO ORDERED.

Puno, Mendoza, and Francisco, JJ., concur.
Narvasa, C.J., (Chairman), on official leave.

[1] Annex A, Petition; Rollo, 39.

[2] Annex B, id.; ibid., 42.

[3] Annex C, id.; ibid., 49.

[4] Rollo, 242-254.

[5] Ocampo IV vs. The Hon. Ombudsman, et al., G.R. Nos. 103446-47, August 30, 1993, 225 SCRA 725.

[6] G.R. No. 110436, June 27, 1994, 233 SCRA 439.

[7] Pilapil vs. Sandiganbayan, et al., G.R. No. 101978, April 7, 1993, 221 SCRA 349.

[8] Cruz, Jr. vs. People, et al., supra, Fn 6.

[9] Supra., fn. 7.

[10] See fn. 6.

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