

MERLY M. PAGALUNAN, PETITIONER, VS. STATION COMMANDER ANGELES CITY POLICE STATION; COMMANDER, METRODISCOM PC-INP, ANGELES CITY; AND/OR STATION COMMANDER, BACOLOR POLICE STATION,...

G.R. No. 57051. May 27, 1985

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

It was the futile search of petitioner for her husband, Avelino Pagalunan, a member of the police force of Tanay, Rizal, that prompted this application for a writ of habeas corpus. According to her petition, Pagalunan was taken by about ten unidentified armed men in civilian attire while on board his car in front of the Board of Transportation building at Shaw Boulevard, Pasig.[1]

There was no warrant of arrest.[2] Acting on information, she went to the National Bureau of Investigation Office, to Angeles and to Bacolor, Pampanga, but her efforts were fruitless.[3] Hence this petition against respondents Angeles City Police Commander and the Commander of the Metrodiscom PC-INP of Angeles City and/or the Station Commander of the Bacolor Police Station.

The Court thereafter issued the writ requiring respondents to make a Return and to hear the petition on June 18, 1981.

Even before the Return was filed, a Manifestation to Withdraw Petition was filed by petitioner after she learned that her husband was at the detention cell of the National Bureau of Investigation at Taft Avenue, Manila, being held as a suspect in four criminal cases, two in Pampanga, one in Pasig, and another one in Quezon City.

In the Return submitted by respondents through the Solicitor General, it was stated that Pagalunan "was arrested on June 2, 1981 by a composite team of NBI-NAPOLCOM-BLT agents and elements of the Bacolor Police Force. The arrest was effected on the strength of a Warrant of Arrest issued on May 26, 1981 by Judge Gregorio B. de Jesus of the Municipal Court of Bacolor, Pampanga, who conducted a preliminary examination upon the criminal complaint [Crim. Case No. 1931] previously filed with his court on May 19, 1981 by the Police Station Commander of Bacolor, Pampanga." [4] According to such Return, he was "one of the suspects in the robbery (hold-up) of employees of the METROBANK. (San Fernando Branch) who were then collecting cash and checks for deposit from customers or clients in Bacolor. Pampanga on April 8, 1981. The amount taken totalled P-869,306.75. He [was] also involved in the robbery (hold-up) of employees of the METROBANK (Angeles City-Branch) who were engaged in the same task on May 4, 1981 along Magalang Road, Pulong Maragul, Angeles City wherein more than P700,000.00 in cash and checks were taken." [5] Moreover, it turned out he was also "facing a charge of illegal possession of firearms and ammunitions, confiscated from him upon his arrest, before the Provincial Fiscal of Rizal who is conducting the preliminary investigation. He [was] also under investigation by the NBI for robbery (hold-up) committed on December 22, 1980 in Tanay, Rizal." [6]

It was then alleged "that the privilege of the writ of Habeas Corpus is unavailing as to petitioner's husband. For Avelino Pagalunan [was] being detained and confined under a valid warrant of arrest issued by the Municipal Judge of Bacolor, Pampanga in connection with the Criminal Complaint (Crim. Case No. 1931) for robbery (hold-up) aforementioned apart from the other charges pending against him." [7]

There is justification, therefore, for the plea that the petition be dismissed in view of the charged filed against Avelino Pagalunan. The detention, under such circumstances, cannot be stigmatized as illegal. [8]

WHEREFORE, this petition is dismissed.

Makasiar, Aquino, Abad Santos, Melencio-Herrera, Escolin, Relova, Gutierrez, Jr., De la Fuente, Cuevas, and Alampay, JJ., concur.

Concepcion Jr. and Plana, JJ., are on leave.

[1] Petition 2.

[2] Ibid., par. 3.

[3] Ibid., 3-4.

[4] Return, par. 1.

[5] Ibid., par. 2.

[6] Ibid., par. 5.

[7] Ibid., par. 6.

[8] Cf. Cruz v. Montoya, L-39823, Feb. 25, 1975, 62 SCRA 543; De la Plata v. Escarcha, L-46367, Aug. 1, 1977, 78 SCRA 208, Cahas v. Director of Prisons, L-41557, Aug. 18, 1977, 78 SCRA 271; Anas v. Ponce Enrile, L-44800, April 13, 1978, 82 SCRA 333; Dacuyan v. Ramos, L-48471, Sept. 30, 1978, 85 SCRA 487; Ventura v. People, L-46576, Nov. 6, 1978, 86 SCRA 188; Beltran v. Garcia, L-49014, April 30, 1979, 89 SCRA 717; Florendo v. Javier, L-36101, June 29, 1979, 91 SCRA 204; Sison, Sr. v. Ministry of National Defense, G.R. No. 56893, May 3, 1985; Jasminez v. Ver, G.R. No. 59787, May 3, 1985. Cruz v. The Director, National Bureau of Investigation, L-46126, May 22, 1985.

CONCURRING

TEEHANKEE, J.,

The petitioner relates in her petition for habeas corpus that "(A)t or about 11:00 o'clock in the morning of June 2, 1981, in front of the BOT (Board of Transportation building at Shaw Blvd., Pasig, Metro Manila), [her husband] while on board his Toyota car, together with [her], about ten (10) unidentified armed men in civilian attire accosted and forcibly took him to their VW car, over and above his protestations. Petitioner was shoved aside and she was shocked into silence. Nobody identified himself as a probable agent of the law nor showed any warrant of arrest, much less speak of placing petitioner's husband under arrest for whatever crime, so much so, that in a radio message by the Rizal PC to the Station Commander of Tanay, Rizal, it was conveyed that Patm. Pagalunan was kidnapped by armed men."

To paraphrase the decision of this Court in *Enriqueta Sobremonte vs. Minister Juan Ponce Enrile, et al.*,[*] all the effort, energy and manhours, as well as anguish, expended by petitioner and her counsel, not to speak of the Court's time and attention, could have been avoided had the arresting elements effected the arrest in an orthodox manner and properly informed petitioner as the arrested person's wife and companion of the cause of arrest and where they were going to take the person arrested. The suggestion made by Mr. Justice Escolin for the Court in the said case is herein reiterated, *mutatis mutandis*, for respondents' benefit: "Many government offices maintain an information-assistance office or center to aid the public dealing with them. Surely, it would not be too much of a drain in the budget of the ISAFP if it were to establish a similar division or office manned by properly trained personnel. In this way, a repetition of petitioner's plight would be avoided."

[*] 117 SCRA 618 (1982).

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