

THE ACTING PROVINCIAL FISCAL OF CAMARINES NORTE, PETITIONER, VS. THE JUDGE OF FIRST INSTANCE OF CAMARINES NORTE ET AL., RESPONDENTS.

G.R. No. 46780. September 20, 1939

Ponente: LAUREL, J.

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LAUREL, J.:

In criminal case No. 1455, Court of First Instance of Camarines Norte, Thomas Irvin was charged with the crime of murder, with the concurrence of two aggravating circumstances. The accused, by his counsel, moved that he be admitted to bail. This motion was objected to by the prosecuting attorney, on the ground that the indictment was for murder, committed with the concurrence of two aggravating circumstances and that the evidence of guilt was strong. The lower court, with the conformity of both parties, set the motion for hearing. At the hearing, testimonial and documentary proof was presented by the prosecution. Thereafter, the lower court ruled that the evidence "does not support the charge of capital offense-made in the information filed in this case nor establish a strong presumption of guilt of the accused of such capital offense," and issued the order of July 8, 1939, now complained of and sought to be reviewed on certiorari by this court, allowing Thomas Irvin to bail in the amount of P30,000.

The lower court acted properly in hearing the parties and receiving evidence, for the purpose of ascertaining if the crime of murder has been committed and whether the evidence of guilt is strong. (*Montalbo vs. Santamaria*, 54 Phil., 955, 966.) In granting bail after consideration of the evidence presented, the lower court exercised its discretionary authority under the law. (*U. S. vs. Babasa*, 19 Phil., 198; *Payao vs. Lesaca*, 63 Phil., 210.)

We find neither extralimitation of jurisdiction nor abuse of discretion in this case, and the petition for certiorari is hereby dismissed, with costs against the petitioner. So ordered.

Avanceña, C. J., Villa-Real, Imperial, Diaz, Concepcion, and Moran, JJ., concur.

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