

**PEOPLE OF THE PHILIPPINES AND MARIANO CORVERA, JR.,
PETITIONERS, VS. TRANQUILINO CALO, JR., BELLARMINO ALLOCOD
AND HON. NICOLAS LAPEÑA, JR., HON. EMETERIO C. CUI AND HON.
JUSTO ...**

G.R. No. 88531. June 18, 1990

Ponente: BIDIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-88531/>

BIDIN, J.:

This is a petition for certiorari with prayer for a restraining order seeking to set aside the decision, dated May 16, 1989 of the Court of Appeals in CA-G.R. No. 17142, affirming the order, dated February 24, 1989 of respondent judge Jose C. Adao issued in Criminal Case No. 3464, entitled People vs. Pablo Macapas, Atty. Tranquilino Calo, Jr. and Bellarmino Allocod for murder, granting bail to accused-private respondents therein.

The antecedent facts are as follows:

On March 10, 1988, Mariano Corvera, Sr. (father of private petitioner), was gunned down inside the courtroom of the RTC of Butuan City, Br. II. The following day, a complaint was filed before the Office of the City Fiscal of Butuan City, charging the alleged assailant, Pablo Macapas (at large), the herein private respondents and two (2) unidentified persons, with murder. Investigating City Fiscal Mariano Balansag found a prima facie case and prepared the corresponding Information for Murder against private respondents as accused. Private respondents filed a motion for reconsideration. On August 19, 1988, Fiscal Mariano Balansag was gunned down near his residence as he was about to report to his office. An information for murder was eventually filed in connection with the death of Mariano Corvera, Sr. on November 29, 1988, before the Regional Trial Court, Butuan City, Branch IV, docketed as Criminal Case No. 3464 recommending "no bail" for the accused-respondents. On December 6, 1988, private petitioner moved for a re-raffle of the case. On December 8, 1988, Executive Judge Rosarito Dabalos issued an order directing a re-raffle, and at the same time, fixing the amount of bail for private respondents at P50,000.00 each.

On December 19, 1988, private petitioner filed a petition for certiorari with prayer for a restraining order in the Court of Appeals, which was docketed as CA-G.R. SP No. 16383, assailing the December 8, 1988 order of Judge Dabalos granting bail to the accused without hearing. In a resolution dated January 31, 1989, the Court of Appeals set aside the assailed order and directed the trial court: "(a) to immediately issue and serve new warrants of arrest against private respondents as well as the accused at-large Pablo Macapas; (b) to determine without delay by conducting the requisite hearing whether the evidence of guilt is strong; and thereafter (c) to resolve whether or not bail should be granted, and in the affirmative, to fix the same in accordance with law."

On remand of the case, Judge Dabalos inhibited himself from hearing the said case and referred it to Judge Jose C. Adao. Marathon hearings were held on February 10, 14 and 15, 1989 to determine whether the evidence of guilt was strong. On February 24, 1989, Judge Adao issued an order, pertinent portions of which read:

"The court honestly believes that the quantum of evidence presented during the summary hearing is not yet sufficient to deny bail as to the accused Tranquilino Calo, Jr. and Bellarmino Allocod. The accused Pablo Macapas should not be granted bail since the evidence so far presented points to him as the killer.

In view of the foregoing, pursuant to the bail bond guidelines as provided for in Sec. 6 of Rule 114 of the 1985 Rules on Criminal Procedure as amended, the Court fixes the amount of One Hundred Thousand Pesos (P100,000.00) as bail for the provisional liberty of the accused Tranquilino Calo, Jr., and Sixty Thousand Pesos (P60,000.00) as bail for the provisional liberty of the accused Bellarmino Allocod.

SO ORDERED."

On March 8, 1989, private petitioner filed a petition for certiorari with restraining order before this Court, which was docketed as G.R. No. 87194, seeking to annul the February 24, 1989 order of Judge Adao granting bail to accused-respondents. In a resolution dated March 15, 1989, this Court issued a temporary restraining order enjoining Judge Adao from enforcing the questioned order and to recommit private respondents to jail if they have already been discharged. The Court further referred the petition to the Court of Appeals (where it was docketed as CA-G.R. SP No. 17142).

On May 16, 1989, the Court of Appeals rendered a decision dismissing the petition (CA-G.R. SP No. 17142).

Hence, this petition for certiorari with prayer for a restraining order.

On July 6, 1989, this Court issued a temporary restraining order directing public respondents to cease and desist from enforcing or from allowing further enforcement of the May 16, 1989 decision in CA-G.R. SP No. 17142, and cancelling the order dated February 24, 1989 of Judge Adao.

Under date of August 9, 1989, private respondents filed a Motion for Bail, but it was denied in the resolution dated October 5, 1989.

The grounds relied upon in support of the petition are:

A. THE COURT OF APPEALS ERRED GRAVELY AND/OR COM-MITTED GRAVE ABUSE OF DISCRETION IN DISMISSING THE PETITION ON THE GROUND THAT THE PETITIONER HAS NO CAPACITY TO BRING THE PETITION WITHOUT THE PRIOR IMPRIMATUR OF THE SOLICITOR GENERAL.

B. THE COURT OF APPEALS ERRED GRAVELY AND/OR COM-MITTED GRAVE ABUSE OF DISCRETION IN HOLDING THAT THE ORDER OF THE TRIAL JUDGE GRANTING BAIL TO THE PRIVATE RESPONDENTS IS NOT TAINTED WITH SERIOUS ARBITRARINESS."

Corollary to the first ground, private petitioner contends that as stated in the petition, the said petition was filed subject to the control of the Solicitor General; that in deciding to bring the petition, he was impelled by an extraordinary sense of urgency; and that the grant of bail to private respondents engulfed him with an acute demand for urgent relief.

As to the second ground, private petitioner maintains that there was gross disregard of overwhelming evidence of guilt and that private respondents did not present even a single witness to rebut the facts established by the prosecution.

This Court finds merit in the petition.

While the rule is, as held by the Court of Appeals, only the Solicitor General may bring or defend actions on behalf of the Republic of the Philippines, or represent the People or the State in criminal proceedings pending in this Court and the Court of Appeals (Republic vs. Partisala, 118 SCRA 320 [1982]), the ends of substantial justice

would be better served, and the issues in this action could be determined in a more just, speedy and inexpensive manner, by entertaining the petition at bar. As an offended party in a criminal case, private petitioner has sufficient personality and a valid grievance against Judge Adao's order granting bail to the alleged murderers of his (private petitioner's) father.

In *Paredes vs. Gopengco*, 29 SCRA 688 (1969), this Court ruled that the offended parties in criminal cases have sufficient interest and personality as "person(s) aggrieved" to file the special civil action of prohibition and certiorari under Sections 1 and 2 of Rule 65 in line with the underlying spirit of the liberal construction of the Rules of Court in order to promote their object, thus:

"Furthermore, as offended parties in the pending criminal case before petitioner judge, it cannot be gainsaid that respondents have sufficient interest and personality as 'person(s) aggrieved' by petitioner judge's ruling on his non-disqualification to file the special civil action under sections 1 and 2 of Rule 65. Recently, in line with the underlying spirit of a liberal construction of the Rules of Court in order to promote their object, as against the literal interpretation of Rule 110, section 2, we held, overruling the implication of an earlier case, that a widow possesses the right as an offended party to file a criminal complaint for the murder of her deceased husband." (*Id.*, p. 699)

Indeed, in a companion case (G.R. No. 87932) entitled *People, et al. vs. Hon. Zenaida P. Placer, et al.* promulgated July 20, 1989. We disqualified the therein respondent Judge Zenaida P. Placer to whom Criminal Case No. 3464 was subsequently raffled for trial on the merits, from hearing the case and ordered a change of venue from Butuan City to Cagayan de Oro City to avoid a miscarriage of justice pursuant to Section V(4), Article VIII of the Constitution.

Coming back to the case at bar, the Court of Appeals held that the issuance of the order dated February 24, 1989 granting bail to accused-respondents was neither whimsical nor capricious because "formal hearings were conducted on the petition for bail and the 24-page assailed order includes a detailed summary of the testimonies of the five (5) prosecution witnesses and Exhibits "A" to "E" for the prosecution."

The mere fact that formal hearings were conducted does not preclude a finding of arbitrariness and denial of due process. As pointed out by private petitioner, the evidence submitted by the prosecution to the effect that private respondent Tranquilino Calo, Jr., slipped the fatal gun to the alleged assailant, Pablo Macapas, and that private respondent Bellarmino Allocod was the driver of the get-away vehicle used by Macapas was not considered by the appellate court. This is regrettable because, as alleged by private petitioner, private respondents did not deny such evidence by their failure to present any witness to controvert it and that such evidence established conspiracy among private respondents and Macapas.

Be that as it may, the prosecution was scheduled to present nine (9) witnesses, whose names were duly submitted to the trial court, at the hearings held to determine whether the evidence of guilt against private respondents was strong, but after hearing the fifth witness, Judge Adao insisted on terminating the proceedings (pp. 11; 62, Rollo). In view thereof, private petitioner contends that Judge Adao's order granting bail to private respondents "smacked of grave and patent abuse of discretion."

We agree. The order dated February 24, 1989 granting bail to accused-respondents should have been declared null and void and in violation of procedural due process. The prosecution in the instant case was not given adequate opportunity to prove that there is strong evidence of guilt and to present within a reasonable time all the evidence it desired to present.

In a similar case (*People vs. San Diego*, 26 SCRA 522 [1968]), this Court held:

"The question presented before us is, whether the prosecution was deprived of procedural due process. The

answer is in the affirmative. We are of the considered opinion that whether the motion for bail of a defendant who is in custody for a capital offense be resolved in a summary proceeding or in the course of a regular trial, the prosecution must be given an opportunity to present, within a reasonable time, all the evidence that it may desire to introduce before the court should resolve the motion for bail. If, as in the criminal case involved in the instant special civil action, the prosecution should be denied such an opportunity, there would be a violation of procedural due process, and the order of the court granting bail should be considered void on that ground. The orders complained of dated October 7, 9 and 12, 1968, having been issued in violation of procedural due process, must be considered null and void."

In the same vein, this Court held in *People vs. Sola* (103 SCRA 393 [1981]), to wit:

"The law, as we have seen, is sedulous in maintaining for a defendant charged with crime whatever forms of procedure are of the essence of an opportunity to defend. Privileges so fundamental as to be inherent in every concept of a fair trial that could be acceptable to the thought of reasonable men will be kept inviolate and inviolable, however crushing may be the pressure of incriminating proof. But justice, though due to the accused, is due to the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true.' This norm which is of the very essence of due process as the embodiment of justice requires that the prosecution be given the opportunity to prove that there is strong evidence of guilt."

The failure of Judge Adao to observe the concept of fairness which is the essence of due process in the case at bar should not have been lost sight of.

Finally, the Court notes that in a resolution dated July 20, 1989 issued in G.R. No. 87932, the records of Criminal Case No. 3464 subject of the instant petition were ordered transmitted to Judge Alfredo Lagamon at Cagayan de Oro City for change of venue and proper disposition in order to avoid a miscarriage of justice.

ACCORDINGLY, the petition is Granted. The decision dated May 16, 1989 of the Court of Appeals is Set Aside and the temporary restraining order issued on July 6, 1989 is hereby made permanent.

SO ORDERED.

Fernan, C.J., Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Sarmiento, Medialdea, and Regalado, JJ., concur.

Narvasa, J., no part, on account of close personal relationship to a party.

Cortes and Griño-Aquino, JJ., on leave.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.