

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. THE COURT OF APPEALS[] (THIRD DIVISION), JOSE V. PEREZ, AMADEA C. PEREZ, CIPRIANO LADINES AND FLAVIA C. VALDENOR, RESPONDENTS.

G.R. No. 55533. July 31, 1984

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

This is a petition for review on certiorari filed by petitioner People of the Philippines to set aside the decision of the then Court of Appeals, now Intermediate Appellate court,[1] which affirmed the order issued by the then City Court of Lucena, Branch II, denying the prosecution's motion for the exclusion of Miguel Roncesvalles (co-accused of the private respondents herein named) from the information in Criminal Case No. 0399 so that he may testify there-in as a state witness.

The amended information for violation of Section 22 of Republic Act No. 720, as amended, charged that Miguel Roncesvalles, together with herein private respondents Jose V. Perez, Amadea Consul Perez, Cipriano Ladines and Flavia C. Valdenor, "with intent to deceive, conspiring, confederating and mutually helping one another, did then and there wilfully, unlawfully and illegally make false statements and misrepresentation of material facts in the application for agricultural loan signed by FLAVIA C. VALDENOR and in the other supporting papers, calculated to produce semblance of compliance with the legal requirements, making it appear that accused FLAVIA C. VALDENOR is an eligible borrower, which misrepresentation or false statements of facts were considered as the credit factors in the approval and the granting of the loan to accused FLAVIA C. VALDENOR in the amount of P30,000.00, by the Rural Bank of Lucena, Inc., x x x."

All the accused pleaded not guilty when arraigned. After the prosecution had already presented seven witnesses, the state prosecutors filed a motion with the court, asking that accused Roncesvalles be discharged from the information in order that he may be used as a state witness against his co-defendants, alleging that Roncesvalles had not at any time been convicted of any offense involving moral turpitude; that he did not appear to be the most guilty; that there was absolute necessity for his testimony; that there was no other direct evidence available for the proper prosecution of the offense committed and that his testimony could be substantially corroborated in its material points. The motion was set for hearing and after the parties were heard, the trial court, issued the questioned order denying the motion on the ground that, "x x x Miguel Roncesvalles cannot be said to be the least guilty. He would be a principal by direct participation, or a co-principal if he acted upon instruction of another as the prosecution alleges," and that, "the prosecution having presented all its witnesses, the Court, after going over their testimony, cannot see how Roncesvalles' testimony, if ever he is discharged, would be corroborated." [2]

Reconsideration having been denied by the trial court, the prosecution filed a petition for certiorari with respondent appellate court praying for the annulment and setting aside of the trial court's questioned orders. Respondent court sustained the trial court's ruling in its decision, subject of the petition at bar and denied reconsideration thereof.

Hence, the People's petition, which complains that "the respondent court acted with grave abuse of discretion or in excess of its jurisdiction in sustaining the Order dated September 15, 1978 issued by the City Court of Lucena and in holding that the petitioner failed to show that there is absolute necessity for the testimony of Miguel Roncesvalles whose discharge is requested."

The Court finds merit in this petition and dispenses with the filing of memoranda or briefs in the light of the facts and pleadings of record.

Section 9, Rule 119 of the Rules of Court prescribes the conditions in order that one or several accused may be used as witnesses against their co-accused, to wit: "(a) there is absolute necessity for the testimony of the defendant whose discharge is requested; (b) there is no other direct evidence available for the proper prosecution of the offense committed, except the testimony of said defendant; (c) the testimony of said defendant can be substantially corroborated in its material points; (d) said defendant does not appear to be the most guilty; and (e) said defendant has not at any time been convicted of any offense involving moral turpitude."

While it is true that the court has the exclusive responsibility to see that the conditions prescribed by the rule exists,[3] this grant of discretion is not a grant of arbitrary discretion, but rather a sound judicial discretion to be exercised with due regard to the proper and correct administration of justice.[4]

The trial court manifestly erred in denying the prosecution's motion to discharge accused Roncesvalles on the ground that he "cannot be said to be the least guilty." All that the law requires, in order to discharge an accused and to use him as a state witness is that the defendant whose exclusion is requested does not appear to be the most guilty, not necessarily that he is the least guilty.[5] The trial court's order itself shows that Roncesvalles does not appear to be the most guilty since it acknowledged that "he would be a principal by direct participation or a co-principal if he acted upon instruction of another as the prosecution alleges."

The Rules do not disqualify an accused sought to be discharged as witness for the state merely on the ground that he has committed a falsification himself, or that he had actually committed the crime charged. The Rules say that it is necessary that the "said defendant does not appear to be the most guilty," from which the conclusion follows that the guilt of an accused of the crime charged is no reason why he may not be excluded as witness for the State. As a matter of fact, the candid admission of an accused, of his participation in a crime, is a guaranty that if he will testify in court he will testify truthfully; so that even if an accused actually participated in the offense charged in the information, he may still be made a witness. Individuals who are candid enough to admit their guilt are expected to testify truthfully and it is from that circumstance that all the facts involved shall be expected to be truthfully disclosed by him.[6]

The ground underlying the rule is not to let a crime that has been committed go unpunished; so an accused who is not the most guilty is allowed to testify against the most guilty in order to achieve the greater purpose of securing the conviction of the more or most guilty and the greatest number among the accused permitted to be convicted for the offense they have committed.[7] Experience, under English and American procedural methods, has shown that without the aid of informers testifying against their co-participants in crime, many guilty parties would escape, where the facts which would sustain a conviction are known to the guilty parties themselves alone.[8]

Respondent appellate court itself sustained the People's contention on this score, simply stating that "respondent Court erred when it ruled that it could not grant the motion for the discharge of Roncesvalles because it does not appear that he is the least guilty of the accused. What Section 9, Rule 119 requires as one of the conditions for the discharge of one of the accused to testify as a witness for the Government is that said 'defendant does not appear to be the most guilty.'"

But respondent appellate court nevertheless sustained the questioned orders "since the petition failed to show that there was absolute necessity for the testimony of Roncesvalles". The trial court had denied discharge on the ground that "the prosecution having presented all its witnesses, the Court, after going over their testimony, can not see how Roncesvalles testimony, if ever he is discharged, would be corroborated." This conjecture of the trial court has no sound basis, as is readily shown by respondent appellate court's contrary evaluation that "the most that petitioner could say was that the testimony of Roncesvalles would be corroborative of the testimony of the witnesses already presented by the Government as well as the document-ary evidence presented during the hearing, among them, the Rural Bank Examiner and NBI agents." Sufficient corroborative evidence exists of record.

The Court therefore overrules respondent court's finding that there is no absolute necessity for the testimony of Roncesvalles. A careful examination of the records of the case supports the prosecution's stand to discharge Roncesvalles in order that he may testify for the government. The testimony of Roncesvalles is absolutely necessary to prove conspiracy among the accused who are charged of conspiring and confederating with each other in defrauding the Lucena Rural Bank in the amount of P30,000.00 under the pretext of an agricultural loan granted to accused Flavia N. Valdenor. Roncesvalles was the Assistant Chief Inspector of the Lucena Rural Bank and he was the one who signed the investigation report which contained false information as to the credit standing of accused Flavia Valdenor. Nobody is in a better position to testify and prove the existence of conspiracy than accused Roncesvalles, because he is an officer of the bank. There is ample basis for the Solicitor General's submittal that "considering the foregoing circumstances and inasmuch as the other accused cannot be compelled to testify, certain facts necessary for the conviction of the accused would not be revealed unless accused Roncesvalles is allowed to testify for the State"; "unless accused Roncesvalles is allowed to testify for the government, there is no other direct evidence available for the proper prosecution of the offense charged, i.e., the role or participation of his co-accused in the preparation and accomplishment of the falsified loan application and its supporting papers. The testimony of accused Roncesvalles will prove conspiracy among the perpetrators of the crime charged"; and "unless this petition is given due course and granted, the accused in Criminal Case No. 0399 may be acquitted and the State irretrievably prejudiced. Because of the Rule on double jeopardy, the State has no other remedy except the instant petition." [9]

It is noteworthy that these assertions appear to be based on solid ground for the prosecutors presented their motion for discharge of Roncesvalles as a state witness only after they had presented seven witnesses and could then show the absolute necessity for his testimony in consonance with what was to be held by the Court in *Flores vs. Sandiganbayan* that the trial court should act on said discharge motion when the prosecution has presented all its other evidence and it could then "fully determine whether the requisites prescribed in Section 9, Rule 119 of the New Rules of Court, are fully complied with." [10]

A trial judge cannot be expected or required to inform himself with absolute certainty at the very outset of the trial as to everything which may be developed in the course of the trial in regard to the guilty participation of the accused in the commission of the crime charged in the complaint. If that were practicable or possible, there would be little need for the formality of a trial. In coming to his conclusion as to the 'necessity for the testimony of the accused whose discharge is requested'; as to the 'availability or non-availability of other direct or corroborative evidence'; as to which of the accused is the 'most guilty'; and the like, the judge must rely in a large part upon the suggestions and information furnished by the state prosecutors. [11]

ACCORDINGLY, respondent appellate court's decision affirming the trial court's questioned orders denying the discharge of Miguel Roncesvalles as a state witness is hereby SET ASIDE. As prayed for, the trial court is ORDERED to allow the discharge of said accused Miguel Roncesvalles from the information before it in

Criminal Case No. 0399 so that he may testify therein as a state witness.

This decision is immediately executory.

Melencio-Herrera, Plana, Relova, Gutierrez, Jr., and De La Fuente, JJ., concur.

[*] Special Third Division composed of JJ. Coquia, German, and Patajo, ponente.

[1] In CA-G.R. No. SA19687-R entitled "People of the Philippines vs. Hon. Manuel A. Patron, presiding judge the City Court of Laguna, etc , et al

[2] Emphasis supplied.

[3] People vs. Ibañez, 92 Phil. 844.

[4] U. S. vs. Abanzado, 37 Phil. 658; People vs. de Atras, 28 SCRA 389.

[5] People vs. Faltado, 84 Phil. 89.

[6] People vs. Bayona, 108 Phil. 104.

[7] Ibid.

[8] U. S. vs. de Guzman, 30 Phil. 416.

[9] Record, pp. 28-31.

[10] 124 SCRA 109 (1983).

[11] People vs. Velazco, 42 Phil. 75; U. S. vs. de Guzman, supra; People vs. Cañete, 43 SCRA 14.

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