

DR. EMILY D. DE LEON, DR. MA. CORAZON RAMONA LL. DE LOS SANTOS, DEAN ATTY. JOE-SANTOS B. BISQUERA, ATTY. DIOSDADO G. MADRID AND PEOPLE OF THE PHILIPPINES, PETITIONERS, VS. ATTY....

G.R. No. 226236. July 06, 2021

Ponente: ZALAMEDA, J.

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ZALAMEDA, J.:

This Petition for Review on Certiorari (Petition)[1] assails the Orders dated 29 March 2016[2] and 22 July 2016[3] of Branch 265 of the Regional Trial Court (RTC), Pasig City, in SCA Case No. 4062-PSG. The RTC denied the petition for certiorari filed by the above-named petitioners challenging the Resolution[4] dated 15 May 2015 of Branch 72 of the Metropolitan Trial Court (MeTC) in Criminal Case No. 124550. The MeTC dismissed the complaint for Obstruction of Justice against respondent Atty. Judith Z. Luis (Atty. Luis) for want of probable cause.[5]

Antecedents

The following facts are undisputed:

Atty. Luis was the counsel of record of one Ernesto de los Santos (Ernesto) in a criminal case for qualified theft filed by petitioners. A warrant of arrest was issued against Ernesto in connection with the said criminal case. On 13 February 2013 and 07 June 2013, Atty. Luis rendered legal services to, and performed notarial functions on pleadings verified by her client, Ernesto, in her office in Pasig City. Petitioners Dr. Emily D. de Leon, Dr. Ma. Corazon Ramona Ll. de los Santos, Dean Atty. Joe-Santos B. Bisquera, Atty. Diosdado G. Madrid (petitioners) claim that Atty. Luis did not report the presence of Ernesto in her office on said dates as to enable the relevant authorities to arrest him. Thus, petitioners filed a complaint for obstruction of justice against Atty. Luis and her associate, Atty. Alfredo A. Salting, Jr. (Atty. Salting) for their failure to effect a citizen's arrest against Ernesto knowing him to have a standing warrant.[6]

It is petitioners' theory that by not arresting Ernesto or reporting him to the authorities, Attys. Luis and Salting delayed the prosecution of the case for qualified theft and obstructed the service of process or court orders, in violation of Section 1(e) of Presidential Decree (P.D.) No. 1829.[7]

On 07 October 2013, the Pasig City Prosecutor's Office approved[8] the filing of an Information[9] against Atty. Luis. The case was raffled to Branch 70, MeTC, Pasig City, and a warrant of arrest was subsequently issued. On 24 October 2013, Atty. Luis voluntarily surrendered and posted a cash bond. Prior thereto, she filed an Omnibus Motion for (1) Judicial Determination of Probable Cause; (2) to Quash the Information; and (3) to Defer/Suspend Arraignment and/or Proceedings.[10] This Omnibus Motion was denied by Judge Maria Gaerlan Mejorada (Judge Mejorada), Presiding Judge of Branch 70, in an Order dated 04 June 2014.[11] Atty. Luis filed another motion seeking reconsideration of the Order and Judge Mejorada's inhibition from the case.[12]

After Judge Meiorada inhibited, the case was re-raffled to Branch 69 MeTC, before the sala of Judge Emmanuel Pimentel who also inhibited from the case motu proprio.[13] The case was again re-raffled, this time, to Branch 72, MeTC, before the sala of Judge Marilou Runes-Tamang (Judge Runes--Tamang).[14]

On 13 January 2015, Judge Runes-Tamang issued an Order granting the motion for reconsideration filed by Atty. Luis. According to the said judge, petitioners failed to present proof that Atty. Luis assisted Ernesto with the sole purpose of helping him evade prosecution or delay the administration of justice. Accordingly, the complaint for Obstruction of Justice was dismissed for want of probable cause.[15] Feeling aggrieved, petitioners filed their Omnibus Motion for reconsideration and inhibition of Judge Runes-Tamang.[16]

Eventually, Judge Runes-Tamang granted the motion for inhibition,[17] which led to the case being raffled again for the fourth time, finally reaching the court presided by Judge Eduardo Ramon Reyes (Judge Reyes). On 15 May 2015, Judge Reyes issued a Resolution denying petitioners' motion for reconsideration and affirming the dismissal of the case against Atty. Luis.[18]

Undeterred, petitioners filed a special civil action for certiorari before the RTC. On 29 March 2016, the RTC issued an Order denying the same. Considering that nature of a special civil action for certiorari which resolves only errors of jurisdiction, not errors of law, and considering further the absence of a controlling interpretation by this Court of what constitutes "concealing" and "harboring" under P.D. No. 1829, the RTC found no grave abuse of discretion on the part of Judge Reyes when he dismissed the case against Atty. Luis.[19] On 22 July 2016, the RTC denied petitioners' motion for reconsideration.[20] Hence, this petition.

Issues

We are called to resolve whether the RTC correctly found that the MeTC did not commit grave abuse of discretion in ordering the dismissal of the charge for obstruction of justice against Atty. Luis. In so doing, we need also to resolve the issue of whether Atty. Luis' failure to arrest Ernesto or report his presence in her office to the authorities, despite knowledge of a standing warrant for his arrest, constitute obstruction of justice under P.D. No. 1829.

Ruling of the Court

We note at the outset that this action is a direct resort to the Court via a petition for review on certiorari under Rule 45. This may be allowed when, as in this case, the petition raises only questions of law.[21] Here, parties do not disagree on any factual matter. There is no dispute that Atty. Luis did not arrest Ernesto or report his presence in her office to the authorities, despite knowledge of a standing warrant for his arrest. The crux of the controversy lies rather in whether her actions constitute obstruction of justice under Section 1(c) of P.D. No. 1829. This is a clear question of law in that the doubt or difference arises as to what the law is on a certain state of facts, not as to the truth or the falsehood of alleged facts.[22]

Procedural matters aside, the Court finds the Petition bereft of merit.

Section 1(c) of P.D. No. 1829 provides:

Section 1. The penalty of prision correccional in its maximum period, or a fine ranging from 1,000 to 6,000 pesos, or both, shall be imposed upon any person who knowingly or willfully obstructs, impedes, frustrates or delays the apprehension of suspects and the investigation and prosecution of criminal cases by committing any of the following acts: xxx

(c) harboring or concealing, or facilitating the escape of, any person he knows, or has reasonable ground to believe or suspect, has committed any offense under existing penal laws in order to prevent his arrest, prosecution and conviction; xxx. (Emphasis supplied)

As the RTC correctly noted, this Court has yet to issue a definitive ruling on the issue of what constitutes "harboring" and "concealing" for purposes of prosecution for obstruction of justice under this provision. Atty. Luis nevertheless cites the 1971 case of *People v. Martin*[23] where this Court defined the terms "harbor" and "conceal," albeit in the context of Commonwealth Act No. 613, or the Philippine Immigration Act of 1940. There, the Court held:

Section 46 of Commonwealth Act 613, as amended, reads as follows:

Any individual who shall bring into or land in the Philippines or conceal or harbor any alien not duly admitted by any immigration officer or not lawfully entitled to enter or reside within the Philippines under the terms of the immigration laws, or attempts, conspires with, or aids another to commit any such act and any alien who enters the Philippines without inspection and admission by the immigration officials, or obtains entry into the Philippines by wilful, false, or misleading representation or wilful concealment of a material fact, shall be guilty of an offense and upon conviction thereof, shall be fined not more than ten thousand pesos, imprisoned for not more than ten years, and deported if he is an alien.

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xxx Scanning section 46 in its entire context it is at once apparent, there being no indication to the contrary, that the act of bringing into, the act of landing, the act of concealing, the act of harboring, are four separate acts, each act possessing its own distinctive, different and disparate meaning. "Bring into" has reference to the act of placing an alien within the territorial waters of the Philippines. "Land" refers to the act of putting ashore an alien. "Conceal" refers to the act of hiding an alien. "Harbor" refers to the act of giving shelter and aid to an alien. It is of course understood that the alien brought into or landed in the Philippines, or concealed or harbored, is an alien not duly admitted by any immigration officer or not lawfully entitled to enter or reside within the Philippines under the terms of the immigration laws.[24] (Emphasis supplied)

In dismissing the complaint against Atty. Luis, the MeTC under Judge Runes-Tamang found that "[h]arboring a criminal presupposes something deliberate and not just the simple act of not voluntarily giving any information to the authorities as to the present whereabouts of a person." It thereafter declared that absent a clear showing of an overt act evidencing intent to help the fugitive remain in violation of the law, the charge for obstruction of justice would have no leg to stand on.

The Court agrees. Contrary to petitioners' assertions before the RTC, We find the MeTC's reading to be consistent with the text of Section 1(c) of P.D. No. 1829 which explicitly makes the intention to frustrate or delay apprehension, prosecution and conviction of another an element of the offense.

Here, there was absolutely no showing that Ernesto's presence in Atty. Luis' office was for anything other than to sign a Motion for Reconsideration and have it subscribed and sworn to before said counsel. That Atty. Luis did not take any steps to arrest Ernesto or report his presence in her office to the authorities, without more, does not evince an unmistakable intent on her part to help him evade prosecution or delay the administration of justice. In fact, and as correctly pointed out by Atty. Luis, had her intention been to "harbor" or "conceal" Ernesto, she would have asked to meet "in a secluded place unknown to anyone" instead of asking him to come to her notarial office which is not only known to petitioners, but also open to the public and located in the very busy business district of Ortigas, Pasig City.[25]

We take this occasion to remind petitioners of the basic principle that penal statutes are strictly construed against the State and that all doubts are to be resolved liberally in favor of the accused.[26] As this Court explained in *People v. Sullano*: [27]

xxx criminal law is rooted in the concept that there is no crime unless a law specifically calls for its

punishment. Nullum crimen poena sine lege. Another basic criminal law precept important to remember here is in dubiis reus est absolvendus - all doubts should be resolved in favor of the accused. Any criminal law showing ambiguity will always be construed strictly against the state and in favor of the accused.

These concepts signify that courts must not bring cases within the provision of law that are not clearly embraced by it. An act must be pronounced criminal clearly by the statute prior to its commission. The terms of the statute must clearly encompass the act committed by an accused for the latter to be held liable under the provision. Hence, it has been held:

For, it is a well-entrenched rule that penal laws are to be construed strictly against the State and liberally in favor of the accused. They are not to be extended or enlarged by implications, intendments, analogies or equitable considerations. They are not to be strained by construction to spell out a new offense, enlarge the field of crime: or multiply felonies. Hence, in the interpretation of a penal statute, the tendency is to subject it to careful scrutiny and to construe it with such strictness as to safeguard the rights of the accused. If the statute is ambiguous and admits of two reasonable but contradictory constructions, that which operates in favor of a party accused under its provisions is to be preferred. The principle is that acts in and of themselves innocent and lawful cannot be held to be criminal unless there is a clear and unequivocal expression of the legislative intent to make them such. Whatever is not plainly within the provisions of a penal statute should be regarded as without its intendment. The purpose of strict construction is not to enable a guilty person to escape punishment through a technicality but to provide a precise definition of forbidden acts.[28] (Emphasis supplied)

P.D. No. 1829 punishes acts knowingly and willfully committed with the intention to obstruct, impede, frustrate or delay the administration of justice. Petitioners' suggested reading of the provision, on the other hand, seeks to impose a positive duty on the part of anyone who may have knowledge of a fugitive's whereabouts (including his lawyer) to arrest him or volunteer such information to the authorities. Failing this, they will be liable for obstruction of justice under Section 1(c), lack of intent to obstruct, impede, frustrate or delay the proceedings notwithstanding. Their reading, however, cannot be sustained as it is incompatible with the letter of the law, basic statutory construction or basic criminal law precepts.

The insidious effect of petitioners' suggested reading of Section 1(c) of P.D. No. 1829 becomes even more apparent if one considers the lawyer--client relationship between Ernesto and Atty. Luis. As correctly pointed out by Atty. Luis, allowing the obstruction of justice charge against her to prosper would have the effect of defeating Ernesto's constitutional rights to counsel and to be presumed-innocent.[29] He would be hard pressed to find a lawyer to render legal services to him if, in so doing, they knew they risk opening themselves up to an obstruction of justice charge. Lawyers, on the other hand, would have to choose between self-preservation or violating their fiduciary duty to a client.[30]

Indeed, a lawyer, as an officer of the court, has the duty to assist in the speedy and efficient administration of justice.[31] This duty to the courts, however, must be balanced with the lawyer's obligations toward their clients. this, among other things, is why evidence of criminal intent is essential. We quote with approval the following explanation of the MeTC:

The countervailing duty of a lawyer to our system of law is not to divulge matter covered by the confidentiality rule between him and his client but that he cannot counsel the fugitive to remain in violation of the law. Had only there been any evidence presented by the complainants in support of their mere allegations in the complaint-affidavit that the accused actually aided or assisted an accused client in keeping away from the reach of the authorities with the sole purpose of evading prosecution or delaying the administration of justice, the charge of Obstruction of Justice would have a leg to stand on. More than a criminal charge, accused Luis could have also been liable administratively for violating the Canon of Professional Ethics. But such is not the case at bar.

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There being no clear showing that the meeting between accused Luis and her client de los Santos at the former's office was for more than just the mere signing of the Motion for Reconsideration and having it subscribed and sworn to before counsel, but really to hide the client from the authorities and evade arrest, the court is convinced that the prosecution miserably failed in establishing sufficient ground to hold the accused for further trial. The evidence it presented engenders more doubts in the mind of the court as to the guilt of the accused.[32]

We also take note of the interpretation by courts in the United States (whose rulings have been found to have persuasive weight in this jurisdiction)[33] of the same terms under their own harboring statute, 18 U.S.C. § 1071.[34] In *United States v. Silva*,[35] it was held that conviction under said statute requires proof of four essential elements: First, proof that a federal warrant had been issued for the fugitive's arrest. Second, that the defendant had knowledge that a warrant had been issued for the fugitive's arrest. Third, that the defendant actually harbored or concealed the fugitive. Finally, that the defendant intended to prevent the fugitive's discovery or arrest.

"Harboring and concealing a fugitive" under 18 U.S.C. §1071 have been read narrowly, that is, as not to proscribe any and all forms of aid to a fugitive.[36] Thus, weekly financial assistance to the fugitive[37] or giving of false statement to law enforcement officers regarding contact with the fugitive[38] were found to not come within the proscribed behavior. On the other hand, the following acts were considered criminal conduct under the harboring statute: "refusal to admit police officers into the apartment where the fugitive was."[39] "leasing an apartment in his name for the fugitive, shopping for food for the fugitive and refusing to let Federal narcotics agents into the apartment,"[40] and leaving with the fugitive because FBI notices that the fugitive was wanted were posted in a hotel at their location, and then traveling to and renting a room in his name for himself and the fugitive.[41]

In *United States v. Foy*,[42] it was held that the terms "harboring" and "concealing" were "active verbs which have the fugitive as their object." Thus, while the statute proscribes acts calculated to obstruct the efforts of the authorities to effect arrest of the fugitive, "it does not impose a duty on one who may be aware of the whereabouts of the fugitive, although having played no part in his flight, to reveal this information on pain of criminal prosecution." [43]

We thus deny the Petition for failure to show any reversible error in the assailed ruling. By grave abuse of discretion, We refer to the capricious, whimsical, or arbitrary exercise of jurisdiction of the respondent court which is equivalent to lack of jurisdiction. Further, to amount to grave abuse of discretion, the abuse must be so patent and gross tantamount to an evasion of a positive duty or to a virtual refusal to carry out an obligation that the law requires, as where power is exercised arbitrarily by reason of one's hostility and passion.[44] The RTC correctly held that the MeTC did not commit grave abuse of discretion in dismissing the criminal case for obstruction of justice against Atty. Luis for lack of proof to show clear intent to help Ernesto evade or otherwise delay the proceedings against him.

WHEREFORE, in view of the foregoing, the Petition is DISMISSED.

SO ORDERED.

Gesmundo, C. J., Caguioa, Carandang, and Gaerlan, JJ., concur.

[1] Rollo, pp. 36-54.

[2] *Id.* at 55-63.

- [3] Id. at 65-66.
- [4] Id. at 683-693.
- [5] Id.
- [6] Id. at 684-685.
- [7] Id. at 56; Entitled "Penalizing Obstruction of Apprehension and Prosecution of Criminal Offenders," approved on 16 January 1981.
- [8] Rollo, pp. 526-535; The case against Atty. Salting, on the other hand, was dismissed.
- [9] Id. at 537.
- [10] Id. at 539-554.
- [11] Id. at 57.
- [12] Id. at 40, 685, 1438.
- [13] Id. at 679-681.
- [14] Id. at 41, 686, 1438.
- [15] Id. at 683-693.
- [16] Id. at 696-705.
- [17] Id. at 707-709.
- [18] Id. at 732-735.
- [19] Id. at 62-63.
- [20] Id. at 65-66.
- [21] Section 1, Rule 45 of the Rules of Court.
- [22] Republic v. Quiñonez, G.R. No. 237412, 06 January 2020 [Per J. Caguioa].
- [23] 148-A Phil. 294 (1971), G.R. No. L-33487, 31 May 1971 [Per J. Castro].
- [24] Id.
- [25] Rollo, p. 1445.
- [26] See People v. Mendoza, 324 Phil. 273, 295 (1996), G.R. No. 104461, 23 February 1996 [Per J. Panganiban].
- [27] 872 Phil. 613 (2018), G.R. No. 228373, 12 March 2018 [Per J. Gesmundo].
- [28] Id. at 625-626, citing Centeno v. Villalon-Pornillos, 306 Phil. 219, 230-231 (1994), G.R. No. 113092, 01 September 1994 [Per J. Regalado].
- [29] Rollo, pp. 1448-1449.
- [30] See Regala v. Sandiganbayan, 330 Phil. 678, 101 (1996), G.R. Nos. 105938 & 108113, 20 September 1996 [Per J. Kapunan].
- [31] Canon 12 of the Code of Professional Responsibility.

[32] Rollo, pp. 691-693.

[33] *Ient v. Tullett Prebon (Philippines), Inc.*, 803 Phil. 163 (2017), G.R. Nos. 189158 & 189530, 11 January 2017 [Per J. De Castro]; *G Holdings, Inc. v. National Mines and Allied Workers Union local 103*, 619 Phil. 69 (2009), G.R. No. 160236, 166 October 2009 [Per J. Nachura]; *J. Jardeleza's Concurring Opinion in Re: Tony Q. Valenciana*, 806 Phil. 786 (2017), A.M. No. 10-4-19-SC, 07 March 2017 [Per J. Mendoza].

[34] Section 1071 - Concealing a person from arrest.

Whoever harbors or conceals any person for whose arrest a warrant or process has been issued under the provisions of any law of the United States, so as to prevent his discovery and arrest, after notice or knowledge of the fact that a warrant or process has been issued for the apprehension of such person, shall be fined under this title or imprisoned not more than one year, or both; except that if the warrant or process issued on a charge of felony, or after conviction of such person of any offense, the punishment shall be a fine under this title, or imprisonment for not more than five years, or both.

[35] 745 F.2d 840 (4th Cir. 1984).

[36] *United States v. Silva*, 745 F.2d 840 (4th Cir. 1984).

[37] *Id.*, citing *United States v. Shapiro*, 113 F.2d 891, 892-93 (2d Cir. 1940).

[38] *United States v. Silva*, *id.*, citing *United States v. Magness*. 456 F.2d 976, 978 (9th Cir. 1972).

[39] *United States v. Silva*, *id.*, citing *United States v. Biami*, 243 F. Supp., 917 (E.D.Wis. 1965).

[40] *United States v. Silva*, *id.*, citing *United States v. Giampa*, 290 F.2d 83 (2nd Cir 1961).

[41] *United States v. Silva*, *id.*, citing *United States v. Thornton*, 178 F. Supp. 42, 43 (E.D.N.Y. 1959).

[42] 416 F.2d 940 (7th Cir. 1969).

[43] *Id*

[44] *Oliveros v. Court of Appeals*, G.R. No. 240084, 16 September 2020 [Per J. Inting], citing *Intec Cebu, Inc. v. Court of Appeals*, 788 Phil. 31, 42 (2016), G.R. No. 189851, 22 June 2016 [Per J. Perez].

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