

P/INSP. RODOLFO SAMSON, PO3 JAMES BUSTINERA, PO2 PABLO TOTANES, AND PO1 ADRIANO CRUZ, PETITIONERS, VS. HON. TEOFISTO T. GUINGONA, JR., AS SECRETARY OF JUSTICE, CHIEF STATE PROSE...

G.R. No. 123504. December 14, 2000

Ponente: PARDO, J.

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PARDO, J.:

The instant petition is to restrain the Secretary of Justice from conducting a reinvestigation of PNP-CICC (Heirs of Datu Gemie Sinsuat vs. P/Sr. Insp. Rodolfo Samson, et al.,)[1] pursuant to an order[2] of the Regional Trial Court, Quezon City, Branch 79.[3]

The facts are as follows:

On July 13, 1995, at about 8:05 p.m., at Scout Reyes Street, Barangay Paligsahan, Quezon City, patrolmen of the Central Police District Command posted at the intersection of Scout Reyes Street and Mother Ignacia Street flagged a taxicab, with Datu Gemie Sinsuat as passenger. Instantly, the patrolmen shot Datu Sinsuat in different parts of the body, inflicting upon him multiple gunshot wounds, causing his death.[4]

In August 1995, PNP-Criminal Investigation Service and Central Police District Command district director and the heirs of Gemie Sinsuat filed with the Department of Justice a complaint[5] for murder against Rodolfo Samson, James Bustinera, Pablo Totanes, Adriano Cruz, and police officers Ernesto Diaz, Fernando Nituan, Jaime de la Cueva, Nestor Tiotioen and Edwin Villanueva, for the killing of Datu Gemie Sinsuat, a son of a politician from Cotabato, on July 13, 1995, at Scout Reyes, Barangay Pinagkaisahan, Quezon City.

The case was assigned to Prosecution Attorney Emmanuel Velasco.

Accused Diaz, Nituan and dela Cueva admitted killing Datu Sinsuat but claimed self-defense since according to them, they killed Sinsuat during a shootout. On the other hand, accused Samson and Totanes denied any participation in the killing and alleged that they arrived at the scene of the crime after the shooting in response to a radio message requesting for assistance.[6]

Accused Bustinera and Cruz submitted a separate joint counter-affidavit claiming that they arrived at the scene of the crime after the shootout. They brought the body of Datu Sinsuat to the Capitol Medical Center upon instructions of Captain Samson.[7]

After investigation, on October 3, 1995, Prosecution Attorney Emmanuel Y. Velasco filed with the Regional Trial Court, Quezon City, an information[8] for murder against petitioners and other police officers, except Nestor Tiotioen and Edwin Villanueva, who turned state witnesses.

On October 3, 1995, petitioners filed with the trial court a Very Urgent Motion for Judicial Determination of Existence of Probable Cause (with Prayer to Hold the Issuance of Warrant of Arrest)[9] praying:

"WHEREFORE, it is respectfully prayed of this Honorable Court to personally determine the existence of probable cause before issuing the warrants for the arrest of the accused, and to dismiss these cases if it shall determine that no probable cause exists against the accused.

"Movants also pray that a warrant of arrest be held in abeyance until after the resolution of this case or in case a warrant has already been issued to recall the same with respect to the movants."

On October 9, 1995, the trial court ruled that there was probable cause for the arrest, with no bail, of accused Ernesto Diaz, Fernando Nituan and Jaime de la Cueva.[10]

On October 18, 1995, the trial court ruled that it was premature to discuss the merits of Exhibits "A" to "F" (for the prosecution) for the purpose of the issuance of a warrant of arrest considering that these exhibits were not presented during the preliminary investigation of the case and accused were not furnished copies of the same.[11] The trial court ordered the reinvestigation of the case with respect to petitioners. Thus-

"PREMISES CONSIDERED, the Court finds that at the time of the filing of the information for murder against accused Samson, Totanes, Bustinera and Cruz based on the evidence presented during the preliminary investigation and Resolution dated September 29, 1995 issued by Prosecutor Emmanuel Y. Velasco, the Court finds no probable cause for the issuance of warrants of arrest against accused P/Sr. Insp. Rodolfo Samson, PO3 Pablo Totanes, PO3 James Bustinera and PO1 Adriano Cruz.

"The Chief State Prosecutor, Department of Justice or his Assistant Prosecutors is ordered to reinvestigate this case giving accused Samson, Totanes, Bustinera and Cruz opportunity to controvert Exhibits A to F with sub-markings.

"SO ORDERED." [12]

Petitioners did not file any motion for reconsideration of the order. However, before the Department of Justice could conduct a reinvestigation, on February 6, 1996, petitioners filed with the Supreme Court the instant petition to enjoin respondents from further proceeding with the reinvestigation of the case or from resolving the same.[13]

The issue is whether or not the Court may enjoin the Secretary of Justice from conducting a reinvestigation of the charges against petitioners as ordered by the trial court for determination of probable cause.

We dismiss the petition.

Petitioners' plea for injunction to restrain the reinvestigation of the criminal case against them is not legally permissible.

As a general rule, the Court will not issue writs of prohibition or injunction preliminary or final, to enjoin or restrain, criminal prosecution.[14] With more reason will injunction not lie when the case is still at the stage of preliminary investigation or reinvestigation.[15] However, in extreme cases, we have laid the following exceptions:

(1) when the injunction is necessary to afford adequate protection to the constitutional rights of the accused; (2) when it is necessary for the orderly administration of justice or to avoid oppression or multiplicity of actions; (3) when there is a prejudicial question which is subjudice; (4) when the acts of the officer are without or in excess of authority; (5) where the prosecution is under an invalid law; ordinance or regulation; (6) when double jeopardy is clearly apparent; (7) where the Court has no jurisdiction over the offense; (8) where it is a case of persecution rather than prosecution; (9) where the charges are manifestly false and motivated by the lust for vengeance; and (10) when there is clearly no prima facie case against the accused and a motion to quash on that ground has been denied.[16]

Petitioners have not shown that the case at bar falls within any of the recognized exceptions above set forth. Petitioners only rely on the probability that a reinvestigation may result in the remand of the case to the court and the issuance of a warrant of arrest.

We find petitioners' plea for a writ of injunction or temporary restraining order utterly without merit. As a rule, we do not interfere in the conduct of preliminary investigations or reinvestigations and leave to the investigating prosecutor sufficient latitude of discretion in the exercise of determination of what constitutes sufficient evidence as will establish probable cause for the filing of information against an offender.[17]

WHEREFORE, the petition is hereby DISMISSED, for lack of merit.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] I.S. No. 95-523

[2] Dated October 18, 1995, Petition, Annex "I", Rollo, pp. 47-52.

[3] In Criminal Case No. Q-95-63293, Judge Godofredo L. Legaspi, presiding.

[4] Comment, Rollo, p. 2; Petition, Annex "D", Rollo, p. 33.

[5] I. S. No. 95-523 entitled PNP-CIS and CPDC (in behalf of Heirs of Gemie Sinsuat) vs. P/Sr. Insp. Rodolfo Samson, et al.

[6] Memorandum for Petitioners, Rollo, pp. 165-187, at p.166.

[7] Department of Justice Resolution, Rollo, pp. 112 - 125, at p. 122.

[8] Petition, Annex "G", Rollo, pp. 36-37.

[9] Petition, Annex "H", Rollo, pp. 39-46.

[10] See Order dated October 18, 1995, Petition, Annex "I", Rollo, pp. 47-52.

[11] Rollo, p. 51-52.

[12] Rollo, p. 52.

[13] Petition filed on February 6, 1996, Rollo, pp. 3-26. On September 25, 1997, we gave due course to the petition, Rollo, p. 28.

[14] Reyes v. Camilon, 192 SCRA 445 [1990]; Brocka v. Enrile, 192 SCRA 183, 188 [1990].

[15] Guingona v. City Fiscal of Manila, 137 SCRA 597, 605 [1985].

[16] Camanag v. Guerrero, 335 Phil. 945, 970-971 [1997], citing Paderanga v. Drilon, 196 SCRA 86 [1991]; Brocka v. Enrile, supra, Note 14, at pp. 188-189; Crespo v. Mogul, 151 SCRA 462 [1987]; Mercado v. Court of Appeals, 245 SCRA 594, 598 [1995].

[17] Camanag v. Guerrero, supra, Note 16, p. 969.

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