

SENATOR GREGORIO B. HONASAN II, PETITIONER, VS. THE PANEL OF INVESTIGATING PROSECUTORS OF THE DEPARTMENT OF JUSTICE (LEO DACERA, SUSAN F. DACANAY, EDNA A. VALENZUELA AND SEBASTI...

G.R. No. 159747. June 15, 2004

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is the motion filed by petitioner to cite respondent DOJ Panel of Investigating Prosecutors (respondent for brevity) in contempt of court for alleged blatant disregard and defiance of the agreement of the parties with this Court to maintain the status quo before the filing of their petition for certiorari under Rule 65 of the Rules of Court.

On September 22, 2003, petitioner filed a petition for certiorari with prayer for the issuance of a temporary restraining order and writ of preliminary injunction against respondents alleging grave abuse of discretion on the part of respondent Panel for assuming jurisdiction to conduct the preliminary investigation on the charge of coup d'état against petitioner. Respondents filed their respective comments and petitioner his reply thereto. An oral argument on the case was held on November 18, 2003. Parties submitted their respective memoranda as required by the Court. On April 13, 2004, the Court rendered a decision dismissing the petition and upholding the concurrent jurisdiction of the respondent to conduct the preliminary investigation. Petitioner received a copy of the decision on April 22, 2004, thus he has until May 7, 2004 to file his motion for reconsideration.

On April 23, 2004, respondent issued its assailed order as follows:

In the light of the ruling of the Supreme Court in G.R. No. 159747 dated 13 April 2004, confirming that this Investigating Panel has jurisdiction to investigate the instant complaint against respondent Senator Gregorio B. Honasan II, et al., and to afford respondent full opportunity to controvert the allegations of the complaint and to adduce evidence;

Wherefore, in the interest of justice, respondent(s) thru counsel are hereby given a final extension of up to 3 May 2004 within which to file their counter-affidavit and controverting evidence furnishing with a copy thereof complainant with proof of service thereof to this Panel.

Petitioner now comes before this Court with a motion to cite respondent in contempt alleging that the issuance of the assailed order is in direct contravention and flagrant violation of the agreement of the parties as stated in the Court's Resolution dated November 18, 2003, which categorically provides:

Further, it was agreed that the Department of Justice, with the assurance of the Chief State Prosecutor Jovencito R. Zuño, will maintain the STATUS QUO before the filing of the petition.

Petitioner argues that he still has 15 days from receipt of the Court's decision to file a motion for reconsideration, i.e., until May 7, 2004, and therefore, until that period, the decision dated April 13, 2004 is not yet final and

executory; he intends to file a motion for reconsideration within the reglementary period; the assailed order requiring him to submit his counter-affidavit is premature and intended to pre-empt and render futile and nugatory any action of petitioner with respect to the Court's decision dated April 13, 2004, subverting his right to due process; the Court's decision dated April 13, 2004 has not lifted said directives to the parties to maintain the status quo nor did the decision automatically lift the status quo order; the submission of petitioner's counter-affidavit would upset the status quo sought to be maintained; with the assailed order of the respondent panel requiring him to submit his counter-affidavit, the latter has belittled, degraded, obstructed and impeded the administration of justice and has wantonly defied the Court's authority; and the Panel's order only confirms his fear that his preliminary investigation and detention are being railroad.

In its Comment, respondent contends that: contempt of court presupposes a contumacious attitude, a flouting or arrogant belligerence, a virtual defiance of the court; no such attitude or intent is discernible from its assailed action in proceeding with the preliminary investigation since the respondent issued the assailed Order in good faith and in the conscientious implementation of the Court's decision upholding the concurrent jurisdiction of the DOJ to investigate the charges against petitioner for the crime of coup d'etat; it has no intention to willfully disregard the authority of the Court since the assailed order was promulgated in furtherance and in the exercise of their authority to conduct preliminary investigation on charges against public officers and employees as mandated by the Constitution and laws as confirmed by the Court's decision dated April 13, 2004; the charges against petitioner was filed in August 2003 and the preliminary investigation was pending since then because of the jurisdictional issue raised before this Court which was decided on April 13, 2004; upon receipt of such decision, respondent issued the assailed order with the objective of resolving the investigation taking into account petitioner's right to a speedy disposition of the case against him; the subject order was not in any manner effected to railroad petitioner's arrest and detention but to serve his right to due process by giving him all the opportunity to controvert the accusations against him and to adduce evidence in his behalf; otherwise, the respondent could have immediately filed the information against petitioner the moment he failed to submit his counter-affidavit; as a manifestation of good faith, respondent desisted from further proceeding with the investigation and deferred any action until after the Court's decision on April 13, 2004; in contempt proceeding, intent, however, goes to the gravamen of the offense, and the good faith or lack of it, of the alleged contemnor should be considered; contempt partakes of the nature of a criminal offense, and doubts should be resolved in favor of the person against whom proceedings have been brought; and only in cases of clear and contumacious refusal to obey should the power to punish for contempt of court be exercised.

We deny the motion to cite respondent Panel in contempt of court.

Contempt of court is defined as disobedience to the court by acting in opposition to its authority, justice and dignity. It signifies not only a willful disregard or disobedience of the court's orders, but such conduct as tends to bring the authority of the court and administration of law into disrepute or in some manner to impede the due administration of justice.[1] The power to punish for contempt of court should be exercised on the preservative and not on the vindictive principle.[2] Only occasionally should the court invoke its inherent power in order to retain that respect without which the administration of justice may falter or fail. Such power being drastic and extraordinary in its nature should not be resorted to unless necessary in the interest of justice.[3]

In compliance with the Court's Resolution dated November 18, 2003, respondent had stopped from further proceeding with the preliminary investigation while the case is pending before the court. Respondent issued its assailed order requiring petitioner to submit his counter-affidavit after receipt of the Court's decision dated April 13, 2004 upholding respondent's authority to conduct the preliminary investigation on the charge of coup d'etat against petitioner. Although the Court's decision dated April 13, 2004 is not yet final as of the date of the

issuance of the said assailed order, the court finds no contemptuous intent on the part of respondent to impede the administration of justice. As respondent has explained in its Comment, the charges against petitioner was filed with the DOJ in August 2003 and since then, the preliminary investigation has been pending, thus with the Court's decision upholding their jurisdiction, respondent issued the assailed order taking into account petitioner's right to a speedy disposition of his case. Clearly, respondent's intention is to give respondent all the opportunity to controvert the accusation against him and to adduce evidence in his behalf. The Court finds respondent's explanation satisfactory and does not see the act of respondent as contumacious, as herein earlier defined by the Court.

Petitioner asserts in his Motion that he received on April 22, 2004, a copy of the Court's decision upholding respondent's authority to conduct preliminary investigation, and that he has until May 7, 2004 to file his motion for reconsideration. However, verification with the Court's docket section reveals that petitioner filed his motion for reconsideration only on June 8, 2004, or thirty days late. The Court's decision dated April 13, 2004 has already attained finality as of May 8, 2004. Hence, there is no longer any impediment for respondent to proceed with the preliminary investigation and for petitioner to comply with the respondent's order to submit his counter-affidavit.

WHEREFORE, petitioner's motion to cite respondent in contempt of court is DENIED. Respondent is required to give petitioner a fresh period from receipt of this Resolution to submit his counter-affidavit.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Sandoval-Gutierrez, Carpio, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

Vitug, J., On Official Leave.

Ynares-Santiago, J., On leave.

[1] Annotation on contempt of Court, 14 SCRA 812 citing 7 CJS 4.

[2] Nazareno vs. Barnes, 136 SCRA 57.

[3] Gamboa vs. Teodoro, 91 Phil. 270.

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