MUSTAPHA M. GANDAROSA, PETITIONER, VS. EVARISTO FLORES AND PEOPLE OF THE PHILIPPINES,RESPONDENTS.

G.R. NO. 167910. July 17, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before this Court is a Petition for Review on Certiorari[1] under Rule 45 of the 1997 Revised Rules of Civil Procedure, seeking to reverse and set aside the Decision,[2] dated 24 August 2004 of the Court of Appeals in CA-G.R. SP No. 77163, dismissing petitioner Mustapha M. Gandarosa's Petition for Review of the Order[3] dated 24 July 2002 of the Regional Trial Court (RTC), Iloilo City, Branch 31, which denied the motion of the prosecution to amend the Information by excluding petitioner from the charge in Criminal Case No. 00-52992 for Libel, and its Resolution,[4] dated 12 April 2005 denying reconsideration thereon.

On 23 June 2000, the Daily Informer, a newspaper of daily circulation in Iloilo City, touted the banner headline, "Gandarosa Wants Flores Out for Personal Convenience? "Back-door-pay" anomaly exposed."[5] According to the article, petitioner, in his capacity as the Assistant Regional Director of the Bureau of Internal Revenue (BIR) - Regional Office, revealed to members of the media that high-ranking BIR officials, among them Regional Director Sonia Flores and Revenue District Officer Willy Narnola, are involved in anomalous transactions to favor certain taxpayers in the assessment of their taxes. A photo of Sonia Flores and Willy Narnola was similarly plastered on the newspaper's front page. This prompted respondent Evaristo Flores, husband of Sonia Flores and with the conformity of the latter, to file a Complaint (I.S. No. 2075-2000) with the Office of the City Prosecutor of Iloilo City against petitioner, Manny Regalado Alcalde, the author of the aforesaid article; and Rey P. Alcalde and Bernie G. Miaque, editor and publisher, respectively, of the Daily Informer.

On 21 August 2000, Investigating Prosecutor Nora Causing-Española of the Office of the City Prosecutor, Iloilo City, issued a Resolution[6] finding probable cause to hold petitioner and his therein co-respondents liable for Libel, and recommended the filing of the corresponding Information in court. Petitioner sought reconsideration thereon.

Pending the resolution of the Motion for Reconsideration of the 21 August 2000 Resolution, an Information[7] for Libel was filed before the RTC of Iloilo City, Branch 31 against petitioner, Manny Regalado Alcalde, Rey P. Alcalde and Bernie G. Miaque, charging, thus:

> INFORMATION
>
> The undersigned City Prosecutor accuses [petitioner] MUSTAPHA "MUSS" GANDAROSA, EMMANUEL "MANNY" REGALADO ALCALDE, REY P. ALCALDE AND BERNIE G. MIAQUE, whose maternal surnames, dates and places of birth cannot be ascertained, of the crime of LIBEL under Art. 353 in relation to Art. 355, all of the Revised Penal Code, committed as follows:
>
> That on or about June 23, 2000, in the City of Iloilo, Philippines, and within the jurisdiction of this Court, the said accused, Emmanuel "Manny" Regalado Alcalde, as the author, Rey P. Alcalde as Managing Editor of the

> Daily Informer, Bernie G. Miaque as the Publisher of the Daily Informer, a daily newspaper published in the City of Iloilo and of general circulation in Western Visayas, and Mustapha "Muss" Gandarosa, Assistant Regional Director of the Bureau of Internal Revenue, Revenue Region 11, as the source, conspiring and confederating with each other, working together and helping one another, did then and there willfully, unlawfully and criminally and with the intention of attacking the honesty, virtue and reputation of Sonia Flores, Regional Director of the Bureau of Internal Revenue, Revenue Region 11, write, compose and publish and permit and cause to be written, composed and published in the June 23, 2000 issue of the Daily Informer the following defamatory and libelous statements, as follows:
> "The latest one is dubbed as "back-door-pay" where high (sic) BIR officials like RD Flores and Revenue District Officer (RDO) Willy Narnola enter the office through the backdoor where hands with envelopes exchange and the persons concerned get their share from illegitimate transactions in the Bureau.
>
> x x x x
>
> x x x the envelope given to Flores is an open and daily reality by the examiners after they have assessed payments."

Which statements are included in the following article:

> "BACK-DOOR-PAY ANOMALY EXPOSED"
> by: Manny Regalado Alcalde
>
> A scheme on how money changes hands right inside the BIR Regional Office compound was revealed to the media yesterday by no less than Assistant Regional [D]irecto Mustapha Gandarosa, while a source who requested not to be identified told the INFORMER that "Muss" Gandarosa is blinded by his ulterior motives, the reason why he's coming out with the expos' against his very own office.
>
> According to the INFORMER source[,] Gandarosa was hurt when he was not appointed Regional Director and instead it was Mrs. Sonia Flores who was appointed to the position by the BIR Commissioner Beethoven Rualo.
>
> The source alleged Gandarosa has since then been waiting for an opportunity to put down Regional Director Sonia Flores.
>
> However, this was denied by Gandarosa himself in an interview with the INFORMERS (sic).
>
> According to Gandarosa, the issues thrown against RD Sonia Flores are legitimate and the series of exposes were intended to stop the irregularities that exist in the BIR Revenue Region No. 11.
>
> Yesterday, another anomaly was revealed to a select group of media practitioners by ARD Gandarosa.
>
> The latest one is dubbed as "Back-door-pay" where high BIR (sic) officials like RD Flores and Revenue [D]istrict Officer (RDO) Willy Narnaloa enters (sic) the office through the backdoor where hands with envelopes exchange and the persons concerned get their share from illegitimate transactions in the Bureau.
>
> Gandarosa admitted he had been subjected to such temptations but upon learning that the money given him came from a taxpayer, he refused to accept his supposed share and let go of the officer. According to the Muslim Assistant Regional Director the envelope given to Flores is an open and daily reality by the examiners after they have assessed payments.
>
> Recently a source told the INFORMERS (sic) that from January to May this year, a high[-]ranking official may have pocketed some P50 million from various taxpayers after their tax assessments were adjusted in exchange for payolas that at times reach millions.
>
> The source further said that another official gets an average of P50,000 to P100,000 per week."

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Which defamatory and libelous statements are false and malicious and exposed of Sonia Flores and her husband, Evaristo Flores, to public hatred, contempt, ridicule and dishonor.[8]

The case was docketed as Crim. Case No. 00-52992.

On 30 January 2001, petitioner filed an Extremely Urgent Motion to Suspend Proceedings before the RTC, stating therein that he had a pending Motion for Reconsideration with the Office of the City Prosecutor which sought to reverse its finding of probable cause against him.[9] On 9 February 2001, petitioner filed a Supplemental Motion for Reconsideration.[10]

In the meantime, or on 20 February 2001, the Office of the City Prosecutor released a Resolution[11] denying petitioner's Motion for Reconsideration of the 21 August 2000 Resolution which found probable cause against him for Libel. The Office of the Prosecutor declared that it had lost jurisdiction over the case upon the filing of the Information for Libel in the proper court.

Meanwhile, on 13 March 2001, the RTC rendered an Order[12] denying his Extremely Urgent Motion to Suspend Proceedings. The RTC spelled out its raison d'être, thus:

> The grounds advanced by the [petitioner] to suspend proceedings, namely, that there is a pending Motion for Reconsideration filed by [petitioner] with the City Prosecutor and that probable cause against him does not exist are not legal grounds to suspend proceedings especially when the Court has acquired valid jurisdiction over the accused. Under Sec. 11(c), Rule 117 (sic), Revised Rules of Criminal Procedure, the arraignment shall be suspended in the following cases: x x x (c) a petition for review of the resolution of the prosecutor is pending at either the Department of Justice of the Office of the President; provided, that the period of suspension shall not exceed sixty (60) days counted from the filing of the petition with the reviewing office. In this case the Motion for Reconsideration should have been filed with the Office of the Ombudsman-Visayas which is the reviewing office and not with the City Prosecutor. Consequently, there is no petition for review pending at the offices mentioned in Sec. 11(c), Rule 117 (sic), aforesaid.[13]

Subsequently, on 17 April 2001, petitioner filed an Omnibus Motion,[14] seeking reconsideration of the above Order, and for the quashal of the Information. This was opposed by the prosecution through the private prosecutor.[15] Later, the Office of the Ombudsman (Visayas) filed its Opposition to petitioner's Motion to Quash the information, praying for the denial thereof and for the continuance of the proceedings.[16]

Pending the resolution of his Omnibus Motion before the RTC, or on 31 May 2001, petitioner, aggrieved by the earlier denial by the Office of the City Prosecutor of his Motion for Reconsideration,[17] filed a Petition for Review with the Department of Justice (DOJ), praying that the earlier Resolution of the Office of the Prosecutor, dated 20 February 2001, be reconsidered and set aside; that a new one be rendered finding no probable cause against him and ordering the City Prosecutor of Iloilo City to withdraw the Information.[18]

On 24 July 2001, the RTC issued an Order denying petitioner's Omnibus Motion of 17 April 2001 for lack of merit, and setting petitioner's arraignment.[19] Petitioner filed with the RTC a Motion for Reconsideration, including a Supplemental Motion for Reconsideration, praying once again that the Information filed against him be quashed.[20] A hearing thereon was conducted on 24 August 2001[21] whereby the prosecution was given 10 days to comment from the said date.[22] In the Order[23] of even date, the RTC ordered the issuance of subpoenas to petitioner and his co-accused. The trial court also set the arraignment on 25 September 2001. However, petitioner failed to appear as scheduled. Thus, in view of his unjustified absence, the RTC ordered that the bond posted for his provisional liberty be cancelled and a warrant of arrest be issued against him.[24]

Petitioner sought reconsideration thereon. In his Motion, petitioner prayed for the last resetting of the arraignment to 30 October 2001, and further manifested that on the said date, his arraignment shall proceed forthwith

irrespective of whether his petition before the DOJ shall have been resolved.[25]

The RTC found the Motion to be well-taken. Hence, on 31 October 2001, petitioner was arraigned. He pleaded not guilty to the charge. Thereafter, the case was set for pre-trial.

Several months following his arraignment, the DOJ issued a Resolution[26] on 12 February 2002, reversing the Resolution of the City Prosecutor of Iloilo City, and directing the amendment of the Information for Libel and the dropping of petitioner from the charge.[27] It held, inter alia, that the accusation is not synonymous with guilt; and only the persons who publish, exhibit, or cause the publication or exhibition of any defamation in writing are the ones responsible for Libel; and from the evidence presented, petitioner did not cause the same.[28]

On 7 March 2002, in obedience to the DOJ Resolution of 12 February 2002, the Office of the City Prosecutor filed with the RTC a Motion with Leave of Court to Amend Information.[29]

The RTC rendered an Order,[30] dated 24 July 2002, denying the Motion to Amend Information. According to the RTC, petitioner was already arraigned on 30 October 2001, and the pre-trial was set thereafter. The RTC rationalized in this wise, thus:

> It must be remembered that said [petitioner] was already arraigned on October 30, 2001, and the pre-trial set thereafter. [Petitioner] did not disclose to the Department of Justice that he was already arraigned, otherwise, had he done so, the Department of Justice, could have dismissed his appeal for being moot and academic.
>
> Nonetheless, this instant Motion [to Amend Information] [was] filed after the said [petitioner] has already been arraigned. Under Section 4, Rule 117, which allows the amendment of complaint or information, the same shall be done before the accused entered his plea, hence, the desirability of amendment, since the Court will not entertain any Motion to Quash, after the arraignment pursuant to Section 1, Rule 117. This is so because with accused'[s] arraignment, the issue has been joined.
>
> Thus, this Court having already acquired jurisdiction, does not lose it despite the resolution of the Secretary of Justice. It has the option to grant or deny the Motion to Dismiss filed by the fiscal, whether before or after the arraignment of the accused (Ledesma v. Court of Appeals, 278 SCRA 657).
>
> WHEREFORE, the instant Motion is hereby Denied for lack of merit.[31]

Petitioner sought reconsideration of the RTC's denial to amend the Information by filing an Omnibus Motion,[32] dated 19 August 2002. He reiterated his prayer that new judgment be rendered giving due course to his Motion to Amend the Information by dropping his name from among those charged. On 20 March 2003, the RTC rendered an Order denying the same for lack of merit, and set the case for pre-trial. The RTC articulated:

> Firstly, the Motion to Amend Information was filed by the City Prosecutor's Office without clearance from the Office of the Ombudsman-Visayas. It shall be noted that the Information herein was approved by the Ombudsman-Visayas.
>
> Secondly, this Motion comes after the accused Mustapha Gandarosa had already been arraigned, hence, already moot and academic.
>
> Thirdly, the authority to proceed with this case, the Court exercising its sound discretion, was first iterated in Crespo v. Mogul, 151 SCRA 462, reiterated in Ledesma v. CA 278 SCRA 657 and Jalandoni v. Drilon, 327 SCRA 107.[33]

Consequently, petitioner sought relief from the Court of Appeals via a Petition for Certiorari, attributing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC for failing to exclude petitioner from the Information for Libel in Criminal Case No. 00-52992.

The Court of Appeals affirmed the RTC and dismissed the petition. It held that not only had the Information against the petitioner already been filed in court, but that the latter had already been arraigned when the amendment of the Information was sought by the prosecutor; hence, the matter was no longer in the hands of the prosecutor's office but, rather, with the RTC. The Court of Appeals relied on Roberts, Jr. v. Court of Appeals,[34] reiterating that when the complaint or information had already been filed in court, the matter should be left entirely for the determination of the court.[35]

Moreover, the Court of Appeals defended the silence on the part of the RTC on not making its own determination of the existence of probable cause, hence:

> So too, in assailing the subject order, petitioner faults the public respondent in not making his own determination of the existence of probable cause. In other words, petitioner would like to impress before this Court that since the subject order is silent as to the conduct of such evaluation, then the public respondent did not make his own findings of such probable cause.
>
> We do not subscribe to this thesis of petitioner. It must be emphasized that judges must not rely solely on the report or resolution of the prosecutor, they must evaluate the report and the supporting documents, viz, the affidavits, the transcripts of stenographic note (if any), and all other supporting documents behind the Prosecutor's certification which are material in assisting the Judge to make his determination of probable cause. Thus, if the public respondent in this case was silent in his order as to such evaluation of probable cause, then it only goes to show that it was adopting the prosecutor's earlier findings that probable cause exists against herein petitioner, accused in Crim. Case No. 00-52992, for Libel.[36]

Petitioner sought reconsideration thereon, which was denied by the Court of Appeals in its Resolution dated 12 April 2005. In the aforesaid Resolution, the appellate court explicated, thus:

> In the case at bench, there is no dispute that petitioner had already been arraigned in the aforesaid criminal case, thus, any amendment to the information must be done with leave of court. While this was what the public prosecutor properly did, it does not automatically follow that the court must grant the same. It is still within the discretion of the court, which must still make its own independent findings, assessment and evaluation of the evidence presented based upon the testimonies and affidavits of the parties and/or their witnesses, and other attachments, if any. To be sure, this was what the public respondent did in denying the motion for amendment filed by the public prosecutor.[37]

Petitioner now seeks redress before this Court through the instant Petition for Review on Certiorari on the following assignment of errors, to wit:

> - THE COURT OF APPEALS GRAVELY ERRED WHEN IT SANCTIONED WITH APROVAL THE RTC ILOILO'S DEPARTURE FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS WHEN THE LATTER DENIED THE MOTION TO AMEND THE INFORMATION.
>
> - THE RTC ILOILO'S ACT OF DENYING THE PUBLIC PROSECUTOR'S MOTION TO AMEND THE INFORMATION ON THE SOLE GROUND THAT IT HAS ACQUIRED JURISDICTION OVER THE CASE, AND WITHOUT MAKING AN INDEPENDENT EVALUATION OF THE EVIDENCE PRESENTED IS CONTRARY TO LAW AND SETTLED JURISPRUDENCE WHICH SHOULD NOT HAVE ESCAPED THE JUDICIOUS SCRUTINY OF THE HONORABLE COURT OF APPEALS.
>
> - THE RTC ILOILO'S ACT OF DENYING THE PUBLIC PROSECUTOR'S MOTION TO AMEND THE INFORMATION IS CONTRARY TO LAW, SETTLED JURISPRUDENCE, AND THE EVIDENCE ON RECORD.

- THE COURT OF APPEALS ERRED WHEN IT HELD THAT RTC ILOILO'S SILENCE AS TO THE EVALUATION OF PROBABLE CAUSE SHOULD BE TAKEN TO MEAN THAT RTC ILOILO WAS

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ADOPTING THE PROSECUTOR'S EARLIER FINDINGS OF PROBABLE CAUSE.[38]

Petitioner is unequivocal that it does not contest the RTC's jurisdiction and its discretion to decide whether he should be excluded from the Information for Libel in Criminal Case No. 00-52992. What petitioner maintains as erroneous is the fact that the RTC neither examined the evidence presented nor reviewed the Resolutions of the DOJ, but instead, merely denied the motion to amend the Information on the basis simply that it had already acquired jurisdiction over the case.

Moreover, petitioner disputes the existence of probable cause against him on the ground that private respondent Evaristo Flores failed to present clear, convincing and credible evidence that he was the source of the alleged libelous publication identifying private respondent's wife, Sonia Flores, as being involved in corrupt practices in the BIR. According to petitioner, private respondent merely relied on newspaper reports. Even then, petitioner argues that he never named Sonia Flores as the official involved in the anomalies, nor did he identify any particular official. He further asserts that malice does not exist where the accused shows good intention or justifiable motive for an alleged defamatory imputation. He repeats his invocation that not only did he not mention the name of Sonia Flores, but he was motivated by his moral, social and legal duty to expose what he perceived were anomalies in the BIR.

Finally, petitioner imputes grave abuse of discretion on the part of the Court of Appeals when it held that the RTC's silence as to the evaluation of probable cause should be taken to mean that it was adopting the prosecutor's earlier findings of the existence of probable cause. Petitioner submits that such a silence was not a tacit affirmation of the public prosecutor's earlier findings on the existence of probable cause but rather, it showed a failure on the part of the RTC to exercise its discretion in the manner that was expected of it.

For their part, respondent People of the Philippines thru the Office of the Solicitor General (OSG) filed its Comment,[39] dated 25 October 2005 and Memorandum[40] dated 8 December 2006, praying that the instant Petition be denied for lack of merit.

According to the OSG, while the trial court was silent on whether it conducted an independent evaluation of the evidence to determine the existence of probable cause, this fact does not necessarily prove that no such evaluation was made.[41] The OSG further asseverates that the Resolution of the DOJ directing the amendment of the Information was rendered despite the fact that petitioner had already been arraigned. The OSG posits that the same is violative of Section 4,[42] Part IV of the Manual for Prosecutors of the DOJ, which prescribes that notwithstanding the showing of manifest error or grave abuse of discretion, no petition shall be entertained when the accused has already been arraigned. The same section mandates that once the accused is arraigned, the petition shall be dismissed motu proprio by the Secretary of Justice.[43]

We deny the Petition.

First, the preliminaries.

There is no question that once an Information is filed in court, any disposition of the case such as its dismissal or its continuation rests on the sound discretion of the court. Indeed, in Crespo v. Mogul,[44] it was emphasized that when a criminal action is initiated via the filing of a complaint or information in court, the court thereby acquires jurisdiction over the case, which is the authority to hear and determine the case.[45] The court remains the best and sole judge on what to do with the case before it notwithstanding the power of the prosecutor to retain the direction and control of the prosecution of criminal cases. In Crespo, this Court was explicit that the determination of the case is within its exclusive jurisdiction and competence.[46] Hence, "[a] motion to dismiss the case filed by the fiscal should be addressed to the Court who has the option to grant or deny the same."[47]

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Jurisprudence, however, is also explicit that once a motion to dismiss is filed, the trial judge may grant or deny it, not out of subservience to the Secretary of Justice, but in faithful exercise of judicial prerogative.[48] Hence, in the determination thereof, trial judges are required to make their own independent assessment. Citing Martinez v. Court of Appeals,[49] the Court in Roberts, Jr. v. Court of Appeals,[50] said:

> Whether to approve or disapprove the stand taken by the prosecution is not the exercise of discretion required in cases like this. The trial judge must himself be convinced that there was indeed no sufficient evidence against the accused, and this conclusion can be arrived at only after an assessment of the evidence in the possession of the prosecution. What was imperatively required was the trial judge's own assessment of such evidence, it not being sufficient for the valid and proper exercise of judicial discretion merely to accept the prosecution's word for its supposed insufficiency.

It is imperative on the part of the trial judges to state their assessment and reasons in resolving the motion before them.

We now resolve the question: Is the petitioner correct in claiming that the RTC committed grave abuse of discretion in denying the Motion to Amend the Information to exclude petitioner from the charge for the reason that it relied solely on the ground that it had acquired jurisdiction over the case?

Under the herein factual milieu, we answer in the negative.

Contrary to petitioner's contention, a cursory reading of the assailed Order would reveal that the RTC did not deny the Motion on the lone basis that it had already acquired jurisdiction over the criminal action. It denied the Motion on more formidable legal grounds.

The reason for the RTC's denial of petitioner's Motion bears reiterating, viz:

Nonetheless, the instant Motion is filed after the said accused has already been arraigned. Under Section 4, Rule 117, which allows the amendment of complaint or information, the same shall be done before the accused entered his plea, hence, the desirability of amendment, since the Court will not entertain any Motion to Quash, after the arraignment pursuant to Section 1, Rule 117. This is so because with accused'[s] arraignment the issue has been joined.[51]

The crucial fact is, on 31 October 2001,[52] the petitioner was unconditionally arraigned. He was arraigned with the assistance of his counsel, Atty. Marlou Ubano. He already entered his plea during his arraignment.[53] Subsequently, a plea of not guilty was set in the records.[54]

Nothing in the records discloses that petitioner's arraignment was with restriction, condition, or reservation. Jurisprudence is clear that with the arraignment of the petitioner, the DOJ Secretary can no longer entertain the appeal or petition for review because petitioner had already waived or abandoned the same.[55] In the case at bar, following petitioner's arraignment, he is deemed to have waived or abandoned his petition for review earlier filed with the DOJ Secretary.

This is where petitioner's contention that the RTC failed to make independent findings based on the evidence before it does not hold water. The allegation that the RTC did not make an independent evaluation of the evidence to determine the existence of probable cause becomes immaterial in light of petitioner's unconditional arraignment. Petitioner's arraignment constitutes a waiver of her right to preliminary investigation or reinvestigation.[56] Such waiver is tantamount to a finding of probable cause.[57] Hence, the determination of the existence or non-existence of probable cause becomes unnecessary. Following petitioner's arraignment, it was no longer the RTC's duty to make an independent finding of the evidence before it for the determination of probable cause.

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We do not herein abandon the ruling that the trial court has the duty to make an independent assessment of the merits of the motion when confronted with a motion to withdraw an information on the ground of lack of probable cause based on a resolution of the secretary of justice.[58] Surely, trial courts are called to validly and properly exercise judicial discretion and independence. But where the accused has already been arraigned without reservation, condition or restriction, in line with our ruling in Adasa v. Abalos,[59] the unconditional arraignment constitutes a waiver of his right to preliminary investigation or reinvestigation. Consequently, there is a waiver or abandonment of his petition for review before the Department of Justice. In like manner, therefore, the trial court has no more need to make an independent assessment of the evidence before it to determine probable cause. Trial ensues. Conversely, with the arraignment of the accused, the DOJ Secretary can no longer entertain the appeal or petition for review because the accused has already waived or abandoned the same.

Moreover, when the petitioner brought forth the denial of the Motion to Amend the Information to exclude his name from the charge, and to seek the quashal of the Information before the Court of Appeals on certiorari, he was in error in his choice of remedy. This Court emphasizes the established rule that the writ of certiorari will not lie against the denial of a motion to quash an information. The remedy is for petitioner to go to trial on the merits, and if an adverse decision is rendered, to appeal therefrom in a manner authorized by law.[60] We have, however, sanctioned a writ of certiorari on the basis of a patent, capricious and whimsical exercise of discretion by a trial judge or when an appeal will not promptly relieve petitioner from the injurious effects of the disputed orders.[61] No such special circumstances are herein present that would convince us to treat the instant case as an exception. Thus:

> The special civil action of certiorari or prohibition is not the proper remedy against interlocutory orders such as those assailed in these proceedings; i.e., an order denying a motion to quash the information, and one declaring the accused to have waived his right to present evidence and considering the case submitted for decision. As pointed out by the Office of the Solicitor General (citing Nierras v. Dacuycuy, 181 SCRA 1 [1990], and Acharon v. Purisima, et al., 13 SCRA 309; People v. Madaluyo, 1 SCRA 990), the established rule is that when such an adverse interlocutory order is rendered, the remedy is not to resort forthwith to certiorari or prohibition, but to continue with the case in due course and, when an unfavorable verdict is handed down to take an appeal in the manner authorized by law. It is only where there are special circumstances clearly demonstrating the inadequacy of an appeal that the special civil action of certiorari or prohibition may exceptionally be allowed. The Court has been cited to no such special circumstances in the cases at bar.[62]

Certainly, this Court has been steadfast in holding that when such an adverse interlocutory order as the denial of a motion to quash is rendered, the remedy is not to resort forthwith to certiorari or prohibition. Besides, remedies of appeal and certiorari are mutually exclusive and not alternative or successive.[63]

WHEREFORE, the Petition is DENIED. Costs against petitioner.

SO ORDERED.
Ynares-Santiago, (Chairperson), and Austria-Martinez, JJ., concur.
Nachura, J., No part. Filed pleadings as Sol Gen.

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* Associate Justice Antonio Eduardo B. Nachura, then Solicitor General filed the Memorandum for public respondent People of the Philippines before this Court.

[1] Rollo, pp. 16-46.

[2] Penned by Associate Justice Vicente L. Yap with Associate Justices Arsenio J. Magpale and Ramon M. Bato, Jr., concurring; id. at 47-57.

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[3] Penned by Judge Rene S. Hortillo; records, p. 279.

[4] Rollo, pp. 58-60.

[5] Records, p. 14. The newspaper article was written by Manny Regalado Alcalde.

[6] Rollo, pp. 83-88.

[7] Records, pp. 47-48.

[8] Id.

[9] Id. at 53.

[10] Rollo pp. 96-107.

[11] Id. at 125.

[12] Records at 67.

[13] Rollo, p. 115.

[14] Records, pp. 81-104.

[15] Rollo, pp. 127-130.

[16] Id. at 131-132.

[17] Id. at 125.

[18] Records, pp. 148-173.

[19] Id. at 130-131.

[20] Id. at 144-147.

[21] Id. at 224.

[22] No resolution on the Motion appears on record.

[23] Id.

[24] Id. at 226.

[25] Id. at 249-252.

[26] Rendered by Undersecretary Ma. Merceditas N. Gutierrez for the Secretary of Justice; id. at 261-264.

[27] The decretal portion of the 12 February 2002 Resolution, pronounces, viz:

WHEREFORE, the resolution of the City Prosecutor of Iloilo City is REVERSED and he is directed to amend the information for libel and to drop [petitioner] Mustapha Gandarosa from the charge and to report to this Office the action taken within ten (10) days from receipt hereof. (Id. at 263-264.)

[28] Id. at 263.

[29] Id. at 265.

[30] Id. at 279.

[31] Rollo, p. 178.

[32] Id. at 179-194.

[33] Id. at 195.

[34] 324 Phil. 568, 601 (1996).

[35] Rollo, p. 53.

[36] Id. at 56.

[37] Id. at 60.

[38] Id. at 30-31.

[39] Filed by Solicitor General Alfredo L. Benipayo; id. at 300-316.

[40] Filed by then Solicitor General (now Associate Justice of the Supreme Court) Antonio Eduardo B. Nachura; id. at 396-412.

[41] Id. at 406.

[42] SECTION 4. – Cases not subject to review; exceptions. – No petition may be allowed from a resolution of the Chief State Prosecutor/Regional State Prosecutor/Provincial or City Prosecutor finding probable cause except upon showing of manifest error or grave abuse of discretion. Either complainant/offended party or respondent/accused may file a petition. Notwithstanding the showing of manifest error or grave abuse of discretion no petition shall be entertained where the accused had already been arraigned. Once arraigned, the petition shall be dismissed motu proprio by the Secretary of Justice.

[43] Id. at 408.

[44] G.R. No. L-53373, 30 June 1987, 151 SCRA 462.

[45] Id. at 469.

[46] Id. at 471.

[47] Id.

[48] Roberts, Jr. v. Court of Appeals, supra note 34.

[49] G.R. No. 112387, 13 October 1994, 237 SCRA 575, 585-586. Also citing Dee v. Court of Appeals, G.R. No. 111153, 21 November 1994, 238 SCRA 254, 265.

[50] Roberts, Jr. v. Court of Appeals, supra note 34.

[51] Records, p. 279.

[52] Id.

[53] Id. at 243.

[54] Id.

[55] Adasa v. Abalos, G.R. No. 168617, 19 February 2007.

[56] Id.

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[57] Id.

[58] Ledesma v. Court of Appeals, 344 Phil. 207, 217 (1997).

[59] Supra note 55.

[60] Soriano v. Casanova, G.R. No. 163400, 31 March 2006, 486 SCRA 431, 439.

[61] Hon. Vasquez v. Hobilla-Alinio, 337 Phil. 513, 519 (1997).

[62] Raro v. Sandiganbayan, 390 Phil. 917, 940 (2000), citing Quiñon v. Sandiganbayan, 338 Phil. 290, 309 (1997).

[63] Lalican v. Hon. Vergara, 342 Phil. 485, 497 (1997).

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