

EFREN C. MONCUPA, PETITIONER, VS. JUAN PONCE ENRILE, FABIAN C. VER, GALILEO KINTANAR, FERNANDO GOROSPE, AND JOSE CASTRO, RESPONDENTS.

G.R. No. 63345. January 30, 1986

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

As early as 1919, in the leading case of *Villavicencio v. Lukban* (39 Phil. 778, 790), this Court ruled:

"A prime specification of an application for a writ of habeas corpus is restraint of liberty. The essential object and purpose of the writ of habeas corpus is to inquire into all manner of involuntary restraint as distinguished from voluntary, and to relieve a person therefrom if such restraint is illegal. Any restraint which will preclude freedom of action is sufficient. x x x"

This latitudinarian scope of the writ of habeas corpus has, in law, remained undiminished up to the present. The respondents' contention that the petition has become moot and academic must necessarily be denied. Efren C. Moncupa may have been released from his detention cell. The restraints attached to his temporary release, however, preclude freedom of action and under the *Villavicencio v. Lukban* rule warrant this Court's inquiry into the nature of his involuntary restraint and our relieving him of such restraints as may be illegal.

Petitioner Efren C. Moncupa, together with others, was arrested on April 22, 1982 at about 10:50 P.M., at the corner of D. Tuazon Street and Quezon Avenue, Quezon City. Moncupa was brought to MIG-15 Camp Bago Bantay, Quezon City where he was detained. On April 23, 1982, on the allegation that he was a National Democratic Front (NDF) staff member, a Presidential Commitment Order (PCO) was issued against him and eight (8) other persons.

After two separate investigations, conducted first, by Lieutenant Colonel Gerardo Lantoria, Jr., Chief of Task Force Makabansa Investigation Group and second, by Investigating Fiscal Amado Costales of Quezon City, it was ascertained that the petitioner was not a member of any subversive organization. Both investigators recommended the prosecution of the petitioner only for illegal possession of firearms and illegal possession of subversive documents under Presidential Decree No. 33.

Consequently, two separate informations were filed against the petitioner, one, for illegal possession of firearms before the Court of First Instance of Rizal and the other for violation of P.D. 33 before the City Court of Quezon City. Against the other accused, however, the cases filed were for violation of P.D. 885 as amended. Significantly, the petitioner was excluded from the charge under the Revised Anti-Subversion Law. During the pendency of this petition, it is significant that his arraignment and further proceedings have not been pursued. And yet, the petitioner's motions for bail were denied by the lower court

Hence, the petitioner filed the instant petition.

The respondents, in their return of the writ justified the validity of petitioner's detention on the ground that the

privilege of the writ had been suspended as to the petitioner. However, on August 30, 1983, the respondents filed a motion to dismiss stating that on May 11, 1983, the petitioner was temporarily released from detention on orders of the Minister of National Defense with the approval of the President. The respondents stated - "Since the petitioner is free and no longer under the custody of the respondents, the present petition for habeas corpus may be deemed moot and academic as in similar cases."

The issue to be resolved is whether or not the instant petition has become moot and academic in view of the petitioner's temporary release.

It is to be noted that attached to the petitioner's temporary release are restrictions imposed on him. These are:

- 1) His freedom of movement is curtailed by the condition that petitioner gets the approval of respondents for any travel outside Metro Manila.
- 2) His liberty of abode is restricted because prior approval of respondents is also required in case petitioner wants to change his place of residence.
- 3) His freedom of speech is muffled by the prohibition that he should not "participate in any interview conducted by any local or foreign mass media representatives nor give any press release or information that is inimical to the interest of national security."
- 4) He is required to report regularly to respondents or their representatives.

The petitioner argues that although admittedly his temporary release is an improvement upon his actual detention, the restrictions imposed by the respondents constitute an involuntary and illegal restraint on his freedom.

The petitioner stresses that his temporary release did not render the instant petition moot and academic but that "it merely shifted the inquiry from the legal-ity of his actual detention to the legality of the conditions imposed by the respondents."

We agree with the petitioner.

The reservation of the military in the form of restrictions attached to the temporary release of the petitioner constitute restraints on the liberty of Mr. Moncupa. Such restrictions limit the freedom of movement of the petitioner. It is not physical restraint alone which is inquired into by the writ of habeas corpus.

In *Villavicencio v. Lukban*, the women who had been illegally seized and transported against their will to Davao were no longer under any official restraint. Unlike petitioner Moncupa, they were free to change their domicile without asking for official permission. Indeed, some of them managed to return to Manila. Yet, the Court condemned the involuntary restraints caused by the official action, fined the Mayor of Manila and expressed the hope that its "decision may serve to bulwark the fortifications of an orderly government of laws and to protect individual liberty from illegal encroachment."

In the light of the above ruling, the present petition for habeas corpus has not become moot and academic. Other precedents for such a conclusion are not wanting.

The decision in *Caunca v. Salazar* (82 Phil. 851) states:

"An employment agency, regardless of the amount it may advance to a prospective employee or maid, has absolutely no power to curtail her freedom of movement. The fact that no physical force has been exerted to keep her in the house of the respondent does not make less real the deprivation of her personal freedom of movement, freedom to transfer from one place to another, freedom to choose one's residence. Freedom may be lost due to external moral compulsion, to founded or groundless fear, to erroneous belief in the existence of the will. If the actual effect of such psychological spell is to place a person at the mercy of another, the victim is

entitled to the protection of courts of justice as much as the individual who is illegally deprived of liberty by duress or physical coercion."

In *Tibo v. The Provincial Commander* (85 SCRA 564), this Court ruled:

"Although the release in the custody of the Deputy Minister did not signify that petitioners could once again enjoy their full freedom, the application could have been dismissed, as it could be withdrawn by the parties themselves. That is a purely voluntary act. When the hearing was held on September 7, 1978, it turned out that counsel for petitioner Bonifacio V. Tupaz could have acted in a hasty manner when he set forth the above allegations in his manifestation of August 30, 1978, for Attorney Jose C. Espinas, who appeared for petitioners, while conceding that there was such a release from confinement, also alleged that it was conditioned on their restricting their activities as labor union leaders to the premises of the Trade Unions of the Philippines and Allied Services, presumably in Manila, as well as the Ministry of Labor. As the voting was to take place in the business firm in Bataan, the limits set would nullify whatever efforts they could have exerted. To that extent, and with the prohibition against their going to Bataan, the restraint on liberty was undeniable. If so, the moot and academic character of the petition was far from clear."

More recently, we had occasion to rule squarely on whether or not a temporary release from detention renders the petition for writ of habeas corpus moot and academic. As in this case of *Moncupa, the petitioners in Toyoto, et al. v. Hon. Fidel Ramos, et al.*, G. R. No. 69270, October 15, 1985, were temporarily released from detention. The respondents filed a motion to dismiss the petition for habeas corpus on the ground that the petitioners had been temporarily released and their case had, therefore, become moot and academic. The petitioners insisted, however, that their case may be considered moot and academic only "if their release would be permanent." In ruling for the petitioners, we said:

"Ordinarily, a petition for habeas corpus becomes moot and academic when the restraint on the liberty of the petitioners is lifted either temporarily or permanently. We have so held in a number of cases. But the instant case presents a different situation. The question to be resolved is whether the State can reserve the power to re-arrest a person for an offense after a court of competent jurisdiction has absolved him of the offense. An affirmative answer is the one suggested by the respondents because the release of the petitioners being merely 'temporary' it follows that they can be re-arrested at anytime despite their acquittal by a court of competent jurisdiction. We hold that such a reservation is repugnant to the government of laws and not of men principle. Under this principle the moment a person is acquitted on a criminal charge he can no longer be detained or re-arrested for the same offense. This concept is so basic and elementary that it needs no elaboration."

In effect the principle is clear. A release that renders a petition for a writ of habeas corpus moot and academic must be one which is free from involuntary restraints. Where a person continues to be unlawfully denied one or more of his constitutional freedoms, where there is present a denial of due process, where the restraints are not merely involuntary but appear to be unnecessary, and where a deprivation of freedom originally valid has, in the light of subsequent developments, become arbitrary, the person concerned or those applying in his behalf may still avail themselves of the privilege of the writ.

The respondents have failed to show why the writ may not issue and why the restraints on the petitioner's freedom of movement should not be lifted.

WHEREFORE, the PETITION is GRANTED. The conditions attached to the temporary release of the petitioner are declared null and void. The temporary release of the petitioner is declared ABSOLUTE. No costs.

SO ORDERED.

Teehankee, Concepcion, Jr., Abad Santos, Melencio-Herrera, Escolin, De la Fuente, Cuevas, Alampay, and Patajo, JJ., concur.

Aquino, C.J., no part.

Plana, J., reserves his vote.

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