

IN THE MATTER OF THE PETITION FOR THE ISSUANCE OF A WRIT OF HABEAS CORPUS FOR ARISTEDES SARMIENTO AND LAURA DEL CASTILLO SARMIENTO IGNACIO DEL CASTILLO, PETITIONER, VS. HON. JUA...

G.R. No. 62119. August 27, 1984

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

At about 9:00 p.m. on October 9, 1982, Aristedes Sarmiento and his wife, Laura del Castillo Sarmiento, were apprehended by armed men in civilian attire as the couple left the Rosarian Hotel in Gumaca, Quezon. They were brought to Camp Arsenio Natividad, also in Gumaca, where they were interrogated without benefit of counsel. Laura was then eight months pregnant. She was not maltreated; at least she made no claim to that effect. But Aristedes complained that he was struck at his side with the barrel of an Armalite rifle.

The spouses were not released from detention despite the fact that they were said to have been merely invited for questioning. For this reason, Ignacio del Castillo, father of Laura, filed the instant petition for the issuance of a writ of habeas corpus on October 20, 1982, with the assistance of the Free Legal Assistance Group (FLAG). We issued the writ on October 21, 1982; required the respondents to make a return on October 27, 1982; and set the case for hearing on October 28, 1982.

The return of the writ states in part:

"2. The evidence in the hands of the military shows that at the time of his arrest, Aristedes Sarmiento headed an operating unit of the New People's Army (NPA) called the Pangkat JACINTO-BONIFACIO. This unit conducts agitation propaganda among the farmers and directly recruits members for the NPA. Laura Sarmiento was the unit's finance officer.

"3. On October 14, 1982, Aristedes and Laura Sarmiento were charged with violation of the Revised Anti-Subversion Law (P.D. 885) as ranking leaders of the NPA in a complaint filed before the Municipal Court of Gumaca, Quezon in Criminal Case No. 8053. A copy of that Complaint is hereby attached as Annex 1.

"4. Upon preliminary examination duly had, the court found probable cause against the subject accused. Accordingly, they were ordered detained pending further proceedings in their case. A copy of the court's directive committing the persons of the accused to the custody of the 232nd PC Company is attached hereto as Annex 2.

"5. Since Aristedes and Laura Sarmiento are being held by virtue of a valid order of the Municipal Court of Gumaca, Quezon, the writ of habeas corpus will not lie in their case. (Luna vs. Plaza, 26 SCRA 310; Celeste vs. People, 31 SCRA 391; Canary vs. Director of Prisons, 36 SCRA 29)."

On November 3, 1982, the respondents filed a supplement to the return of the writ. It states, inter alia, that "a Presidential Commitment Order against Aristedes and Laura Sarmiento was issued by the President of the

Philippines on October 27, 1982, for the crime of subversion." A copy of the PCO was attached as Annex 1 to the supplement. (Rollo, p. 45.)

Laura Sarmiento was temporarily released on March 14, 1983, for humanitarian reasons. She gave birth during detention and she was released to enable her to provide proper care for the infant child.

On March 31, 1983, the Sarmiento spouses were accused of subversion in two separate informations filed with the Regional Trial Court of Gumaca, Quezon. After the prosecution had presented its evidence and rested its case, the defense moved to dismiss the charges for insufficiency of evidence. And on March 15, 1984, the trial court issued an order dismissing the cases against the Sarmiento spouses. In doing so, the trial court said in part:

"After a careful and thorough examination and evaluation of the entire records in these two cases, this Court has arrived at the conclusion, that there is no prima facie case, or much less, probable cause, to let the Sarmiento couple stand trial on the charges against them.

"The sworn statement of prosecution witness, Luisito Marcuap, (Exh. A) executed by him together with P/Cpl Rolando Gonzales and C2C Jaime Mendoza, states, that he came to know about the Sarmiento couple only on October 9, 1982, which he confirmed in open court, upon clarificatory question by this Court, when he admitted that before said date he never had opportunity to see what said couple was doing, and that his knowledge about them was merely based upon information.

"Indeed, there is nothing that the Armed Forces of the Philippines or any of the law enforcement agencies of the Government, could offer to prove any connection of the Sarmiento couple with any subversive organization, even with the New People's Army, if ever it is to be considered such, and much more as leaders thereof. It seems that the investigative agencies of the Armed Forces, notably the Philippine Constabulary with its highly efficient intelligence network, did not have any documented dossier against the Sarmiento couple, such as their being in the order of battle of the NPA as ranking leaders or even as members or mere sympathizers. All information obtained by them, come from surrenderees. But then, even the information gathered by them from such surrenderees, who were not presented on the witness stand, especially Honorio Estrada, would seem to indicate, that the NPA itself was not certain whether or not the Sarmiento couple were with it, so much so, that said surrenderee was sent to verify such fact." (Rollo, pp. 108-109.)

Despite the dismissal of the charges, Aristedes Sarmiento was not released from confinement.

In a letter dated March 29, 1984, addressed to Defense Minister Juan Ponce Enrile, Atty. Jose W. Diokno of FLAG asked for the immediate release of Aristedes. He was not released. Accordingly, an Urgent Motion was filed with this Court on May 16, 1984, wherein it is prayed that the immediate release of Aristedes Sarmiento be ordered.

The respondents were required to comment on the Urgent Motion and after considerable delay they did so on July 14, 1984. They said that the Minister of Defense ordered the release of Aristedes on July 6, 1984, and he was actually released on July 11, 1984, at 2:30 p.m. They pray that the petition for habeas corpus being moot and academic be dismissed.

The majority of the Court, which does not include the undersigned ponente, is of the opinion that the petition for habeas corpus has become moot and academic because the Sarmiento spouses are no longer in detention.

WHEREFORE, the instant petition is hereby dismissed on the ground that it has been rendered moot and academic and it is so ordered.

The undersigned ponente is constrained to disagree with the majority of the Court and the statements following are entirely his own:

1. I believe that the Court should have resolved the petition on the merits and it is for this reason that on the face of the Urgent Motion praying for the release of Aristedes Sarmiento after the trial court had dismissed the two cases against the spouses that I voted for immediate affirmative relief.

The unstated premise of the majority opinion is that a person who is detained under a PCO cannot be released except by executive action even if the charges against him have been dismissed or he has been acquitted by a court of competent jurisdiction. I hold the contrary view; it is consistent with what I have previously adopted, namely: "if and when a formal complaint is presented, the court steps in and the executive steps out." (Morales, Jr. vs. Enrile, G.R. No. 61016, April 26, 1983, 121 SCRA 538, 594-596.) In the case at bar since the Sarmiento spouses had been brought before a court of competent jurisdiction, the fact that they were covered by a PCO is of no consequence; the court which acquired jurisdiction over them could order their release without recourse to executive action.

2. The military authorities acted in a cavalier fashion in assessing the evidence against the Sarmientos which proved to be so worthless that they did not even have to rebut it. The whole process, from their arrest to their continued detention under a PCO, was a serious affront to their liberties.

SO ORDERED.

Concepcion, Jr., Guerrero, Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., De La Fuente, and Cuevas, JJ., concur.

Fernando, C.J., and Makasiar, J., on official leave.

Teehankee, Acting C.J., dissents from the dismissal of the case as moot and academic and files a separate opinion.

Aquino, J., in the result.

DISSENTING OPINION

TEEHANKEE, J.:

I am constrained to dissent from the Court majority's dismissal of the case for "being moot and academic" because the accused-detainee, Aristedes Sarmiento, was eventually released from detention on July 11, 1984 or four (4) months after his acquittal.

I agree with the disagreement of the ponente, Mr. Justice Abad Santos, with such dismissal and with the grounds stated by him that "the Court should have resolved the petition on the merits" and that "since the Sarmiento spouses had been brought before a court of competent jurisdiction, the fact that they were covered by a PCO is of no consequence; the court which acquired jurisdiction over them could order their release without recourse to executive action." [1] I likewise agree with his statement that "(T)he whole process, from their arrest to their continued detention under a PCO, was a serious affront to their liberties," as well as with Mr. Justice Felix V. Makasiar's suggestion that "(T)he military establishment should inquire into whether the President was deceived into issuing the PCO and who initiated the arrest of the couple without supporting evidence."

With the regional trial court's dismissal on March 15, 1984 of the charges for subversion against the accused Sarmiento spouses for utter "worthlessness of evidence," the urgent motion filed on May 16, 1984 in this habeas corpus proceeding for Aristedes Sarmiento's immediate release [2] (after his counsel's administrative appeal through the Minister of National Defense for his release had failed and two months had already gone by since the spouses' acquittal) should have been immediately granted notwithstanding Aristedes Sarmiento's detention under

a Presidential Commitment Order (PCO). As it is, Aristedes was released on July 11, 1984 only after still two more months' delay, when the PCO was finally lifted - an agonizing wait after almost two years (short by three months) of detention found by final judgment to be totally bereft of basis and evidence.

If the Rule of Law means anything, a judgment of acquittal must prevail over the PCO. When the competent court has rendered a judgment of acquittal of charges of subversion and/or other national security-related offenses, the accused who is held on no other lawful cause is entitled to be forthwith set at liberty regardless of the PCO. Aristedes therefore was entitled to his release from the date of his acquittal on March 15, 1984. The Court should so rule squarely, instead of dismissing the case as moot. The issue at bar is a decisive and fundamental issue of public interest and importance affecting the very liberties of the people. The vital issue demands to be resolved, rather than emasculated with a dismissal of the case as moot, for the guidance of public respondents and all concerned.

This case is but a replica of the Cañete case,[3] wherein the public respondents likewise failed and/or refused to release the therein accused, Renato Cañete, despite his acquittal by the trial court, on the ground that such acquittal "does not affect the effectivity of the PCO (which is) beyond the ambit of judicial inquiry," citing the majority ruling in the Padilla-Parong[4] and Morales[5] cases. I have filed my separate opinion in the said case, dissenting from the Court's dismissal of the case as having likewise become moot after Cañete's eventual release by the military on May 7, 1983, three months after his acquittal - not by virtue of his acquittal but because the PCO had been lifted. I likewise urged that the Court should have therein ruled squarely on the fundamental issue of the effect of a decision of acquittal upon a PCO, and to hold that a ver-dict of acquittal entitles the accused to his liberty, despite the PCO, which thereby became *functus officio*.

It is imperative then, in order to avoid countless other Cañetes and Sarmientos, that in the language of the now Chief Justice in *De la Camara vs. Enage*[6] "the fact that this case is moot and academic should not preclude this Tribunal from setting forth in language clear and unmistakable . . . for the guidance of lower court judges, the controlling and authoritative doctrines that should be observed" in according full respect to constitutional rights (referring in said case to the constitutional mandate that excessive bail shall not be required - notwithstanding that petitioner-accused had meanwhile escaped from the provincial jail - since the issue in the case was not alone the fate of therein petitioner). As stressed by the late Chief Justice Fred Ruiz Castro in *Aquino, Jr. v. Enrile*[7] , "the fact that a final determination of a question involved in an action is needed will be useful as a guide for the conduct of public officers or tribunals is a sufficient reason for retaining an action which would or should otherwise be dismissed. Likewise appeals may be re-tained if the questions involved are likely to arise frequently in the future unless they are settled by a court of last resort."

I reiterate my stand in the above-cited case of Cañete[8] that in such cases of conflicting claims of authority, the individual's right to be set at liberty by virtue of his acquittal by the courts must prevail over the military's claim of a right to continue holding him in detention under the PCO. Former Chief Justice Roberto Concepcion rightfully observed in *People vs. Hernandez*[9] that "individual freedom is too basic, too transcendental and vital in a republican state, like ours, to be denied upon mere general principles and abstract considerations of public safety." For brevity's sake, I herewith re-produce by reference my said separate opinion which fully applies, *mutatis mutandis*, in view of the identical issues involved, to the case at bar.

[1] At page 5.

[2] As noted in the Resolution, his spouse Laura was temporarily released at the Court's instance on March 14, 1983 to enable her to provide proper care for her infant child to whom she gave birth during her detention.

[3] G.R. No. 63776, entitled "In re Habeas Corpus of Renato Cañete; Renato Cañete vs. Brig. Gen. Pedrito de Guzman, et al."

[4] 121 SCRA 472.

[5] 121 SCRA 538.

[6] 41 SCRA 1, 4 and 6 (1971).

[7] 59 SCRA 183.

[8] The Court's resolution in this case of Cañete, G.R. No. 63776, with my separate dissenting opinion, was released on August 16, 1984.

[9] 99 Phil. 515 (1956).

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