

EMITERIA L. VILLABER, PETITIONER, VS. COL. BALBINO V. DIEGO, JOHN DOE, AND WILLIAM DOE, RESPONDENTS.*G.R. No. 58064. October 23, 1981*

Ponente: FERNANDO, C.J.

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This application for the writ of habeas corpus was filed by petitioner on September 17, 1981, seeking the release of her husband, Pablo C. Villaber, alleging that he "is presently restrained of his liberty originally from August 6 to 9, 1981, and then subsequently, from August 17, 1981 up to [that] date, despite the fact that no warrant of arrest nor any criminal charges have been filed against the detainee." [1] She further stated that she "cannot produce any copy of the commitment nor the cause of detention of Pablo C. Villaber because none has been issued and the restraint is without any legal authority. To the best of [her] knowledge, [he] does not have any pending criminal case before any court in the Philippines." [2] She named as respondent Col. Balbino V. Diego, Chief of the Investigation and Legal Panel of the Presidential Security Command, with the allegation that he "holds office at the Malacañang Park, Manila, in which premises he and his co-respondents have since detained and held the aforesaid Pablo C. Villaber in custody." [3] The writ was issued on the very same day the petition was filed requiring respondents to make a return of the writ on or before Wednesday, September 23, 1981, and setting the hearing on Thursday, September 24, 1981.

It was alleged in the return to the writ of habeas corpus filed on September 23, 1981 that: "1. Petitioner's husband, Pablo C. Villaber, has not been unlawfully detained or restrained of his liberty. [What occurred was] that [he] had been invited by respondent, in his capacity as Chief, Investigation and Legal Panel of the Presidential Security Command (PSC), to shed light on complaints linking him, as a corporate officer, to multimillion fraudulent loan transactions where victims are banking institutions. The magnitude of these transactions pose[s] grave and serious repercussion[s] on the economic viability of the country. 2. The investigation was held at the Presidential Security Command, specifically in the office of respondent Col. Diego who is the Chief, Investigation and Legal Panel, PSC. 3. During the investigation, Mr. Villaber stayed at the PSC premises. He was, however, free to go home at anytime and free to communicate with anybody. 4. After the investigation or on September 20, 1981, Mr. Villaber left the premises of the PSC. He is therefore not under the custody or any kind of restraint by the respondent. 5. The results of the investigation are now being evaluated by proper authorities." [4]

Accordingly, the petition was duly heard on September 24, 1981. After the hearing, a resolution was issued to the following effect: "When this case was called for hearing this morning, Atty. Jose T. Sumcad, appeared and argued for petitioner while Assistant Solicitor General Reynato Puno, assisted by Assistant Solicitor General Eduardo Montenegro and Solicitor Oswaldo D. Agcaoili, appeared and argued for respondents. Detainee Pablo C. Villaber and his wife petitioner Emitteria L. Villaber were present in Court. Detainee Pablo C. Villaber answered questions of the Court. The Court Resolved (a) in the meantime to order the release of detainee Pablo C. Villaber on the recognizance of Atty. Sumcad; and (b) require the Office of the Solicitor General to submit, within five (5) days from today, a rejoinder to the petitioner's reply and a manifestation, after ascertaining from respondent Colonel

Balbino V. Diego whether or not detainee Pablo C. Villaber has been released from custody. Thereafter, the case shall be considered submitted for decision." [5] The very next day, a manifestation came from respondent Col. Diego affirming "that Mr. Pablo C. Villaber is free; that he is not unlawfully detained nor restrained of his liberty by the Presidential Security Command; and that he is not being and has never been required to return to the PSC." [6] There was a reiteration in the manifestation for the dismissal of the petition.

The reference to the rejoinder of petitioner was necessitated by the allegations therein that the use of the word "invited" was "a euphemism for actual forcible apprehension and custodial detention." [7] There was likewise an assertion by petitioner that she was unaware of any "complaints linking" her husband as a corporate officer "to multi-million fraudulent loan transactions where victims are banking institutions." [8] Moreover, there was a claim in said rejoinder that Villaber was being compelled to sign an affidavit prepared at the instance of respondent Col. Diego which will justify the detention. In the Reply of respondent submitted on September 30, 1981 there was a denial of such imputations. It was stressed that the rejoinder should not be given any credence especially as to the statement that respondent Col. Diego resorted to tactics which, to say the least, were unethical, characterizing the accusation hurled at his good name as "reckless and irresponsible [which] need not further be discussed." [9]

The dismissal of the petition is thus warranted. Petitioner's husband, Pablo Villaber, as of the date of the hearing, was not under detention. Even on the assumption that he was detained which was denied by respondent Colonel, he was no longer so. He was under no compulsion to return to the office of the latter. His freedom of movement has been from that time unrestricted. There is no confinement that could be the basis of a petition of this character. It may be further mentioned that his own statements, grudgingly made and at times evasive, give rise to doubts about his lack of awareness as to why he was interrogated. Efforts of counsel present at the hearing did not contribute too much either to dispel such doubts. Parenthetically, it is well that in the last pleading of petitioner, as prolix as earlier ones, it was made manifest that it was prepared by and came from a member of the bar, unlike previous ones from her, ostensibly the product of her pen. Even she should have realized that it was too much to expect that she would be endowed with that facility in the use of legal terms and the requisite understanding of acts with a legal significance. Candor, it goes without saying, is required from members of the bar. At any rate, even on the assumption that respondent could be held liable for conduct condemnable in law, habeas corpus is not the proper remedy, once there is a showing of absence of detention. There could be filed the appropriate civil, criminal or administrative action.

At the same time, it cannot be too strongly stressed that while the surveillance of Pablo Villaber may be warranted, it is essential that in the process, there be no violation of his constitutional right to enjoy his liberty. Moreover, if a charge is warranted, there should be a warrant of arrest duly issued and, if bailable, his right to bail should be respected. The imputation of his being guilty of nefarious acts does not excuse compliance from the operation of the rule of law.

To repeat, however, a moot and academic aspect has been imparted to the matter at hand. [10]

WHEREFORE, the petition is dismissed. No costs.

Barredo, Makasiar, Aquino, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

Teehankee, J., on official leave.

[1] Petition, 1.

[2] Ibid, 2.

[3] Ibid, 1. The other respondents named are a certain John and William Doe.

[4] Return to the Writ of Habeas Corpus, 1-2.

[5] Resolution dated September 24, 1981.

[6] Manifestation, 1.

[7] Rejoinder, 1.

[8] Ibid.

[9] Reply, 5.

[10] Cf. *Herrera v. Ponce Enrile*, L-40181, Feb. 25, 1975, 62 SCRA 547; *Cayaga v. Tangonan*, L-40970, Aug. 21, 1975, 66 SCRA 216; *Reyes v. Ramos*, L-40027, Jan. 29, 1976, 69 SCRA 153; *Kintanar v. Amor*, L-42975, March 15, 1976, 70 SCRA 61; *Malolos v. Ramos*, L-46520, Aug. 16, 1977, 78 SCRA 238; *Bala v. Ramos*, L-47426, Jan. 31, 1978, 81 SCRA 480; *Anas v. Ponce Enrile*, L-44800, April 13, 1978, 82 SCRA 333; *Tibo v. Provincial Commander*, L-44825, Oct. 20, 1978, 85 SCRA 561.

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