IN THE MATTER OF THE PETITION FOR HABEAS CORPUS OF PETE C. LAGRAN,

G.R. No. 147270. August 15, 2001

Ponente: PUNO, J.

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PUNO, J.:

On April 18, 1994, petitioner Pete C. Lagran was convicted by the Regional Trial Court of Quezon City of three (3) counts of violation of Batas Pambansa (BP) Blg. 22. He was sentenced to suffer imprisonment of one (1) year for each count and to pay a fine of P125,000.00, with subsidiary imprisonment in case of insolvency.[1] He appealed the decision of the trial court to the Court of Appeals but the appeal was dismissed on July 11, 1997 for failure to file appellant's brief. The decision became final and executory on August 6, 1997 and entry of judgment was made on March 5, 1998.[2]

By virtue of a Commitment Order issued by Hon. Elsa I. De Guzman, Presiding Judge, Regional Trial Court of Quezon City, Branch 93, petitioner was committed to the Quezon City Jail on February 24, 1999.[3] On April 3, 1999, he was transferred to the New Bilibid Prison[4] where he has been serving his sentence until the present.

Petitioner filed the instant petition for habeas corpus on March 19, 2001. He prayed for his immediate release as he had allegedly completed the service of his sentence. Citing Article 70 of the Revised Penal Code, he argued that if the penalties or sentences imposed on the accused are identical, and such penalties or sentences emanated from one court and one complaint, the accused shall serve them simultaneously. He stated that he has been incarcerated for two (2) years and four (4) days, counted from February 28, 2001, thus, his detention in the New Bilibid Prison is now without legal basis.

Petitioner's argument deserves scant consideration.

Section 70 of the Revised Penal Code provides:

> "ART. 70. Successive service of sentences.--When the culprit has to serve two or more penalties, he shall serve them simultaneously if the nature of the penalties will so permit; otherwise, the following rules shall be observed:
>
> In the imposition of the penalties, the order of their respective severity shall be followed so that they may be executed successively or as nearly as may be possible, should a pardon have been granted as to the penalty or penalties first imposed, or should they have been served out.
>
> For the purpose of applying the provisions of the next preceding paragraph the respective severity of the penalties shall be determined in accordance with the following scale:
>
> - Death,
>
> - Reclusion perpetua,
>
> - Reclusion temporal,

- Prision mayor,

- Prision correccional,

- Arresto mayor,

- Arresto menor,

- Destierro,

- Perpetual absolute disqualification,

- Temporary absolute disqualification,

- Suspension from public office, the right to vote and be voted for, the right to follow profession or calling, and

- Public censure.

Notwithstanding the provisions of the rule next preceeding, the maximum duration of the convict's sentence shall not be more than threefold the length of time corresponding to the most severe of the penalties imposed upon him. No other penalty to which he may be liable shall be inflicted after the sum total of those imposed equals the same maximum period.

Such maximum period shall in no case exceed forty years.

In applying the provisions of this rule the duration of perpetual penalties (penal perpetua) shall be computed at thirty years."

Article 70 of the Revised Penal Code allows simultaneous service of two or more penalties only if the nature of the penalties so permit.[5] The penalties that can be simultaneously served are: (1) perpetual absolute disqualification, (2) perpetual special disqualification, (3) temporary absolute disqualification, (4) temporary special disqualification, (5) suspension, (6) destierro, (7) public censure, (8) fine and bond to keep the peace, (9) civil interdiction, and (10) confiscation and payment of costs. These penalties, except destierro, can be served simultaneously with imprisonment. The penalties consisting in deprivation of liberty cannot be served simultaneously by reason of the nature of such penalties.[6] Where the accused is sentenced to two or more terms of imprisonment, the terms should be served successively.[7]

In the case at bar, petitioner was sentenced to suffer one year imprisonment for every count of the offense committed. The nature of the sentence does not allow petitioner to serve all the prison terms simultaneously. Applying the rule on successive service of sentence, we find that petitioner has not yet completed the service of his sentence as he commenced serving his sentence only on February 24, 1999. His prayer, therefore, for the issuance of a writ of habeas corpus has no basis.

IN VIEW WHEREOF, the petition is DISMISSED.

SO ORDERED..

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

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[1] Decision, Criminal Case No. Q-92-33212-214, Rollo, pp. 9-15.

[2] Rollo, p. 18.

[3] Id., p. 21.

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[4] Id., p. 22.

[5] Rodriguez vs. Director of Prisons, 47 SCRA 153 (1972).

[6] Reyes, Revised Penal Code Book I, 13th ed. (1993), p. 748.

[7] Gordon vs. Wolfe, 6 Phil 76.

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