

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. THE PRESIDING JUDGE, REGIONAL TRIAL COURT, FIRST JUDICIAL REGION, BRANCH XLV, URDANETA, PANGASINAN, AND RODOLFO VALDEZ, JR., RESPONDENTS.

G.R. No. 64731. October 26, 1983

Ponente: RELOVA, J.

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RELOVA, J.:

Private respondent Rodolfo Valdez, Jr. is charged in Criminal Case No. U-3439 with murder before the Regional Trial Court of Pangasinan, First Judicial Region, Branch XLV in Urdaneta. He is out on a P30,000.00 bail bond which contains the following conditions -

"The aforementioned, as bondsmen, hereby jointly and severally undertake that the above-mentioned defendant, as principal therein, will appear and answer the charge above-mentioned in whatever Court it may be tried, and will at all times hold himself amenable to the orders and processes of the Court, and if convicted, will appear for judgment, and render himself to the execution thereof; or that if he fails to perform any of these conditions will pay to the Republic of the Philippines the sum of Thirty Thousand Pesos (P30,000.00), x x x." (Emphasis supplied)

After his arraignment, Rodolfo Valdez, Jr., thru his counsel, manifested orally in open court that he was waiving his right to be present during the trial. The prosecuting fiscal moved that respondent Rodolfo Valdez, Jr. be compelled to appear and be present at the trial so that he could be identified by prosecution witnesses. Respondent judge in his Order, dated April 15, 1983, sustained the position of private respondent who cited the majority opinion in the case of Benigno S. Aquino, Jr. vs. Military Commission No. 2, et al., 63 SCRA 546, and held that "he cannot be validly compelled to appear and be present during the trial of this case."

Hence, this petition for certiorari with prayer, among others, (1) that pending the resolution of this case on the merits, a writ of preliminary injunction be issued to restrain respondent judge from enforcing his Order dated April 15, 1983; (2) that said Order dated April 15, 1983 of respondent judge be annulled and set aside and (3) that private respondent Rodolfo Valdez, Jr. be compelled to appear during the trial of Criminal Case No. U-3439 whenever required to do so by the trial court.

On August 10, 1983, We resolved "(a) to require the respondents to file an ANSWER thereto, within ten (10) days from notice hereof, and not to move to dismiss the petition; and (b) to ISSUE effective immediately and until further orders from this Court, a TEMPORARY RESTRAINING ORDER enjoining the respondent Judge from enforcing the Order dated April 15, 1983, allowing the accused, Rodolfo Valdez, Jr. to totally waive his presence during the trial of Criminal Case No. U-3439, entitled 'People of the Philippines, Plaintiff, versus Rodolfo Valdez, Jr., alias Niño, et al., Accused,' of the Regional Trial Court of Pangasinan, Branch XLV at Urdaneta, Pangasinan." (p. 17, Rollo)

Private respondent filed his answer to the petition and, after deliberation, We resolved to give due course to the

petition and to decide the issue, without requiring memorandum from the parties, as to whether or not respondent Rodolfo Valdez, Jr., despite his waiver of his right to be present, can be compelled by the trial court to be present during the trial of Criminal Case No. U-3439 so that he can be identified by the witnesses for the prosecution.

Article IV of the 1973 Constitution, Section 19 thereof provides-

"SEC. 19. In all criminal pro-secutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses, face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustified."

It is the submission of private respondent that the above constitutional provision grants him absolute right to absent himself from the trial of the case filed against him despite the condition of his bail bond that he "will at all times hold himself amenable to the orders and processes of the Court."

In the case of *People vs. Prieto, Sr.*, 84 SCRA 198, it was held that "[r]espondent Judge unfortunately assumed that thereby a defendant was thus conferred a fundamental right to ignore the terms of the bond posted by him in accordance with his constitutional right to bail. The present Constitution certainly has not made a dent on the traditional and correct concept of a bail as given to allow the release of a person in the custody of the law on condition that he would appear before any court whenever so required. Upon failure to do so, the warrant of arrest previously issued can be a sufficient justification for his confinement." Further, in *Aquino, Jr. vs. Military Commission No. 2, et al.*, 63 SCRA 546, the late Chief Justice Fred Ruiz Castro, in his concurring and dissenting opinion, clearly stated that "the accused may waive his presence in the criminal proceedings except at the stages where identification of his person by the prosecution witnesses is necessary. I might agree to the proposition of 'total' waiver in any case where the accused agrees explicitly and unequivocally in writing signed by him or personally manifests clearly and indubitably in open court and such manifestation is recorded, that whenever a prosecution witness mentions a name by which the accused is known, the witness is referring to him and to no one else." Stated differently, the 1973 Constitution now unqualifiedly permits trial in absentia even of capital offenses, provided that after arraignment he may be compelled to appear for the purpose of identification by the witnesses of the prosecution, or provided he unqualifiedly admits in open court after his arraignment that he is the person named as the defendant in the case on trial. Reason for requiring the presence of the accused, despite his waiver, is, if allowed to be absent in all the stages of the proceedings without giving the People's witnesses the opportunity to identify him in court, he may in his defense say that he was never identified as the person charged in the information and, therefore, is entitled to an acquittal.

Furthermore, it is possible that a witness may not know the name of the culprit but can identify him if he sees him again, in which case the latter's presence in court is necessary.

ACCORDINGLY, the petition is granted and the assailed Order, dated April 15, 1983, of respondent judge is hereby ANNULLED and SET ASIDE, and the restraining order enjoining said respondent judge from enforcing his appealed order is made permanent.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, and Gutierrez, Jr., JJ., concur.

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