

GERRY TOYOTO, EDDIE GONZALES, DOMINADOR GABIANA AND REY CINCO, PETITIONERS, VS. HON. FIDEL RAMOS, CAPTAIN ALVAREZ AND CAPTAIN BALLEEN, RESPONDENTS.

G.R. No. 69270, October 15, 1985

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is a petition for habeas corpus and the problem posed is whether the State can "reserve" the power to re-arrest the petitioners even after they had been acquitted by a court of competent jurisdiction for the offense for which they had been previously arrested.

The following are taken from the petition and have not been contradicted by the respondents:

Gerry Toyoto, Eddie Gonzales and Dominador Gabiana belong to a group called the "Urban Poor" which conducted a march, demonstration and rally along Northbay Boulevard in Navotas, Metro Manila, on October 23, 1983.

Subsequently, Toyoto, Gonzales and Gabiana (among others) were accused of violating Presidential Decree No. 1835 (Codifying the Various Laws on Anti-Subversion and Increasing the Penalties for Membership in Subversive Organizations [January 16, 1981]) in Criminal Case No. 1496-MN of the Regional Trial Court of Malabon. No bail was recommended for their provisional liberty.

On July 9, 1984, the petitioners were arraigned and they pleaded not guilty to the offense charged.

The prosecution was able to present only one witness despite repeated postponements. This prompted the accused to move for the dismissal of the case. In granting the motion, Judge Vicente B. Echaves, Jr. said *inter alia*:

"1. Since on cross-examination prosecution witness Dagui testified that the primary reason of the marching group was to air their grievances to the government to allow them to transfer to the Dagat-dagatan government project for squatters, it is doubtful that the marchers had, as alleged in the information, the 'intention to undermine the faith of the people in the duly constituted government and authorities of the Republic of the Philippines';

"2. Since Dagui testified on cross-examination that before the dispersal of the marchers there were no speeches, and he did not see accused Toyoto, Gabiana or Gonzales deliver speeches, there is no proof at all of the allegation in the information that the accused 'uttered speeches tending to discredit the government';

"3. Considering the testimony of witness Dagui on direct examination that during that rally accused Eddie Boy Gonzales was holding a placard, but that he did not remember the words thereon, and that he did not see co-accused Dominador Gabiana and Gerry Toyoto holding a placard, there is no proof of the allegation in the information that said accused did 'use and display placards, banners and other subversive leaflets';

"4. It is alleged in the information that the accused held a public rally 'without securing the necessary permit from the proper authorities' but the 'proper authorities' were not presented to prove this allegation. In any event,

considering that, as admitted by witness Dagui, the primary purpose of the marchers was to air their grievances to the government to allow them to transfer to the Dagat-dagatan government project for squatters, it is doubtful if the 'proper authorities' could withhold the permit for such a rally and thereby render violence to the Constitutional 'right of the people peaceably to assemble and petition the government for redress of grievances.'" (Rollo, pp. 8-9.)

The order of dismissal was dated November 9, 1984, but on December 5, 1984, when the petition for habeas corpus was filed the respondents had not released and they refused to release the petitioners on the ground that a Preventive Detention Action had been issued against them. It is to be noted that the petitioners had been in detention for over one year for they were arrested on October 23, 1983.

We thus have the sorry spectacle of persons arrested, charged and tried for merely exercising their constitutional rights. And the injury was compounded when the over zealous minions of the government refused to release them even after they had been acquitted by a court of competent jurisdiction because they were covered by a PDA. To be sure it cannot be denied that there was a flagrant violation of human rights.

The return filed by the respondents states that petitioners Toyoto, Gonzales and Gabiana were released to their relatives on December 8, 1984, pursuant to the order of the Minister of National Defense. The order (Annex 1) is dated November 30, 1984, and orders the "temporary release" of the petitioners. The respondents pray that the petition be dismissed for having become moot and academic in view of the release of the petitioners from detention.

The petitioners would have their case considered moot and academic only "if their release would be permanent."

We sustain the petitioners.

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.

WHEREFORE, the petition is granted; the release of the petitioners is hereby declared to be permanent. No costs.

SO ORDERED.

Makasiar, C.J., Teehankee, Concepcion, Jr., Melencio-Herrera, Plana, Escolin, Gutierrez, Jr., De la Fuente, Cuevas, Alampay, and Patajo, JJ., concur.

Aquino, J., no part.

Relova, J., abroad.

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