

HAROLD V. TAMARGO, PETITIONER, VS. ROMULO AWINGAN, LLOYD ANTIPORDA AND LICERIO ANTIPORDA, JR., RESPONDENTS.

G.R. No. 177727. January 19, 2010

Ponente: CORONA, J.

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CORONA, J.:

This is a petition for review on certiorari[1] of the November 10, 2006 decision[2] and May 18, 2007 resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 93610.

Atty. Franklin V. Tamargo and his eight-year-old daughter, Gail Franzielle, were shot and killed at around 5:15 p.m. of August 15, 2003 along Nueva Street corner Escolta Street, Binondo, Manila. The police had no leads on the perpetrators of the crime until a certain Reynaldo Geron surfaced and executed an affidavit dated September 12, 2003. He stated that a certain Lucio Columna told him during a drinking spree that Atty. Tamargo was ordered killed by respondent Lloyd Antiporda and that he (Columna) was one of those who killed Atty. Tamargo. He added that he told the Tamargo family what he knew and that the sketch of the suspect closely resembled Columna.[4]

After conducting a preliminary investigation and on the strength of Geron's affidavit, the investigating prosecutor[5] issued a resolution dated December 5, 2003 finding probable cause against Columna and three John Does.[6] On February 2, 2004, the corresponding Informations for murder were filed against them in the Regional Trial Court (RTC) of Manila, one assigned to Branch 27 for the death of Atty. Franklin Tamargo, and the other to Branch 29 for the death of the minor Gail Franzielle.[7] Columna was arrested in the province of Cagayan on February 17, 2004 and brought to Manila for detention and trial.[8]

On March 8, 2004, Columna (whose real name was Manuel, Jr.) executed an affidavit wherein he admitted his participation as "look out" during the shooting and implicated respondent Romulo Awingan (alias "Mumoy") as the gunman and one Richard Mecate. He also tagged as masterminds respondent Licerio Antiporda, Jr. and his son, respondent Lloyd Antiporda.[9] The former was the ex-mayor and the latter the mayor of Buguey, Cagayan at that time. When the killing took place, Licerio Antiporda was in detention for a kidnapping case in which Atty. Tamargo was acting as private prosecutor.

Pursuant to this affidavit, petitioner Harold V. Tamargo (brother of Atty. Tamargo) filed a complaint against those implicated by Columna in the Office of the City Prosecutor of Manila.[10]

On April 19, 2004, Columna affirmed his affidavit before the investigating prosecutor[11] who subjected him to clarificatory questions.[12]

Respondents denied any involvement in the killings. They alleged that Licerio was a candidate for mayor in Buguey, Cagayan during the May 2004 elections and that the case was instituted by his political opponents in order to derail his candidacy. The Antipordas admitted that Atty. Tamargo was their political rival for the mayoralty post of Buguey. Atty. Tamargo had been defeated twice by Lloyd and once by Licerio. Before the

killing, Atty. Tamargo filed an election case against Lloyd and a kidnapping case in the Sandiganbayan against Licerio. However, they claimed that both cases were dismissed as Lloyd emerged as the winner in the elections and Licerio was acquitted by the Sandiganbayan.[13]

During the preliminary investigation, respondent Licerio presented Columna's unsolicited handwritten letter dated May 3, 2004 to respondent Lloyd, sent from Columna's jail cell in Manila. In the letter, Columna disowned the contents of his March 8, 2004 affidavit and narrated how he had been tortured until he signed the extrajudicial confession. He stated that those he implicated had no participation in the killings.[14] Respondent Licerio also submitted an affidavit of Columna dated May 25, 2004 wherein the latter essentially repeated the statements in his handwritten letter.

Due to the submission of Columna's letter and affidavit, the investigating prosecutor set a clarificatory hearing, to enable Columna to clarify his contradictory affidavits and his unsolicited letter. During the hearing held on October 22, 2004, Columna categorically admitted the authorship and voluntariness of the unsolicited letter. He affirmed the May 25, 2004 affidavit and denied that any violence had been employed to obtain or extract the affidavit from him.[15]

Thus, on November 10, 2004, the investigating prosecutor recommended the dismissal of the charges. This was approved by the city prosecutor.

Meanwhile, in another handwritten letter addressed to City Prosecutor Ramon Garcia dated October 29, 2004, Columna said that he was only forced to withdraw all his statements against respondents during the October 22, 2004 clarificatory hearing because of the threats to his life inside the jail. He requested that he be transferred to another detention center.[16]

Aggrieved by the dismissal of the charges, petitioner filed an appeal to the Department of Justice (DOJ).[17] On May 30, 2005, the DOJ, through then Secretary Raul M. Gonzalez, reversed the dismissal and ordered the filing of the Informations for murder.[18] He opined that the March 8, 2004 extrajudicial confession was not effectively impeached by the subsequent recantation and that there was enough evidence to prove the probable guilt of respondents.[19] Accordingly, the Informations were filed and the cases were consolidated and assigned to the RTC of Manila, Branch 29.[20]

However, on August 12, 2005, Secretary Gonzales granted the Antipordas' motion for reconsideration (MR) and directed the withdrawal of the Informations.[21] This time, he declared that the extrajudicial confession of Columna was inadmissible against respondents and that, even if it was admissible, it was not corroborated by other evidence.[22] As a result, on August 22, 2005, the trial prosecutor filed a motion to withdraw the Informations. On October 4, 2005, Secretary Gonzalez denied petitioner's MR.

The RTC, through Judge Cielito Mindaro-Grulla, granted the motion to withdraw the Informations in an order dated October 26, 2005.[23] Petitioner filed an MR but the judge voluntarily inhibited herself without resolving the same. The cases were re-raffled to Branch 19, presided by Judge Zenaida R. Daguna. Judge Daguna granted the MR of petitioner in a resolution dated December 9, 2005. She ruled that, based on Columna's March 8, 2004 affidavit which he affirmed before the investigating prosecutor, there was probable cause to hold the accused for trial. She denied the MR of the Antipordas in an order dated February 6, 2006.

Consequently, respondent Awingan filed a special civil action for certiorari and prohibition in the CA docketed as CA-G.R. SP No. 93610. The Antipordas separately filed another certiorari case docketed as CA-G.R. SP No. 94188.

In a decision dated November 10, 2006 in CA-G.R. SP No. 93610, the CA ruled that the RTC judge gravely

abused her discretion because she arbitrarily left out of her assessment and evaluation the substantial matters that the DOJ Secretary had fully taken into account in concluding that there was no probable cause against all the accused. It also held that Columna's extrajudicial confession was not admissible against the respondents because, aside from the recanted confession, there was no other piece of evidence presented to establish the existence of the conspiracy. Additionally, the confession was made only after Columna was arrested and not while the conspirators were engaged in carrying out the conspiracy.

After this decision was promulgated, CA-G.R. SP No. 93610 was consolidated with CA-G.R. SP No. 94188. The CA denied reconsideration in a resolution dated May 18, 2007. In a decision dated August 24, 2007, the CA likewise granted the petition for certiorari of respondents Antiporda.[24]

Petitioner filed this petition assailing the decision in CA-G.R. SP No. 93610. Later on, he filed an amended petition impleading respondents Antiporda and likewise assailing the CA decision in CA-G.R. SP No. 94188. The Court treated this as a supplemental petition.

The main issue for our resolution is whether or not the CA erred in finding that Judge Daguna had committed grave abuse of discretion in denying the withdrawal of the Informations for murder against respondents.

Petitioner argues that, based on the independent assessment of Judge Daguna, there was probable cause based on the earlier affidavit of Columna. She considered all the pieces of evidence but did not give credit to Columna's recantation.

Respondents counter that Judge Daguna committed grave abuse of discretion by limiting her evaluation and assessment only to evidence that supported probable cause while completely disregarding contradicting evidence. They also contend that Columna's extrajudicial confession was inadmissible against respondents because of the rule on *res inter alios acta*.

We find no merit in the petition.

It is settled that, when confronted with a motion to withdraw an Information (on the ground of lack of probable cause to hold the accused for trial based on a resolution of the DOJ Secretary), the trial court has the duty to make an independent assessment of the merits of the motion.[25] It may either agree or disagree with the recommendation of the Secretary. Reliance alone on the resolution of the Secretary would be an abdication of the trial court's duty and jurisdiction to determine a *prima facie* case.[26] The court must itself be convinced that there is indeed no sufficient evidence against the accused.[27]

We agree with the CA that Judge Daguna limited herself only to the following: (1) Columna's affidavit dated March 8, 2004 wherein he implicated the respondents in the murders; (2) his affirmation of this affidavit during the April 19, 2004 clarificatory hearing; (3) his letter dated October 29, 2004 and (4) the May 30, 2005 DOJ resolution upholding the prosecutor's recommendation to file the murder charges.[28]

She completely ignored other relevant pieces of evidence such as: (1) Columna's May 3, 2004 letter to respondent Lloyd Antiporda narrating the torture he suffered to force him to admit his participation in the crimes and to implicate the respondents; (2) his May 25, 2004 affidavit where he stated that neither he nor the respondents had any involvement in the murders and (3) his testimony during the October 22, 2004 clarificatory hearing wherein he categorically affirmed his May 3, 2004 letter and May 25, 2004 affidavit.

We declared in *Jimenez v. Jimenez*[29] that

[although] there is no general formula or fixed rule for the determination of probable cause since the same must be decided in the light of the conditions obtaining in given situations and its existence depends to a large

degree upon the finding or opinion of the judge conducting the examination, such a finding should not disregard the facts before the judge nor run counter to the clear dictates of reason. The judge or fiscal, therefore, should not go on with the prosecution in the hope that some credible evidence might later turn up during trial for this would be a flagrant violation of a basic right which the courts are created to uphold.[30] (Emphasis supplied)

Had Judge Daguna reviewed the entire records of the investigation, she would have seen that, aside from the pieces of evidence she relied on, there were others which cast doubt on them. We quote with approval the reflections of the CA on this point:

The selectivity of respondent RTC Judge for purposes of resolving the motion to withdraw the informations effectively sidetracked the guidelines for an independent assessment and evaluation of the merits of the case. Respondent RTC Judge thus impaired the substantial rights of the accused. Instead, she should have made a circumspect evaluation by looking at everything made available to her at that point of the cases. No less than that was expected and required of her as a judicial officer. According to *Santos v. Orda, Jr.*, the trial judge may make an independent assessment of the merits of the case based on the affidavits and counter-affidavits, documents, or evidence appended to the Information; the records of the public prosecutor which the court may order the latter to produce before the court; or any evidence already adduced before the court by the accused at the time the motion is filed by the public prosecutor.[31]

Moreover, Judge Daguna failed to consider that Columna's extrajudicial confession in his March 8, 2004 affidavit was not admissible as evidence against respondents in view of the rule on *res inter alios acta*.

Res inter alios acta alteri nocere non debet. The rule on *res inter alios acta* provides that the rights of a party cannot be prejudiced by an act, declaration, or omission of another.[32] Consequently, an extrajudicial confession is binding only on the confessant, is not admissible against his or her co-accused[33] and is considered as hearsay against them.[34] The reason for this rule is that:

on a principle of good faith and mutual convenience, a man's own acts are binding upon himself, and are evidence against him. So are his conduct and declarations. Yet it would not only be rightly inconvenient, but also manifestly unjust, that a man should be bound by the acts of mere unauthorized strangers; and if a party ought not to be bound by the acts of strangers, neither ought their acts or conduct be used as evidence against him.[35]

An exception to the *res inter alios acta* rule is an admission made by a conspirator under Section 30, Rule 130 of the Rules of Court:

Admission by conspirator. -- The act or declaration of a conspirator relating to the conspiracy and during its existence, may be given in evidence against the co-conspirator after the conspiracy is shown by evidence other than such act or declaration.

This rule prescribes that the act or declaration of the conspirator relating to the conspiracy and during its existence may be given in evidence against co-conspirators provided that the conspiracy is shown by independent evidence aside from the extrajudicial confession.[36] Thus, in order that the admission of a conspirator may be received against his or her co-conspirators, it is necessary that (a) the conspiracy be first proved by evidence other than the admission itself (b) the admission relates to the common object and (c) it has been made while the declarant was engaged in carrying out the conspiracy.[37] Otherwise, it cannot be used against the alleged co-conspirators without violating their constitutional right to be confronted with the witnesses against them and to cross-examine them.[38]

Here, aside from the extrajudicial confession, which was later on recanted, no other piece of evidence was presented to prove the alleged conspiracy. There was no other prosecution evidence, direct or circumstantial,

which the extrajudicial confession could corroborate. Therefore, the recanted confession of Columna, which was the sole evidence against respondents, had no probative value and was inadmissible as evidence against them.

Considering the paucity and inadmissibility of the evidence presented against the respondents, it would be unfair to hold them for trial. Once it is ascertained that no probable cause exists to form a sufficient belief as to the guilt of the accused, they should be relieved from the pain of going through a full blown court case.[39] When, at the outset, the evidence offered during the preliminary investigation is nothing more than an uncorroborated extrajudicial confession of an alleged conspirator, the criminal complaint should not prosper so that the system would be spared from the unnecessary expense of such useless and expensive litigation.[40] The rule is all the more significant here since respondent Licerio Antiporda remains in detention for the murder charges pursuant to the warrant of arrest issued by Judge Daguna.[41]

Indeed, at that stage of the proceedings, the duty of Judge Daguna was only to satisfy herself whether there was probable cause or sufficient ground to hold respondents for trial as co-conspirators. Given that she had no sufficient basis for a finding of probable cause against respondents, her orders denying the withdrawal of the Informations for murder against them were issued with grave abuse of discretion.

Hence, we hold that the CA committed no reversible error in granting the petitions for certiorari of respondents.

WHEREFORE, the petition is hereby DENIED.

No pronouncement as to costs.

SO ORDERED.

Carpio Morales, Velasco, Jr., Nachura and Leonardo-De Castro, JJ., concur.

[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Lucas P. Bersamin (now Supreme Court Justice) and concurred in by Associate Justices Martin S. Villarama, Jr. (now Supreme Court Justice) and Monina Arevalo-Zenarosa of the Seventh Division of the Court of Appeals. Rollo, pp. 34-60.

[3] *Id.*, pp. 63-70.

[4] *Id.*, p. 35. The full text of the September 12, 2003 affidavit read:

1. About a week before August 15, 2003, I was in the house of Lucio Columna at Battalan, Lasam and there we drank gin together and stayed with him for several hours since we are close friends. In the course of our conversation we talked about the chances of Atty. Franklin Tamargo to win his election protest in the election for mayor of Buguey, Cagayan, and I told him what I heard that Atty. Tamargo was winning in the protest, Lucio Columna immediately said he could bet that Atty. Tamargo could not sit and assume as mayor even if he wins. Later I learned that Atty. Tamargo was killed last August 15.

2. Last week, Lucio Columna and I were again together in the morning in our Barangay and he asked me to drink gin with him, and we continued drinking until about noon time. When he had drunk much, he told me "Awanen ni boss mon nga Tamargon, pinapatay ni Lloyd. Dakami pay ket di ti pimmatay." (Your boss Tamargo is already gone, he was ordered killed by Lloyd. In fact, we were the ones who killed him). He also said "Tamargo ka, Antiporda ak, no kayat mo saan ka nga agusubli diay Buguey yen ta awan met ni boss mon, agdakua ta ti negosyo ditoyen." (You are for Tamargo and I am for Antiporda; if you want, do not go back to Buguey anymore since your boss is already gone so that we can be together in business here). I know he is in the business of selling "shabu" and marijuana.

3. I decided to come to Manila to tell the family what I know. I was shown the sketch of the face of suspect and I can say that the front side closely resembles that of Lucio Columna, and I am executing this freely and willingly to attest to its truth in court.

[5] Assistant Prosecutor Bernardino R. Camba.

[6] I.S. No. 031-26335. Id., p. 500.

[7] Docketed as Criminal Case Nos. 04-223270 and 04-223271. Id., pp. 72, 236-237, 469.

[8] Id., p. 36.

[9] We reproduce here the full text of the March 8, 2004 affidavit:

Na ako po ay humihingi ng tulong upang ibigay ko ang buong katunayan ng pangyayari sa pagkamatay nila ATTY. FRANKLIN TAMARGO at ng anak na babae nito habang nakasakay sa kanilang kotse;

Na hindi po ako ang bumaril sa kanila;

Na ang bumaril po ay si ROMULO AWINGAN Aka MUMYOY na taga Aparri, Cagayan at ang nagutos ay sila MAYOR LLOYD ANTIPORDA ng Buguey, Cagayan at ang TATAY niya na si EX-MAYOR LICERIO ANTIPORDA JR. Aka BOY.

Na noong July 20, 2003 habang nagmamaneho ako ng Multicab biyaheng Aparri-Dugo ay pinara ako ni MUMYOY AWINGAN sa Tallungan Aparri at sinabi niya kung gusto kong sumama sa grupo nila. Sabi ko naman ay ihahatid ko lang ang pasahero ko sa Dugo. Pagkatapos noon ay binalikan ko sila sa Tallungan. Nang magkausap na kami ni MUMYOY AWINGAN ay sinabi niya na may PROJECT sila at si ATTY. FRANKLIN TAMARGO na kalaban ni MAYOR ANTIPORDA sa BUGUEY. Kung gusto ko raw sumama sa PROJECT na yun. Nang sumagot ako ng OO ay isusurvey lang daw nila ang lugar. Sinabi rin niya na isasama nila ako kay MAYOR ANTIPORDA;

Na noong August 10, 2003 ay inabangan ako nila MUMYOY AWINGAN sa Tallungan, Aparri Cagayan at sinama nila ako, kasama si RICHARD MECATE at isa pa na hindi ko kilala pero mamumukhaan ko ito kung makikita ko ulit. Pumunta na kami sa bahay na malaki sa POBLACION ng BUGUEY CAGAYAN. Pagdating [namin] doon ay may lumabas na lalaki na si MAYOR LLOYD ANTIPORDA at sinabihan ni MUMYOY AWINGAN sa kanya ng `SIR? ITO ANG MAKAKASAMA NAMIN', tapos sumagot si Mayor Antiporda ng GOOD at agad tinanong sa akin kung kilala ko si ATTY. TAMARGO at sinagot ko ng "OO" naman. Tapos nakita ko na may inabot na sobre kay MUMYOY;

Na noong bumalik na kami sa Aparri Cagayan ay kumuha ng pera si MUMYOY at inabutan ako ng limang libong piso (P5,000.00) at sabi sa akin ay ADVANCE LANG yun para makaluwas sa Maynila agad;

Na noong ding araw na iyon ay nagpunta kami ng Maynila kasama sina MUMYOY AWINGAN, RICHARD MACATE at yung hindi ko alam ang pangalan. Bumaba kami bago dumating ng Terminal ng Florida Bus Line;

Na noong August 14, 2003 ay sumakay kami sa isang kotse na minaneho ng isang lalaki at pumunta kami sa Quezon City Jail at kinausap [namin] si Ex-Mayor Antiporda na nakakulong doon. Sinabi sa amin ni Ex-Mayor na masamang tao si Atty. Tamargo dahil ipinakulong siya nito na walang kasalanan at dapat lang siya maparusahan. Sinabi pa niya dadagdagan ang bayad pag natapos ang misyon [namin];

Na ang misyong iyon ay para PATAYIN si ATTY. TAMARGO;

Nang humigit kumulang alas dos ng hapon petsa 15 ng August 2003 ay isinama kami sa isang bahay sa Bago Bantay Quezon City. Na sinabi na bahay ni Mayor Lloyd Antiporda at doon sa garahe ay may dalawang motorsiklo. Hindi nagtagal ay umalis din agad kami kasama si Mumoy Awingan, Richard Mecate at yung isa

pa na sakay ng dalawang motorsiklo, magkaangkas sina Mumoy at Richard. Ang nagmamaneho ay si Richard at dalawa naman kami ng lalaki na hindi ko kilala sa isang motorsiklo. Nagmaneho ang lalaki na angkas ako. Pagdating [namin] sa Escolta, Manila ay bumaba si Mumoy at kami naman ay naghintay sa isang lugar na malapit sa kinaroroonan nila;

Nang pasado alas singko ng hapon ng petsa ding iyon ay nakita [namin] na palapit si Atty. Tamargo sa kanyang kotse kaya kami ay pumuwesto sa kabilang [kanto];

Nang nasa loob na si Atty. Tamargo at minamaneho na ang kotse ay nakita kong lumipat na si Mumoy sa may gawing kaliwa ng kotse kung saan pumasok si Atty. Tamargo at kanya ng pinagbabaril.

Na habang binabaril niya si Atty. Tamargo ay nagsilbing LOOK OUT lang kami at pagkatapos noon ay tumakas na kami sakay sa dalawang motorsiklo at tumuloy na kami sa sakayan ng bus papuntang Cagayan;

Na nang dumating na kami sa Cagayan sa Dugo Camalaniugan ay bumaba na kami at bago kami naghiwalay ay inabutan ako ulit ni MUMOY ng limang libong piso;

Na nakikiusap po ako na dito na lamang makulong (Det. Jail, WPD) para sa aking proteksyon;

Na ginawa ko po itong pagtatapat ng kusang loob upang patunayan ang mga naganap na pangyayari.

Na panunumpaang pipirmahan ko po iyan patunay na lahat ng sinabi ko ay [pawang] katotohanan lamang. (Id., pp. 36-38.)

[10] Id., pp. 323, 436.

[11] Assistant City Prosecutor Venus D. Marzan.

[12] Rollo, p. 472.

[13] Id., pp. 98-99.

[14] The full text of the May 3, 2004 letter read:

DEAR SIR,

SA PAMAMAGITAN NG PAKIUSAP AT PAYO NI RET. CORONEL SEVERINO PURIGAY NA KASAMA KO NGAYON NA NAKAKULONG SA MANILA CITY JAIL SA QUEZON CITY BLVD. STA. CRUZ, MLA. MINABUTI KONG SUMULAT SA INYO AT IPARATING ANG AKING PANIG SA KASONG "DOUBLE MURDER" NA KUNG SAAN KAYO AT ANG INYONG AMANG SI GINOONG LICERIO ANTIPORDA AY ISINANGKOT SA PAGPATAY SA YUMAONG ATTY. FRANKLIN TAMARGO.

AKO AY SI MANUEL COLUMN JR. [29] TAONG GULANG DRIVER, AT NAKATIRA SA BRGY. ZIMINILA CAMALANIUGAN, CAGAYAN. NAARESTO AKO NOONG FEB. 18, 2004 SA SAPPING, CAMALANIUGAN SA BISA NG WARRANT NA GALING SA BRANCH 27 NG MANILA RTC. SA KASONG DOUBLE MURDER NA IBINASE SA SINUMPAANG SALAYSAY NI GERALDO GERON NG LASAM, CAGAYAN NA SIYANG NAGSUMBONG SA AKIN SA PAMILYA NG MGA TAMARGO DITO SA MANILA ANG PAGSIRA SA AKING PAGKATAO AT KINABUKASAN NG WITNESS NA ITO. SA [PAMAMAGITAN] NG PAGSISINUNGALING AY DAHIL MARAHIL SA GALIT O INGGIT SA AKIN. SA BUONG BUHAY KO AY HINDI PA AKO NAGKAROON NG KASO O NAKULONG KAHIT MINSAN KUNDI NGAYON LANG. BAGO KO ITO ISINULAT AY INAROK KONG MABUTI ANG KONSENSYA AT HINDI KO TALAGA KAYANG ITULOY ANG MAGSINUNGALING NA GAYA NG GUSTO NILANG MANGYARI AT ITURO KAYO BILANG MASTERMIND SA PAGPATAY[.] AYAW KONG MAGKASALA SA DIYOS SA PAGTESTIGO SA ISANG KASINUNGALINGAN.

NANIWALA AKO NA MAY DIYOS NA NAKAKAALAM NG KATOTOHANAN AT BUONG KATAPATAN KONG SABIHIN SA INYO NA NASA LASAM, CAGAYAN, AKO NOONG AUGUST 15, 2003 NA SINASABI NILANG ARAW NG PAGPATAY KAY ATTY. TAMARGO. NI MINSAN AY HINDI KO PA NAKITA ANG BIKTIMA AT HINDI KO ALAM [ANG] KANYANG MUKHA HANGGAT HINDI SINABI SA AKIN NG MGA PULIS NA DUMAKIP SA AKIN AY HINDI KO ALAM KUNG BAKIT "DOUBLE MURDER" (KUNG SINO PA ANG NAMATAY) AT KUNG SAAN NANGYARI NA SINABI NILANG SA BINONDO RAW NA HINDI KO PA NARATING NA LUGAR.

MULA NOONG ARAW NA INARESTO AKO AY MARAMING "TORTURE" ANG DINAANAN KO SA MGA KAMAY NG MGA TAGA-RSOB NG RECOM NG CAGAYAN AT SA WPD[.] NARANASAN KONG MAISUPOT ANG ULO, MABUGBOG, AT MAKURYENTE KAYA NAPILITAN AKONG PIRMAHAN ANG MGA PAPELES NA INIHANDA NILA BUKOD SA PANANAKOT NA I-SALVAGE DAW (AKO) KUNG HINDI AKO MAKIKOOPERA SA KANILA.

HUMIHINGI AKO NG UNAWA SA INYO LALO NA'T NALATHALA SA DIARYO ANG PANGALAN NINYO NA NAKAKASIRA SA [INYO] PERO INTINDIHIN NYO AKO, NA NAUNA NG NASIRA ANG PANGALAN KO AT KINABUKASAN KO SA KASONG NAKASAMPA NA LABAN SA AKIN.

SANA AY MATUTULUNGAN TAYONG LAHAT PARA MALUTAS ANG KRIMENG NANGYARI[,] MAPARUSAHAN ANG TOTOONG SALARIN, AT MAKAMITAN NATIN ANG HUSTISYA. (Id, pp. 38-39.)

[15] Id., p. 40.

[16] Id., pp. 75, 239-240. The letter read:

October 29, 2004

KAGALANGGALANG NA FISCAL GARCIA:

Ako po ay sumulat sa inyo upang humingi ng tulong sa aking kalagayan dito sa loob ng Manila City Jail kung saan ang akin pong buhay ay nalalagay sa panganib.

Ito po ay dahil sa aking Sinumpaang Salaysay na kung saan ang mga Antiporda ang aking itinuro na nagutos sa pagpaslang kay Atty. Tamargo.

Noong nakaraang Biyernes ako po ay ipinatawag ni Fiscal Marzan upang patunayan kong muli ang aking naunang salaysay at ako po ay [nakahanda] upang ang aking salaysay ay muli kong mapatunayan at gusto ko rin pong isiwalat ang ginawa sa akin ng ibang tao dito sa loob ng piitan nang aking pong tanggihan na pumirma sa inihanda nilang salaysay na pumapabor sa mga Antiporda at nais ko rin pong ibigay ang aking inihandang salaysay kasama ang Medical Certificate.

Sir, hindi ko po masabi kung ano ang gusto kong sabihin kay Fiscal Marzan dahil noong gabing iyon ako po ay pinagbantaang papatayin kung muli kong patunayan ang aking salaysay. Kung kaya sa pagdinig ng kaso kay Fiscal Marzan kung saan ay naroon din sina Mayor Antiporda at kanyang anak ay aking nasabi kung ano ang mga sinabi sa [akin] ng mga Antiporda.

Kaya po sana sir ay mailipat po ako sa ibang piitan dahil baka ako po ay mapatay kung ako ay magsabi ng katotohanan upang mabigyan ng hustisya ang pagkamatay ni Atty. Tamargo.

[17] Id., pp. 320-338.

[18] Id., pp. 96-104.

[19] Id., p. 102.

[20] Id., pp. 236.

[21] Criminal Case Nos. 05-237561 and 05-237562.

[22] Rollo, pp. 41, 105-107.

[23] Id., p. 71.

[24] Id., pp. 286-314.

[25] Gandarosa v. Flores, G.R. No. 167910, 17 July 2007, 527 SCRA 776, 793.

[26] Summerville General Merchandising & Co., Inc. v. Eugenio, Jr., G.R. No. 163741, 7 August 2007, 529 SCRA 274, 282, citing Santos v. Orda, Jr., G.R. No. 158236, 1 September 2004, 437 SCRA 504, 516..

[27] Fuentes v. Sandiganbayan, G.R. No. 139618, 11 July 2006, 494 SCRA 478, 485.

[28] Rollo, pp. 72-75.

[29] G.R. No. 158148, 30 June 2005, 462 SCRA 516.

[30] Id., pp. 528-529

[31] Rollo, p. 54.

[32] This is expressed in Section 28, Rule 130 of the Rules of Court.

SEC. 28. Admission by third party. - The rights of a party cannot be prejudiced by an act, declaration, or omission of another, except as hereinafter provided.

[33] People v. Vda. De Ramos, 451 Phil. 214 , 224 (2003).

[34] People v. Tizon, Jr., G.R. No. 133228-31, 30 July 2002, 385 SCRA 364, 388, citing People v. Suarez, G.R. No. 111193, 28 January 1997, 267 SCRA 119.

[35] Supra note 33, pp. 224-225.

[36] People v. Morial, 415 Phil. 310, 336 (2001).

[37] People v. Tena, G.R. No. 100909, 21 October 1992, 215 SCRA 43, 48-49, citing Montoya v. Baun, 44 O.G. 4382, cited in Francisco, The Revised Rules of Court in the Philippines, Vol. VII, Part I, 1990 Edition, p. 349.

[38] People v. Surigawan, G.R. No. 83215, 15 December 1993, 228 SCRA 458, 465, citing People v. Badilla, 48 Phil. 718, 725 (1926) and People v. Ferry, 66 Phil. 310 (1938).

[39] R.R. Paredes v. Calilung, G.R. No. 156055, 5 March 2007, 517 SCRA 369, 395, citing Salonga v. Cruz Pano, G.R. No. L-59524, 18 February 1985, 134 SCRA 438, 461-462.

[40] Sistoza v. Desierto, 437 Phil. 117, 138 (2002), citing Cabahug v. People, 426 Phil. 490, 510 (2002).

[41] Rollo, p. 441.

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