PEOPLE OF THE PHILIPPINES, PETITIONER, VS. SANDIGANBAYAN (SPECIAL DIVISION) AND JOSE “JINGGOY” ESTRADA, RESPONDENTS.

G.R. NO. 158754. August 10, 2007

Ponente: GARCIA, J.

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GARCIA, J.:

The instant petition for certiorari under Rule 65 of the Rules of Court seeks to reverse and set aside the Resolution[1] of herein respondent Sandiganbayan (Special Division) issued on March 6, 2003 in Criminal Case No. 26558, granting bail to private respondent Senator Jose "Jinggoy" Estrada (hereafter "Jinggoy" for brevity), as effectively reiterated in its Resolution[2] of May 30, 2003, denying the petitioner's motion for reconsideration.

The factual antecedents which gave rise to this proceeding are set forth in the Court's Decision[3] of February 26, 2002, in G.R. No. 148965, to wit:

> In November 2000, as an offshoot of the impeachment proceedings against Joseph Ejercito Estrada, then President of the Republic of the Philippines, five criminal complaints against the former President and members of his family, his associates, friends and conspirators were filed with the ... Office of the Ombudsman.
>
> On April 4, 2001, the ... Ombudsman issued a Joint Resolution finding probable cause warranting the filing with the Sandiganbayan of several criminal Informations against the former President and the other respondents therein. One of the Informations was for the crime of plunder under Republic Act [RA] No. 7080 and among the respondents was herein petitioner Jose "Jinggoy" Estrada, then mayor of San Juan, Metro Manila.
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> The Information was amended and filed on April 18, 2001. Docketed as Criminal Case No. 26558, the case was assigned to [the] respondent Third Division of the Sandiganbayan. xxx. (Emphasis added.)

The amended information referred to, like the original, charged respondent Jinggoy, together with the former President and several others, with plunder, defined and penalized under RA No. 7080, as amended by Section 12 of RA No. 7659, allegedly committed as follows:

> That during the period from June, 1998 to January, 2001, in the Philippines, and within the jurisdiction of this Honorable Court, accused Joseph Ejercito Estrada, THEN A PUBLIC OFFICER, ..., by himself AND/OR in CONNIVANCE/CONSPIRACY with his co-accused, WHO ARE MEMBERS OF HIS FAMILY, RELATIVES BY AFFINITY OR CONSANGUINITY, BUSINESS ASSOCIATES, SUBORDINATES AND/OR OTHER PERSONS, BY TAKING UNDUE ADVANTAGE OF HIS OFFICIAL POSITION, AUTHORITY, RELATIONSHIP, CONNECTION, OR INFLUENCE, did then and there wilfully (sic), unlawfully and criminally amass, accumulate and acquire BY HIMSELF, DIRECTLY OR INDIRECTLY, ill-gotten wealth in the aggregate amount OR TOTAL VALUE of FOUR BILLION NINETY SEVEN MILLION EIGHT HUNDRED FOUR THOUSAND ONE HUNDRED SEVENTY THREE PESOS AND SEVENTEEN CENTAVOS [P4,097,804,173.17], more or less, THEREBY UNJUSTLY ENRICHING

> HIMSELF OR THEMSELVES AT THE EXPENSE AND TO THE DAMAGE OF THE FILIPINO PEOPLE AND THE REPUBLIC OF THE PHILIPPINES, through ANY OR A combination OR A series of overt OR criminal acts, OR SIMILAR SCHEMES OR MEANS, described as follows:
> (a) by receiving OR collecting, directly or indirectly, on SEVERAL INSTANCES, MONEY IN THE AGGREGATE AMOUNT OF... (P545,000,000.00), MORE OR LESS, FROM ILLEGAL GAMBLING IN THE FORM OF GIFT, SHARE, PERCENTAGE, KICKBACK OR ANY FORM OF PECUNIARY BENEFIT, BY HIMSELF AND/OR in connivance with co-accused ... Jose "Jinggoy" Estrada, ..., [and] JOHN DOES AND JANE DOES, in consideration OF TOLERATION OR PROTECTION OF ILLEGAL GAMBLING;
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> (b) by DIVERTING, RECEIVING, misappropriating, converting OR misusing DIRECTLY OR INDIRECTLY, for HIS OR THEIR PERSONAL gain and benefit, public funds ... [P130,000,000.00], more or less, representing a portion of the ... [P200,000,000] tobacco excise tax share allocated for the Province of Ilocos Sur under R.A. No. 7171, BY HIMSELF AND/OR in CONNIVANCE with co-accused Charlie 'Atong' Ang, Alma Alfaro, JOHN DOE a.k.a. Eleuterio Tan OR Eleuterio Ramos Tan or Mr. Uy, and Jane Doe a.k.a. Delia Rajas, AND OTHER JOHN DOES AND JANE DOES;
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> (c) by directing, ordering and compelling, FOR HIS PERSONAL GAIN AND BENEFIT, the Government Service Insurance System (GSIS) TO PURCHASE 351,878,000 SHARES OF STOCK MORE OR LESS, and the Social Security System (SSS), 329,855,000 SHARES OF STOCK MORE OR LESS, OF THE BELLE CORPORATION IN THE AMOUNT OF MORE OR LESS ... [P744,612,450.00], RESPECTIVELY, OR A TOTAL OF MORE OR LESS ... [P1,847,578,057.50]; AND BY COLLECTING OR RECEIVING, DIRECTLY OR INDIRECTLY, BY HIMSELF AND/OR IN CONNIVANCE WITH JOHN DOES AND JANE DOES, COMMISSIONS OR PERCENTAGES BY REASON OF SAID PURCHASES OF SHARES OF STOCK IN THE AMOUNT ... [P189,700,000.00], MORE OR LESS, FROM THE BELLE CORPORATION WHICH BECAME PART OF THE DEPOSIT IN THE EQUITABLE-PCI BANK UNDER THE ACCOUNT NAME "JOSE VELARDE";
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> (d) by unjustly enriching himself FROM COMMISSIONS, GIFTS, SHARES, PERCENTAGES, KICKBACKS, OR ANY FORM OF PECUNIARY BENEFITS, IN CONNIVANCE WITH JOHN DOES AND JANE DOES, in the amount of MORE OR LESS ... [P3,233,104,173.17] AND DEPOSITING THE SAME UNDER HIS ACCOUNT NAME "JOSE VELARDE" AT THE EQUITABLE-PCI BANK.[4]

What transpired next are narrated in the same February 26, 2002 Decision in G.R. No. 148965, thus:

> On April 25, 2001, the respondent court issued a warrant of arrest for [Jinggoy] and his co-accused. On its basis, [Jinggoy] and his coaccused were placed in custody of the law.
>
> On April 30, 2001, [Jinggoy] filed a "Very Urgent Omnibus Motion" alleging that: (1) no probable cause exists to put him on trial and hold him liable for plunder, it appearing that he was only allegedly involved in illegal gambling and not in a "series or combination of overt or criminal acts" as required in R.A. No. 7080; and (2) he is entitled to bail as a matter of right. [He] prayed that he be excluded from the Amended Information ... In the alternative, [he] also prayed that he be allowed to post bail ...
>
> On June 28, 2001, [he] filed a "Motion to Resolve Mayor Jose "Jinggoy" Estrada's Motion To Fix Bail On Grounds That An Outgoing Mayor Loses Clout An Incumbent Has And That On Its Face, the Facts Charged In The Information Do Not Make Out A Non-Bailable Offense As To Him."
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> xxx xxx xxx
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> On July 9, 2001, respondent Sandiganbayan issued a Resolution denying [Jinggoy's] "Motion to Quash and Suspend" and "Very Urgent Omnibus Motion." [His] alternative prayer to post bail was set for hearing after arraignment of all accused. xxx

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> xxx xxx xxx
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> The following day, July 10, 2001, [Jinggoy] moved for reconsideration of the Resolution. Respondent court denied the motion and proceeded to arraign [him]. [He] refused to make his plea prompting respondent court to enter a plea of "not guilty" for him.[5] (Emphasis and words in brackets added)

From the denial action of the Sandiganbayan immediately adverted to, Jinggoy interposed a petition for certiorari before this Court claiming that the respondent Sandiganbayan committed grave abuse of discretion in, inter alia, (a) sustaining the charge against him for alleged offenses and with alleged conspirators with whom he is not even connected, and (b) in not fixing bail for him. Pending resolution of this petition, docketed as G.R. No. 148965, Jinggoy filed with the Sandiganbayan an "Urgent Second Motion for Bail for Medical Reasons." The Ombudsman opposed the motion. For three (3) days in September 2001, the Sandiganbayan conducted hearings on the motion for bail, with one Dr. Roberto Anastacio of the Makati Medical Center appearing as sole witness for Jinggoy.[6]

On December 18, 2001, Jinggoy filed with the Court an Urgent Motion praying for early resolution of his Petition for Bail on Medical/Humanitarian Considerations." He reiterated his earlier plea for bail filed with the Sandiganbayan. On the same day, the Court referred the motion to the Sandiganbayan for resolution and directed said court to make a report, not later than 8:30 in the morning of December 21, 2001.[7]

The report was submitted as directed. Attached to the Report was a copy of the Sandiganbayan's Resolution dated December 20, 2001 denying Jinggoy's motion for bail for "lack of factual basis." According to the graft court, basing its findings on the earlier testimony of Dr. Anastacio, Jinggoy "failed to submit sufficient evidence to convince the court that the medical condition of the accused requires that he be confined at home and for that purpose that he be allowed to post bail." [8]

On February 26, 2002, the Court dismissed Jinggoy's petition in G.R. No. 148965, on the following rationale:

> The constitutional mandate makes the grant or denial of bail in capital offenses hinge on the issue of whether or not the evidence of guilt of the accused is strong. This requires that the trial court conduct bail hearings xxx. The burden of proof lies with the prosecution to show strong evidence of guilt.
>
> This Court is not in a position to grant bail to [Jinggoy] as the matter requires evidentiary hearing that should be conducted by the Sandiganbayan. The hearings on which respondent court based its Resolution of December 20, 2001 involved the reception of medical evidence only and which evidence was given in September 2001, five months ago. The records do not show that evidence on petitioner's guilt was presented before the lower court.
>
> Upon proper motion of [Jinggoy], respondent Sandiganbayan should conduct hearings to determine if the evidence of [Jinggoy's] guilt is strong as to warrant the granting of bail to [him].[9] (Underscoring and words in brackets added).

On April 17, 2002, Jinggoy filed before the Sandiganbayan an Omnibus Application for Bail [10] against which the prosecution filed its comment and opposition. Bail hearings were then conducted, followed by the submission by the parties of their respective memoranda.

In the herein assailed Resolution[11] of March 6, 2003, respondent Sandiganbayan (Special Division) granted the omnibus application for bail, disposing as follows:

> WHEREFORE, in light of all the facts and applicable law and jurisprudence, JOSE "JINGGOY" ESTRADA's "OMNIBUS APPLICATION FOR BAIL" dated April 16, 2002 is GRANTED. Bail for accused-movant is fixed at Five Hundred Thousand Pesos (Php500,000.00) to be paid in cash and his release is ordered upon the posting thereof and its approval, unless movant is being held for some other legal cause.

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> This resolution is immediately executory.
>
> SO ORDERED.

Petitioner filed a motion for reconsideration thereto which the respondent court denied via the herein equally assailed May 30, 2003 Resolution,[12] the dispositive part of which reads:

> WHEREFORE, for lack of merit, the prosecution's "MOTION FOR RECONSIDERATION [RE: GRANT OF JOSE "JINGGOY" ESTRADA'S PETITION FOR BAIL] dated 13 March 2003 is DENIED.
>
> SO ORDERED.

Hence, the present petition on the submission[13] that respondent Special Division of the Sandiganbayan acted with grave abuse of discretion amounting to lack or excess of jurisdiction -

> I.
>
> IN GRANTING BAIL TO RESPONDENT JINGGOY ESTRADA,...[CONSIDERING] THE WELL-ESTABLISHED THEORY OF OVERLAPPING CONSPIRACIES AND, THUS, GRIEVOUSLY DISREGARDED THE APPLICATION OF ACCEPTED CRIMINAL LAW PRECEPTS AND THEREBY SET A DANGEROUS PRECEDENT.
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> II.
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> xxx WHEN IT GRANTED BAIL TO RESPONDENT JINGGOY ESTRADA WHEN IT FAILED TO RECOGNIZE THAT THE CONDUCT OF RESPONDENT JINGGOY ESTRADA POINTED TO A CONCURRENCE OF SENTIMENT OR CRIMINAL DESIGN INDICATING THE EXISTENCE OF A CONSPIRACY BETWEEN ACCUSED JOSEPH ESTRADA AND JINGGOY ESTRADA.
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> III.
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> xxx WHEN IT GRANTED BAIL TO RESPONDENT JINGGOY ESTRADA CONSIDERING THAT THE UNDISPUTED FACT CLEARLY EVIDENCES THAT RESPONDENT JINGGOY ESTRADA, EVEN WITHOUT A FINDING OF CONSPIRACY, IS EQUALLY GUILTY AND LIABLE AS ACCUSED JOSEPH ESTRADA HIMSELF BY HIS INDISPENSABLE COOPERATION AND/OR DIRECT PARTICIPATION IN THE COMMISSION OF THE CRIME OF PLUNDER.
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> IV.
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> xxx WHEN IT LIMITED THE CONSIDERATION OF THE EVIDENCE, AS WELL AS THE POTENTIAL [LIABILITY] OF RESPONDENT JINGGOY ESTRADA, TO SUBPARAGRAPH "A" OF THE AMENDED INFORMATION.

The imputation of grave abuse of discretion to the public respondent is untenable.

To begin with, Section 13 of Article III (Bill of Rights) of the Constitution mandates:

> Section 13. All persons, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. xxx.

Even if the capital offense charged is bailable owing to the weakness of the evidence of guilt, the right to bail may justifiably still be denied if the probability of escape is great.[14] Here, ever since the promulgation of the assailed Resolutions a little more than four (4) years ago, Jinggoy does not, as determined by Sandiganbayan, seem to be a flight risk. We quote with approval what the graft court wrote in this regard:

> It is not open to serious doubt that the movant [Jinggoy] has, in general, been consistently respectful of the Court and its processes. He has not ominously shown, by word or by deed, that he is of such a flight risk that would necessitate his continued incarceration. Bearing in mind his conduct, social standing and his other personal circumstances, the possibility of his escape in this case seems remote if not nil.[15]

The likelihood of escape on the part individual respondent is now almost nil, given his election on May 10, 2004, as Senator of the Republic of the Philippines. The Court takes stock of the fact that those who usually jump bail are shadowy characters mindless of their reputation in the eyes of the people for as long as they can flee from the retribution of justice. On the other hand, those with a reputation and a respectable name to protect and preserve are very unlikely to jump bail. The Court, to be sure, cannot accept any suggestion that someone who has a popular mandate to serve as Senator is harboring any plan to give up his Senate seat in exchange for becoming a fugitive from justice.

Petitioner's first argument denigrates as grave abuse of discretion the public respondent's rejection of the theory of overlapping conspiracies, which, in the abstract, depicts a picture of a conspirator in the first level of conspiracy performing acts which implement, or in furtherance of, another conspiracy in the next level of which the actor is not an active party. As the petitioner's logic goes following this theory, respondent Jinggoy is not only liable for conspiring with former President Estrada in the acquisition of ill-gotten wealth from "jueteng" under par. (a) of the amended information. He has also a culpable connection with the conspiracy, under par. (b), in the diversion of the tobacco excise tax and in receiving commissions and kickbacks from the purchase by the SSS and GSIS of Belle Corporation shares and other illegal sources under par. (c) and (d), albeit, he is not so named in the last three paragraphs. And since the central figure in the overlapping conspiracies, i.e., President Estrada, is charged with a capital offense, all those within the conspiracy loop would be considered charged with the same kind of non-bailable offense.

Explaining its point, petitioner cites People v. Castelo[16] which, as here, also involves multiple levels of conspiracies. Just like in the present case where the lead accused is a former President no less, the prime suspect in Castelo was also a powerful high-ranking government official - a former Judge who later rose to hold, in a concurrent capacity, the positions of Secretary of Justice and Secretary of National Defense, to be precise. In Castelo, charges and countercharges were initially hurled by and between Castelo and Senator Claro Recto, who was then planning to present Manuel Monroy as star witness against Castelo in a scandal case. Castelo left the Philippines for Korea. While away, someone shot Monroy dead. Evidence pointed to a conspiracy led by a certain "Ben Ulo" (who appears to be the mastermind) and a group of confidential agents of the Department of National Defense, one of whom was the triggerman. Coincidentally, Ben Ulo was a close bodyguard of Castelo. In the end, the Solicitor General tagged Ben Ulo (not Castelo) as the central figure in the conspiracy. This notwithstanding, the Court held Castelo guilty beyond reasonable doubt for murder, because only he had a motive for desiring Monroy's demise. The conspiracy between Castelo and Ben Ulo was then determined to be overlapping with the conspiracy between Ben Ulo and the confidential agents, one of whom was the triggerman.

Further explaining the theory of overlapping conspiracies, petitioner cites the ruling in People v. Ty Sui Wong,[17] featuring a love triangle involving a certain Victor and Mariano, each out to win the heart of Ruby. Victor left Manila for Mindanao. While Victor was away, the dead body of Mariano was found with multiple stab wounds in a dark alley in Pasay. Evidence pointed to a conspiracy among "Sampaloc hoodlums" who had no direct link with Victor. However, one of the neighbors of the "Sampaloc hoodlums" was a classmate of Victor. In the end, on the basis of interlocking confessions, the Court found Victor and his classmate together with all the "Sampaloc hoodlums" guilty of murder.

Positing the applicability of Castelo and Ty Sui Wong under the premises, petitioner presently argues:

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> It should be noted that this is the same scenario of accused Joseph Estrada conspiring with former Gov. Singson for the collection and receipt of bribes (jueteng protection money); and of former Gov. Singson involving respondent Jinggoy Estrada in yet another level of conspiracy in pursuit of the first, i.e., the regular collection of jueteng protection money for accused Joseph Estrada; and, respondent Jinggoy Estrada, aware of the details of the conspiracy between accused Joseph Estrada and Gov. Singson, agreeing to remit the greater part of his collection of bribes to accused Joseph Estrada as its ultimate beneficiary. Thus, respondent Jinggoy Estrada reached an agreement with former Gov. Singson, executed the plan and participated in furtherance of the conspiracy for the receipt and collection of jueteng protection money, i.e., collecting P3 Million in jueteng protection money every month; remitting P2 Million thereof to former Gov. Singson for delivery to accused Joseph Estrada and retaining P1 Million thereof for himself.
>
> Similarly, therefore, respondent Jinggoy Estrada should have been denied bail since he is as guilty and liable as accused Joseph Estrada for the non-bailable offense of Plunder.[18]

As we see it, the rulings in Castelo and Ty Sui Wong are not on all-fours applicable to and of governing sway to the issue of the propriety of revoking Jinggoy's release on bail.

As it were, the petitioner erroneously equates the provisional grant of bail to respondent Jinggoy to his virtual acquittal in Criminal Case No. 26558. Petitioner is wrong. Castelo and Ty Sui Wong contextually dealt with the guilt of culprits therein for the crimes of murder after all the evidence had been adduced. Unlike in this proceeding, the propriety of a grant of bail, given the evidence for or against the bail application, was not an issue in Castelo and Ty Sui Wong. And in the present case, respondent Sandiganbayan is still in the process of determining the facts and merits of the main case. In the words of the public respondent:

> As a cautionary parting word, it must be categorically stated herein that in making the above pronouncements, this Court [Sandiganbayan] is not making any judgment as to the final outcome of this case either with respect to movant [Jinggoy] or with respect to accused Estrada. This Court [Sandiganbayan] is simply called to determine whether, at this stage, the evidence of movant's guilt is strong as to warrant his temporary release on bail. xxx.[19]

Revoking the bail thus granted to respondent Jinggoy, as the petitioner urges, which necessarily implies that the evidence of his guilt is strong, would be tantamount to preempting the Sandiganbayan's ongoing determination of the facts and merits of the main case.

Petitioner's second and third arguments focus on the possible degrees of participation of Jinggoy in the crime of Plunder. Noticeably, both arguments, if pursued to their respective logical conclusions, tend to cancel each other out, one leading as it were to a direction quite the opposite of the other. For while the second argument attempts to establish an "implied conspiracy" between Jinggoy and his father - hence, the guilt of one is the guilt of the other - the third argument eschews the idea of conspiracy, but respondent Jinggoy is nonetheless "equally guilty" as President Estrada because of his indispensable cooperation and/or direct participation in the crime of Plunder.

By statutory definition, conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[20] Venturing into the gray areas of the concept of conspiracy, petitioner cites the following obiter defining "implied conspiracy," thus:

> When by their acts, two or more persons proceed toward the accomplishment of the same felonious object, with each doing his act, so that their acts though seemingly independent were in fact connected, showing a closeness of formal association and concurrence of sentiment, conspiracy may be inferred.[21]
>
> Admittedly, direct proof is not essential to establish conspiracy. Since by its nature conspiracy is planned in utmost secrecy, it can rarely be proved by direct evidence. Consequently, the presence of the concurrence of minds which is involved in conspiracy may be inferred from proof of facts and circumstances which, taken

> together, apparently indicate that they are merely parts of some complete whole. If it is proved that two or more persons aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent, were in fact connected and cooperative, indicating a closeness of personal association and a concurrence of sentiment, a conspiracy may be inferred though no actual meeting among them to concert is proved. That would be termed an implied conspiracy.[22]

From the above pronouncements, petitioner then proceeds to present voluminous documents and transcripts of stenographic notes purporting to prove that Jinggoy had been deep inside the web of "implied conspiracy" under the second argument of this petition. From the "implied conspiracy" theory, it then shifts gears to embrace the "equally guilty" hypothesis under the fall-back third argument.

Regardless, however, of whatever legal strategy petitioner may have in mind, the fundamental principle that the Court is not a trier of facts remains. Petitioner's second and third arguments are to be sure relevant to the proceedings for the grant or denial of bail that were pending before in the Sandiganbayan. They are of little moment here where the only issue now is whether or not there was grave abuse of discretion on the part of the Sandiganbayan in granting bail to the private respondent.

With the view we take of this case, the respondent court did not commit grave abuse of discretion in issuing its assailed resolutions, because the grant of bail therein is predicated only on its preliminary appreciation of the evidence adduced in the bail hearing to determine whether or not deprivation of the right to bail is warranted. Needless to stress, a grant of bail does not prevent the trier of facts, the same AntiGraft Court, from making a final assessment of the evidence after full trial on the merits. As jurisprudence teaches:

> xxx Such appreciation [of evidence] is at best preliminary and should not prevent the trial judge from making a final assessment of the evidence before him after full trial. It is not an uncommon occurrence that an accused person granted bail is convicted in due course. [23]

Petitioner's last argument is, at bottom, an attempt to have the Court reverse in this case its earlier holding in another case - G.R. No. 148965 - where we stated:

> The Amended Information, in its first two paragraphs, charges petitioner [Jinggoy] and his other co-accused with the crime of plunder. The first paragraph names all the accused, while the second paragraph describes in general how plunder was committed and lays down most of the elements of the crime itself. Sub-paragraphs (a) to (d) describe in detail the predicate acts that constitute the crime and name in particular the co-conspirators of former President Estrada in each predicate act. The predicate acts alleged in the said four sub-paragraphs correspond to the items enumerated in Section 1 (d) of R.A. No. 7080. Sub-paragraph (a) alleged the predicate act of receiving, on several instances, money from illegal gambling, in consideration of toleration or protection of illegal gambling, and expressly names petitioner [Jinggoy] as one of those who conspired with former President Estrada in committing the offense. This predicate act corresponds with the offense described in item [2] of the enumeration in Section 1 (d) of R.A. No. 7080. Sub-paragraph (b) alleged the predicate act of diverting, receiving or misappropriating a portion of the tobacco excise tax share allocated for the province of Ilocos Sur, which act is the offense described in item [1] in the enumeration in Section 1 (d) of the law. This sub-paragraph does not mention petitioner but instead names other conspirators of the former President. Subparagraph (c) alleged two predicate acts - that of ordering the ... (GSIS) and the ... (SSS) to purchase shares of stock of Belle Corporation, and collecting or receiving commissions from such purchase from the Belle Corporation which became part of the deposit in the "Jose Velarde" account at the Equitable-PCI Bank. These two predicate acts fall under items [2] and [3] in the enumeration of R.A. No. 7080, and was allegedly committed by the former President in connivance with John Does and Jane Does. Finally, sub-paragraph (d) alleged the predicate act that the former President unjustly enriched himself from commissions, gifts, kickbacks, in connivance with John Does and Jane Does, and deposited the same under his account name "Jose Velarde" at the Equitable-PCI Bank. This act corresponds to the offense under item [6] in the enumeration of

> Section 1 (d) of R.A. No. 7080.
>
> From the foregoing allegations of the Amended Information, it is clear that all the accused named in sub-paragraphs (a) to (d), thru their individual acts, conspired with former President Estrada to enable the latter to amass, accumulate or acquire ill-gotten wealth .... As the Amended Information is worded, however, it is not certain whether the accused in sub-paragraphs (a) to (d) conspired with each other to enable the former President to amass the subject ill-gotten wealth. In light of this lack of clarity, petitioner cannot be penalized for the conspiracy entered into by the other accused with the former President as related in the second paragraph of the Amended Information in relation to its sub-paragraphs (b) to (d). We hold that petitioner can be held accountable only for the predicate acts [illegal gambling] he allegedly committed as related in sub-paragraph (a) of the Amended Information which were allegedly done in conspiracy with the former President whose design was to amass ill-gotten wealth amounting to more than P4 billion.[24] (Emphasis added.)

Obviously hoping to maneuver around the above ruling so as to implicate individual respondent for predicate acts described in sub-paragraphs (b), (c) and (d) of the Amended Information, petitioner now argues:

> It should be emphasized that in the course of the proceedings in the instant case, respondent Jinggoy Estrada waived the benefit of the said ruling and opted, instead, to participate, as he did participate and later proceeded to cross-examine witnesses whose testimonies were clearly offered to prove the other constitutive acts of Plunder alleged in the Amended Information under sub-paragraphs "b", "c" and "d".[25]

We disagree.

At bottom, the petitioner assumes that the ruling accorded "benefits" to respondent Jinggoy that were inexistent at the start of that case. But no such benefits were extended, as the Court did not read into the Amended Information, as couched, something not there in the first place. Respondent Jinggoy's participation, if that be the case, in the proceedings involving sub-paragraphs "b," "c" and "d," did not change the legal situation set forth in the aforequoted portion of the Court's ruling in G.R. No. 148965. For when it passed, in G.R. No. 148965, upon the inculpatory acts envisaged and ascribed in the Amended Information against Jinggoy, the Court merely defined what he was indicted and can be penalized for. In legal jargon, the Court informed him of the nature and cause of the accusation against him, a right guaranteed an accused under the Constitution.[26] In fine, all that the Court contextually did in G.R. No. 148965 was no more than to implement his right to be informed of the nature of the accusation in the light of the filing of the Amended Information as worded. If at all, the Court's holding in G.R. No. 148965 freed individual respondent from the ill effects of a wrong interpretation that might be given to the Amended Information.

In all, the Court rules that public respondent Sandiganbayan (Special Division) did not commit grave abuse of discretion when, after conducting numerous bail hearings and evaluating the weight of the prosecution's evidence, it determined that the evidence against individual respondent was not strong and, on the basis of that determination, resolved to grant him bail.

As a final consideration, the Court notes a statement made by the respondent court which adds an appropriate dimension to its resolve to grant bail subject of this recourse. Wrote that court in its assailed resolution of March 6, 2003:

> xxx Corollarily, it is not amiss to state that, at this time, there looms the possibility that, in case of conviction, [respondent Jinggoy's] criminal liability would probably not warrant the death penalty or reclusion perpetua. (Underscoring in the original; Words in bracket added).

WHEREFORE, the instant petition is DISMISSED.

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No pronouncement as to costs.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, Velasco, Jr. and Nachura, JJ., concur.
Chico-Nazario, Reyes, JJ., no part.

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[1]Penned by Sandiganbayan Presiding Justice (now Supreme Court Associate Justice) Minita V. Chico-Nazario with Associate Justices Edilberto G. Sandoval and Teresita J. Leonardo - De Castro concurring; rollo, Volume 1, pp. 199-230.

[2] Penned by the same ponente with a separate opinion by Sandiganbayan Associate Justice Edilberto G. Sandoval; id. at 231-241.

[3] Estrada v. Sandiganbayan, 377 SCRA 538, 543-44.

[4]Id. at 546-548.

[5] Id. at 545.

[6] Id. at 566.

[7]Id. at 566.

[8] Id. at 566.

[9]Id. at 567-568.

[10] Rollo, Volume 1, pp. 283-291.

[11]Supra note 1.

[12] Supra note 2.

[13]Petition, pp. 103-104; rollo, pp. 104-105.

[14] People v. Baldoz, G.R No. 140032, November 20, 2001, 369 SCRA 690, 708.

[15] Assailed Resolution dated March 5, 2003, p. 30, rollo, Volume 1, p. 229.

[16] People v. Castelo, G.R. No. L-10774, May 30, 1964, 11 SCRA 193.

[17] People v. Ty Sui Wong, G.R. No. L-32529, May 12, 1978, 83 SCRA 125.

[18]Petitioner's Memorandum, pp. 127-128, rollo, pp. 5195-5196.

[19]Assailed Resolution dated March 5, 2003, p. 30; rollo, Volume 1, p. 229.

[20]Revised Penal Code, Article 8, 2nd paragraph.

[21] People v. Ponce, G.R. No. 126254, September 29, 2000, 341 SCRA 352, 361.

[22] People v. Del Rosario, G.R. No. 127755, April 14, 1999, 305 SCRA 740, 755.

[23] People v. Baldoz, supra.

[24] Supra note 3 at 553-554.

[25]Petitioner's Memorandum, pp. 209-218, rollo, pp. 5277-5288.

[26] Constitution, Article III (Bill of Rights), Section 14(2).

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