

THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. SINFOROSO S. NANO, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 49, CATAINGAN, MASBATE AND ROLDAN B...

G.R. No. 94639. January 13, 1992

Ponente: BIDIN, J.

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BIDIN, J.:

This is a petition for certiorari and prohibition seeking to annul the order of respondent judge dated July 4, 1990, admitting respondent Roldan Bohol to bail in Criminal Case No. 431 entitled "People of the Philippines v. Rolando Bohol y Galicia" for Kidnapping with Murder. The said order reads as follows:

"ORDER

This is a "MOTION TO SET ASIDE ORDER" dated June 7, 1990 of Atty. Ruben A. Songco, Counsel for the accused, on the ground that "the Honorable Court on March 16, 1990, denied that Motion to Fix Bail, for lack of merit, without expressing therein clearly and distinctly the facts and the law on which it is based".

It appearing that the denial to fix bail is not a decision nor a motion for reconsideration of a decision but an interlocutory determination on intermediate issue raised and is not a final decision of the whole controversy, the said ground relied upon is not in order. However, considering the recent actions taken by the Hon. Supreme Court over grave offenses of national interests, the aforesaid Court Order of March 16, 1990 now is hereby set aside and herein accused is admitted to bail for his provisional liberty in the sum of One Hundred Thousand Pesos (P100.000.00)."

The records disclose the following factual antecedents:

On May 8, 1989, a complaint for kidnapping and murder was filed against private respondent Bohol before the 6th Municipal Circuit Trial Court of Cataingan, Masbate by the Acting Station Commander of Pio V. Corpus Police Station.

After preliminary examination, the municipal circuit trial court issued an Order for the arrest of the accused and fixing no bail for the temporary liberty of respondent/accused Bohol upon a finding that "there is a reasonable ground to believe that the crime charged had been committed, that the author of the same is the above-named accused (Bohol) and that he is probably guilty hereof." (Rollo, p. 22)

On the strength of a warrant of arrest issued by the municipal circuit trial court, the accused/respondent was arrested and detained without bail.

Respondent's counsel filed a motion for reconsideration alleging, among others, that the accusation against respondent/accused Bohol is merely intended to persecute and harass him without any legal or factual background.

On June 19, 1989, the municipal circuit trial court issued another Order denying the motion for reconsideration and remanded the case to the Regional Trial Court of Masbate, Br. 48 at Cataingan.

After remand of the case and the filing of Information for Kidnapping with Murder by the public prosecutor, respondent's counsel again filed a motion to fix bail before the respondent court reiterating the grounds set forth in his earlier pleading filed before the municipal circuit trial court.

After due hearing, the motion was denied by respondent judge in an order given in open court on March 16, 1990.

Unfazed, respondent's counsel filed on June 7, 1990, another motion to set aside the March 16, 1990 Order.

Private prosecutor as counsel for the offended parties filed an Opposition thereto alleging, among others, that the motion is a mere scrap of paper on the ground that it failed to comply with Rule 15, Section 5 regarding notice to the adverse party with respect to the date and time of hearing.

On July 17, 1990, the scheduled date of hearing of respondent's motion, respondent judge failed to preside thereat allegedly for health reasons. After reviewing the records, however, the private prosecutor discovered that there appears an order dated July 4, 1990 which, as previously stated, admitted the accused/respondent to bail already attached thereto without any hearing having been conducted.

Alleging grave abuse of discretion, petitioner, through private prosecutor, filed the instant petition.

The petition being defective in form, the Court could have summarily dismissed the case for having been filed merely by private counsel for the offended parties, though with the conformity of the provincial prosecutor, and not by the Solicitor General. While it is the public prosecutor who represents the People in criminal cases before the trial courts, it is only the Solicitor General that is authorized to bring or defend actions in behalf of the People or Republic of the Philippines once the case is brought up before this Court or the Court of Appeals (*People v. Calo*, 186 SCRA 620 1990 ; citing *Republic v. Partisala*, 118 SCRA 320 1982); *City Fiscal of Tacloban v. Espina*, 166 SCRA 614 1988. Defective as it is, the Court, nevertheless, took cognizance of the petition in view of the gravity of the error allegedly committed by the respondent judge against the prosecution denial of due process as well as the manifestation and motion filed by the Office of the Solicitor General praying that the instant petition be treated as if filed by the said office. In view thereof, We now consider the People as the sole petitioner in the case duly represented by the Solicitor General. Payment of legal fees is therefore no longer necessary in accordance with Sec. 16, Rule 141 of the Rules of Court.

The above notwithstanding, this Court has also entertained petitions such as the case at bar in the interest of substantial justice and speedy and inexpensive determination of the case (*People v. Calo*, supra; *People v. Dacudao*, 170 SCRA 489 1989) and liberal construction of the Rules of Court (*Paredes v. Gopengco*, 29 SCRA 688 1969). As held in *Paredes*:

"x x x, 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" (*Del Rosario v. Mercado*, L-25710, August 28, 1969).

Coming now to the merits of the case. We find the assailed order of respondent judge tainted with arbitrariness and grave abuse of discretion. If the accused is entitled to due process, so is the prosecution. And the reason is obvious. As aptly stated in *People v. San Diego* (26 SCRA 522 1968); see also *People v. Sola*, 103 SCRA 393

1981:

"x x x 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."

An order granting or refusing bail must contain a summary of the evidence offered by prosecution. On the basis thereof, the judge should then formulate his own conclusion as to whether the evidence so presented is strong enough as to indicate guilt and thereby cause the continued detention of the accused. Otherwise, the accused must be released on bail.

It is at once apparent from a cursory glance of the assailed order of respondent judge that there is much to be desired. It is utterly defective in form and substance: no recital of any evidence presented by the prosecution, much less a conclusion therefrom or a pronouncement that the evidence of guilt of the accused is not evident. As such, the challenged order of respondent judge cannot be sustained much less be given a semblance of validity.

That the accused belongs to a respected family, as respondent's counsel insinuates, is of no moment. Nothing is more settled than that where the People is deprived of due process, an order granting bail to the accused charged of a capital offense without affording the prosecution the opportunity to adduce proof of guilt is a patent nullity and must be struck down for being null and void.

Respondent's counsel further argues, however, that granting that the evidence of guilt is strong against the accused, he may, nevertheless, be admitted to bail as a matter of discretion.

The argument is devoid of merit. Admission to bail as a matter of discretion presupposes the exercise thereof in accordance with law and guided by the applicable legal principles.

The prosecution must first be accorded an opportunity to present evidence because by the very nature of deciding applications for bail, it is on the basis of such evidence that judicial discretion is weighed against in determining whether the guilt of the accused is strong.

In other words, discretion must be exercised regularly, legally and within the confines of procedural due process, i.e., after evaluation of the evidence submitted by the prosecution. Any order issued in the absence thereof is not a product of sound judicial discretion but of whim and caprice and outright arbitrariness.

WHEREFORE, the instant petition is hereby GRANTED. The assailed order of respondent judge dated July 17, 1990 admitting to bail accused/respondent Rolando Bohol is SET ASIDE and the accused is ordered RECOMMITTED to jail pending the determination of the result on the hearing for application for bail. The Clerk of Court is hereby directed to reimburse private prosecutor of the amount paid for legal fees.

SO ORDERED.

Gutierrez, Jr., Feliciano, Davide, Jr., and Romero, JJ., concur.

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