

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. LUIS V. SISON,  
PRESIDING JUDGE, REGIONAL TRIAL COURT OF ANTIQUE, BRANCH  
X, AND JOCELYN DE ASIS, RESPONDENTS.**

*G.R. No. 70906. May 30, 1986*

Ponente: FERIA, J.

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**FERIA, J.:**

Petitioner, represented by the Assistant Provincial Fiscal of Antique, in this special action for certiorari, assails the Order dated March 26, 1985 issued by the respondent Judge Luis V. Sison of Branch X, Regional Trial Court of Antique, rejecting the extrajudicial confession of private respondent Jocelyn de Asis for having been taken in violation of Section 20, Article IV of the Constitution.

It appears that in an amended information dated January 4, 1984, the Provincial Fiscal of Antique, Ramon M. Salvani, Jr., charged Jocelyn de Asis, 20, single, a resident of Barangay Agcarupi, Januiay, Iloilo, and an elementary school graduate, with subversion for having become a member of the New People's Army (Criminal Case No. 2670). Jocelyn pleaded not guilty to the charge.

Fiscal Recaredo P. Barte offered in evidence the aforecited extrajudicial confession (Exhibit Q) dated May 19, 1983 of Jocelyn. This was vehemently objected to by her counsel. Respondent judge sustained the objection on the ground that Jocelyn's waiver of her right to counsel was made without the assistance of counsel, consonant with the ruling of this Court in the twin cases of *Morales vs. Enrile, et al.*, G.R. No. L-61016, *Moncupa vs. Enrile, et al.*, G.R. No. L-61107, April 26, 1983 (121 SCRA 538).

In her confession, which was taken at a hospital in San Jose, Antique, Jocelyn was led to admit through a leading question that she became a member of the New People's Army on May 8, 1983. She further stated that in an encounter with the Philippine Constabulary and Civilian Home Defense Forces a week later, or on May 17, 1983, she was wounded and her brother David was killed.

Fiscal Barte contends that the ruling in the aforecited cases has no doctrinal value since the said ruling was contained in an obiter dictum and was concurred in by only three Justices instead of the required number of eight Justices.

Counsel for private respondent, in his comment, contends that the doctrine in the *Morales* and *Moncupa* case was reiterated in the decision in *People vs. Galit*, G.R. No. L-51170 promulgated on March 20, 1985.

The former Solicitor General, in his comment, submits that said confession is admissible.

After deliberating on the petition and comments, the Court resolved to dismiss the petition. In the case of *People of the Philippines vs. Francisco Galit* (135 SCRA 465), which was decided en banc and concurred in by all the Justices except one who took no part, the Court had occasion to put at rest all doubts regarding the ruling in the *Morales vs. Enrile* and *Moncupa vs. Enrile* cases. The Court, in setting aside the judgment appealed from and acquitting the accused Francisco Galit, reiterated the ruling laid down in the aforecited cases, which we quote

below:

"10. This Court, in the case of Morales vs. Ponce Enrile, laid down the correct procedure for peace officers to follow when making an arrest and in conducting a custodial investigation, and which we reiterate:

'7. At the time the person is arrested, it shall be the duty of the arresting officer to inform him of the reason for the arrest and he must show the warrant of arrest, if any. He shall be informed of his constitutional rights to remain silent and to counsel, and that any statement he might make could be used against him. The person arrested shall have the right to communicate with his lawyer, a relative or any one who chooses by the most expedient means - by telephone if possible - or by letter or messenger. It shall be the responsibility of the arresting officer to see to it that this is accomplished. No custodial investigation shall be conducted unless it be in the presence of counsel engaged by the person arrested, by any person in his behalf, or appointed by the court upon petition either of the detainee himself or by anyone on his behalf. The right to counsel may be waived but the waiver shall not be valid unless made with the assistance of counsel. Any statement obtained in violation of the procedure herein laid down, whether exculpatory or inculpatory, in whole or in part, shall be inadmissible in evidence.'" (People vs. Galit, supra., p. 472) (Underscoring supplied).

WHEREFORE, the petition is DISMISSED. No costs.

**SO ORDERED.**

Fernan, Alampay, Gutierrez, Jr., and Paras, JJ., concur.

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