

**JOAN M. FLORES, PETITIONER, VS. HON. FRANCISCO C. JOVEN,
PRESIDING JUDGE OF BRANCH 29, REGIONAL TRIAL COURT, BISLIG,
SURIGAO DEL SUR, AND EMMANUEL NAVARRO, RESPONDENTS.**

G.R. No. 129874. December 27, 2002

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is a special civil action for certiorari under Rule 65 of the Rules of Court filed by complainant Joan M. Flores assailing the Order dated March 4, 1997 issued by the Regional Trial Court of Bislig, Surigao del Sur (Branch 29) in Criminal Case No. 1736-B, granting respondent-accused Emmanuel Navarro's Motion to Quash the Amended Information, and the Order dated May 6, 1997, denying petitioner's motion for reconsideration.[1]

The factual background of the case is as follows:

On January 23, 1996, petitioner caused the filing of a criminal complaint for Rape against respondent Navarro and nine other persons, namely, Alex Tañag, Ramil Toledo, Benjie Pasukin, Marcial Plaza, Jr., Rodulfo Codira alias "Babie", Robert Piodo, Daniel Equibal, Judy Duron and Jorge Azaria, as principals by direct participation.[2] After preliminary investigation, an Information dated June 14, 1996 was filed with the trial court, accusing Navarro and his other co-accused of the crime of Rape, docketed as Criminal Case No. 1736-B.

On October 18, 1996, before all the accused can be arraigned, Navarro filed a motion to dismiss the complaint in Criminal Case No. 1736-B on the ground that it does not sufficiently describe the crime of rape in any of its forms under Article 335 of the Revised Penal Code.[3] On October 23, 1996, the trial court issued an order re-setting the arraignment as the prosecution intends to file several other cases of rape against the accused.[4]

On November 27, 1996, an Amended Information for Rape was filed in Criminal Case No. 1736-B against Navarro, as the principal accused, committed as follows:

"That on or about the hours from 8:30 o'clock to 11 o'clock in the evening of January 18, 1996 at Purok 7, Gordonas Village, John Bosco District, Barangay Mangagoy, Municipality of Bislig, Province of Surigao del Sur, Philippines, and within the jurisdiction of this Honorable Court, "the above-named accused, conspiring, confederating and mutually helping each other for a common purpose, with lewd and unchaste designs, and by means of force, did then and there willfully, unlawfully and feloniously (sic) to wit: accused EMMANUEL NAVARRO has(sic) sexual intercourse with one Joan Flores, against the latter's will, while accused Alex Tanag, Ramil Toledo, Benjie Pasokin y Madis, Marcial Plaza, Jr. y Cubil, Rodulfo Codira alias Babie, Roberto Plodo y Ampalayo, Daniel Equibal y Degorio, Judy Duron y Quita and Jorge Azaria y Tino held the victim and stood as guard, to the damage and prejudice of the afore-said Flores.

"CONTRARY TO LAW: In violation of Article 355 of the Revised Penal Code, as amended by Section 11 of Republic Act No. 7659)"[5]

Similar Informations for Rape were likewise filed against the other accused, except Judy Duron, docketed as

Criminal Cases Nos. 1795-B, 1796-B, 1797-B, 1798-B, 1799-B, 1800-B, 1801-B and 1802-B, the only difference being that the accusatory portion of each Information individually named each of them as principal in committing the crime of rape while the other co-accused held the victim and stood as guard.

Respondent Navarro then filed a motion to quash the Amended Information in Criminal Case No. 1736-B on the grounds that: (1) the Amended Information does not comply with the Order dated October 23, 1996; (2) the allegations in the Amended Information is in conflict with petitioner's affidavit in that the Amended Information named respondent Navarro as the only one who had intercourse with petitioner while her affidavit mentioned only Rodulfo Codira alias "Babie" as the culprit; and (3) the Amended Information does not sufficiently describe the event on the night of January 18, 1996.[6]

On March 4, 1997, the trial court issued the assailed Order granting the motion to quash, finding that Navarro was not one of those identified by petitioner to have abused her, and that the Information failed to show his particular participation in the crime.[7] Navarro, however, was not released from detention as Criminal Cases Nos. 1795-B to 1802-B were still pending.

Petitioner filed a motion for reconsideration but the trial court per Order dated May 6, 1997 denied the same.[8]

Hence, petitioner, through her private prosecutors, filed the instant special civil action for certiorari.

Meanwhile, Navarro's other co-accused were arraigned and pleaded "not guilty" to the charges against them. Trial commenced as regards their respective cases.[9]

On October 3, 1998, Navarro escaped from detention[10] and has remained at large per manifestation of his counsel in his "Memorandum for the Respondents" filed with this Court on November 5, 1999.[11]

On November 25, 1998, before the prosecution could present its evidence, it filed a motion to withdraw the respective Informations against the six principal accused in Criminal Cases Nos. 1795-B, 1796-B, 1797-B, 1798-B, 1800-B and 1801-B for insufficiency of evidence.[12] The motion was granted by the trial court in its Order dated November 26, 1998, but the other accused whose cases were withdrawn remained as co-accused in Criminal Cases Nos. 1736-B (against Navarro), 1799-B (against Rodulfo Codira) and 1802-B (against Jorge Azaria).[13]

On September 1, 1999, the Court gave due course to herein petition and required the parties to submit their respective memoranda.[14]

Petitioner argues:

"9.a that during the clarificatory hearing conducted in the course of the preliminary investigation of the case by the Provincial Prosecutor's Office, respondent/accused Navarro was identified as one of those nine (9) persons who sexually abused petitioner, the latter upon seeing respondent, spontaneously cried and declared, right then and there, that he was even the one who burned her hand;

"9.b that on the alleged ground of insufficiency of the information (i.e., the facts charged do not constitute an offense because it failed to state with particularity respondent/accused Navarro's participation in the act complained of), public respondent should have realized that to resolve the issue, he need only determine whether the 'facts alleged, if hypothetically admitted, will establish the essential elements of the offense as defined by law'";[15]

Respondent, on the other hand, contends that the private prosecutors who initiated the instant petition have no personality to file the same as it is vested with the public prosecutors,[16] and that the assailed order of the trial court finds support in the records of the case as petitioner herself testified during preliminary investigation that

she became unconscious after she was sexually abused by Rodulfo Codira alias “Babie” and she did not know who took turns in abusing her.[17]

Anent the issue whether or not the petitioner has the personality or the right to file herein petition for certiorari – We rule in the affirmative. A perusal of the petition filed in this case shows that petitioner herself caused the preparation and filing of the present petition and filed the same through the private prosecutor[18]. It is beyond question that petitioner has the right or personality to file the petition, through her private prosecutors, questioning the dismissal of the criminal case against respondent Navarro. For obvious reasons, the public prosecutors who filed the motion to dismiss which was granted by the trial court would not initiate the action.

As early as 1969 in the case of Paredes vs. Gopengco,[19] it was already held that the offended party in a criminal case has sufficient interest and personality as a “person aggrieved” to file a special civil action of prohibition and certiorari under Rule 65 of the Rules of Court in line with the underlying spirit of the liberal construction of the rules in order to promote its object.

Later, in Mosquera vs. Panganiban,[20] we recognized the right of offended parties to appeal an order of the trial court which deprives them of due process, subject to the limitation that they cannot appeal any adverse ruling if to do so would place the accused in double jeopardy. Citing Martinez vs. Court of Appeals,[21] we held:

“Under Section 2, Rule 122 of the 1988 Rules of Criminal Procedure, the right to appeal from a final judgment or order in a criminal case is granted to ‘any party,’ except when the accused is placed thereby in double jeopardy.

“In People v. Guido, [57 Phil. 52 (1932)] this Court ruled that the word ‘party’ must be understood to mean not only the government and the accused, but also other persons who may be affected by the judgment rendered in the criminal proceeding. Thus, the party injured by the crime has been held to have the right to appeal from a resolution of the court which is derogatory to his right to demand civil liability arising from the offense. The right of the offended party to file a special civil action of prohibition and certiorari from an [interlocutory] order rendered in a criminal case was likewise recognized in the cases of Paredes v. Gopengco [29 SCRA 688 (1969)] and People v. Calo, Jr., [186 SCRA 620 (1990)] which held that ‘offended parties in criminal cases have sufficient interest and personality as ‘person(s) aggrieved’ to file the special civil action of prohibition and certiorari under Sections 1 and 2 of Rule 65 in line with the underlying spirit of the liberal construction of the Rules of Court in order to promote their object. . . .”

More recently, in Perez vs. Hagonoy Rural Bank, Inc.,[22] we held that the private respondent therein, as private complainant, has legal personality to assail the dismissal of the criminal case against the petitioner on the ground that the order of dismissal was issued with grave abuse of discretion amounting to lack or excess of jurisdiction.[23] This is so because a special civil action for certiorari may be filed by the persons aggrieved, which, in a criminal case, are the State and the private offended party or complainant. Having an interest in the civil aspect of the case, the complainant may file such action, in his name, questioning the decision or action of the respondent court on jurisdictional grounds.[24]

We further ruled in the Perez case that while it is only the Office of the Solicitor General that may bring or defend actions on behalf of the Republic of the Philippines, or represent the People or the State in criminal proceedings pending in the Supreme Court or the Court of Appeals, the private offended party retains the right to bring a special civil action for certiorari in his own name in criminal proceedings before the courts of law.[25]

Finally, double jeopardy does not apply. The requisites that must be present for double jeopardy to attach are: (a) a valid complaint or information; (b) a court of competent jurisdiction; (c) the accused has pleaded to the charge; and (d) the accused has been convicted or acquitted or the case dismissed or terminated without the express

consent of the accused.[26] The third requisite is not present in the instant case. Private respondent Navarro has not been arraigned.[27]

The next issue to be resolved is whether or not the writ of certiorari should issue in this case. Again, we rule in the affirmative. The trial court committed grave abuse of discretion amounting to lack or excess of jurisdiction in quashing the Information filed against Navarro in Criminal Case No. 1736-B.

First, contrary to the finding of the trial court, the records of this case adequately show that respondent Navarro was identified as one of those who sexually abused petitioner. In her Sworn Statement executed on January 23, 1996 before MCTC Judge Antonio K. Cañon, petitioner, while admitting that it was only Rodolfo Codira alias “Babie” whom she personally knew, nevertheless stated that she knew by face her other perpetrators as they “once in a while” pass by her residence or frequent their neighborhood. She further declared under oath that she was able to identify them later at the police station during line-up, viz.:

“7. Q -

How do you come to know that it was they Emmanuel Navarro ‘alias’ Tawing, Marcial Plaza, Jr. ‘alias’ Dodong, Bengie Pasokin, Rodolfo Codera ‘alias’ Babie, Jorge Azaria ‘alias’ Cocoy, Robert Pido, Judy Duron and Daniel Equibal sexually abused you.

“A -

Beforehand, I only know personally one of them Rodolfo Codera ‘alias’ Babie all others were only familiar through their faces because once in a while they will passed(sic) by our residence as they were residence(sic) or frequenting our neighborhood. There at the police station, the police lined them up for my identification with whom I have identified one by one according to their individual participation.”[28] (Emphasis Ours)

Petitioner later confirmed respondent Navarro’s identity when, during clarificatory questions propounded by Fiscal Cañedo at the Bislig Municipal Jail on March 25, 1996, she pointed to Navarro as one of those who came into the room after “Babie” left. She also tagged Navarro as the one who burned her hand. Thus:

“Q : After he left you, what happened?

“A : After Babie left me, there were others who entered the room.

“Q : Those who entered the room, can you recognize their faces?

“A : Yes.

“Q : If you see these persons who entered the room, can you recognize them:

“A : Yes.

“FISCAL CAÑEDO: We will request the private complainant to see the inmates inside Cell No. 1 and Cell No. 2, for her to identify the accused.

“INMATES INSIDE CELL NO. 1 AND CELL NO. 2 were presented one by one.

“xxx xxx xxx

“Q : Is he the one? (inmate no. 8)

"A : He is the one, he burned my hand (witness spontaneously pointed to inmate no. 8 while crying.)

"Q : What is your name?

"Inmate No. 8 - Emmanuel Navarro." [29]

The Court cannot fathom how the trial court concluded that respondent Navarro was not one of those identified by petitioner as one of her perpetrators when the Sworn Statement executed by petitioner, as well as her response to the clarificatory questions of the Fiscal, not only narrated the facts and circumstances surrounding her ordeal, but also explicitly and categorically identified respondent Navarro and his other co-accused as her alleged rapists.

Secondly, we find the Amended Information against respondent Navarro to be sufficient. Under Section 6, Rule 110 of the Revised Rules on Criminal Procedure, a complaint or information, to be sufficient, must state the name of the accused, designate the offense given by statute, state the acts or omissions constituting the offense, the name of the offended party, the approximate time of the commission of the offense and the place where the offense was committed.[30] In addition, it must set forth the facts and circumstances that have a bearing on the culpability and liability of the accused so that the accused can properly prepare for and undertake his defense.[31]

Particularly in rape cases, the gravamen of the offense is the fact of carnal knowledge under any of the circumstances enumerated therein, i.e., (1) by using force or intimidation; (2) when the woman is deprived of reason or otherwise unconscious; and (3) when the woman is under twelve years of age or is demented.[32]

In this case, the Information sufficiently alleged that respondent Emmanuel Navarro, by means of force, had sexual intercourse with petitioner against her will. It contained all the essential elements of rape as defined by law. The allegations describe the offense with sufficient particularity such that respondent Navarro will fully understand what he is being charged with. The Information also sufficiently alleged respondent Navarro's criminal culpability/liability for the crime, to wit: "accused EMMANUEL NAVARRO has (sic) sexual intercourse with one Joan Flores, against the latter's (sic) will." This is based on petitioner's own account of the incident wherein she stated that her perpetrators, including respondent Navarro, took turns in sexually abusing her[33].

One final point. We observed that the original records of Criminal Cases Nos. 1736-B[34], 1799-B[35] and 1802-B[36] pending with the trial court were elevated to this Court. However, the records of the said cases do not show any resolution of this Court requiring the elevation of the records thereof. The Order dated July 26, 2002 purportedly requiring the elevation of the original records of the above criminal cases to the Supreme Court, referred to in the transmittal letter dated August 14, 2002, signed by Clerk of Court Domingo P. De Castro, is not found in the records of herein case. In effect, the trial judge was unnecessarily precluded from proceeding further with the other pending cases, to wit: Criminal Cases Nos. 1799-B and 1802-B. Although Navarro was a co-accused in said cases, he is not the principal accused therein. He is only one out of the nine other co-accused. In addition, Navarro had not been arraigned for the reason that he jumped bail and remains at large up to the present.

WHEREFORE, we GRANT the petition for certiorari. The assailed Orders of the trial court dated March 4, 1997 and May 6, 1997 are hereby NULLIFIED and SET ASIDE. Criminal Case No. 1736-B is REINSTATED and the trial judge is directed to proceed therewith and immediately issue a warrant of arrest against accused Emmanuel Navarro.

Considering that Criminal Cases Nos. 1799-B and 1802-B are still pending trial with the Regional Trial Court (Branch 29), Bislig City, the Clerk of Court of this Court is directed to cause the return of the original records thereof with immediate dispatch to the said trial court for further proceedings.

Atty. Domingo P. de Castro, Clerk of Court of the Regional Trial Court (Branch 29), Bislig City is required to show cause, within ten (10) days from receipt of copy of herein decision why he should not be cited for contempt of court and administratively charged in elevating the original records of Criminal Cases Nos. 1799-B and 1802-B without proper authority, thereby unduly delaying the trial of said cases which are not involved in the present petition which concerns accused Navarro only.

SO ORDERED.

Bellosillo (Chairman), Mendoza, Quisumbing, and Callejo, Sr., JJ., concur.

[1] Rollo, pp. 21, 36.

[2] Original Records, Crim. Case No. 1736-B, p. 2.

[3] Id., p. 120.

[4] Id., p. 126.

[5] Id., p. 137.

[6] Original Records, Crim. Case No. 1736-B, pp. 150-153.

[7] Id., p. 195.

[8] Id., p. 221.

[9] Id., p. 170.

[10] Id., p. 367.

[11] Rollo, p. 135.

[12] Original Records, Crim. Case No. 1736-B, pp. 388-389.

[13] Id., p. 403.

[14] Rollo, p. 104.

[15] Id., p. 8.

[16] Id., pp. 40-41.

[17] Id., pp. 43-49.

[18] Id., p. 10.

[19] 29 SCRA 688 [1969].

[20] 258 SCRA 473 [1996].

[21] Id., pp. 478-479.

[22] 327 SCRA 588 [2000].

[23] *Id.*, p. 600.

[24] *Id.*, pp. 600-601, citing *Dela Rosa vs. Court of Appeals*, 253 SCRA 499 [1996].

[25] *Id.*, p. 601.

[26] *Dela Rosa case*, *supra* see Note 24, at page 506.

[27] Original Records, p. 170.

[28] Original Records, Crim. Case No. 1736-B, p.7.

[29] *Id.*, p. 64-66.

[30] *Estrada vs. Sandiganbayan*, G.R. No. 148965, February 26, 2002.

[31] *People vs. Quitlong*, 292 SCRA 360, 376 [1998].

[32] *People vs. Gianan*, G.R. Nos. 135288-93, September 15, 2000, *People vs. Marquez*, G.R. Nos. 137408-10, December 8, 2000.

[33] Original Records, p. 64.

[34] Entitled, “People of the Philippines, Plaintiff, versus, Emmanuel Navarro, Accused”.

[35] Entitled, “People of the Philippines, Plaintiff, versus, Rodulfo Codera, et al., Accused”.

[36] Entitled, “People of the Philippines, Plaintiff, versus, Jorge Azaria, et al., Accused”.

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