

MILA P. TOLENTINO, PETITIONER, VS. HON. TEODORO G. BONIFACIO, IN HIS CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT OF CAVITE, BRANCH XVIII, BELEN T. CARANDANG AND GAUDENCIO ...

G.R. No. 71178. October 18, 1985

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

Petition for certiorari to annul an order of the respondent judge to proceed with the trial of a criminal case on the ground that the questioned order was issued in grave abuse of discretion.

Petitioner Mila P. Tolentino (with Roberto P. Tolentino) was accused of falsification of public document in Criminal Case No. TG-1017-84 before the Regional Trial Court of Tagaytay City presided by the respondent judge.

Before petitioner Mila P. Tolentino could be arraigned, she asked that the proceedings against her be suspended "during the pendency of the PETITION FOR REVIEW" which was filed with the Ministry of Justice. The respondent judge required the Tagaytay City Fiscal to comment thereon and the latter said:

"That he interposes no objection to the Motion in the light of his receipt of the 1st Indorsement from the Ministry of Justice, which he received last 25 January 1985 giving due course to the petition for review filed by the respondents (accused) with the instruction to move to defer further proceedings of the case in court until after the resolution of the petition for review, not to mention the fact that the records of the case were already transmitted to the Ministry." (Expediente, p. 83.)

Notwithstanding the posture of the City Fiscal, the respondent judge denied the motion to suspend proceedings on the ground that the City Fiscal had already reinvestigated the case and "speedy trial is also for the prosecution." (Order of February 20, 1985, Expediente, p. 85.)

While We have noted from the expediente that the petitioner has utilized dilatory tactics to bring the case against her to trial, still she is entitled to the remedy she seeks. The respondent judge should not be more anxious than the prosecution in expediting the disposition of the case absent any indication of collusion between it and the defense. The Ministry of Justice should not be deprived of its power to review the action of the City Fiscal by a precipitate trial of the case.

WHEREFORE, the petition is granted. The respondent judge is hereby ordered not to proceed with the trial of the above-numbered criminal case until after the Ministry of Justice has resolved the petition for review filed by Mila P. Tolentino. No costs.

Let a copy of this decision be furnished to the Ministry of Justice with the suggestion that it expedite resolution of the petition for review.

SO ORDERED.

Aquino, (Chairman), Escolin, Cuevas, and Alampay, JJ., concur.

Concepcion, Jr., J., on leave.

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