

ANTONIO L. SANCHEZ, PETITIONER, VS. THE HONORABLE HARRIET O. DEMETRIOU (IN HER CAPACITY AS PRESIDING JUDGE OF REGIONAL TRIAL COURT, NCR, BRANCH 70, PASIG), THE HONORABLE FRANKLI...

G.R. Nos. 111771-77. November 09, 1993

Ponente: CRUZ, J.

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CRUZ, J.:

There is probably no more notorious person in the country today than Mayor Antonio L. Sanchez of Calauan, Laguna, who stands accused of an unspeakable crime. On him, the verdict has already been rendered by many outraged persons who would immediately impose on him an angry sentence. Yet, for all the prejudgments against him, he is under our Constitution presumed innocent as long as the contrary has not been proved. Like any other person accused of an offense, he is entitled to the full and vigilant protection of the Bill of Rights.

Sanchez has brought this petition to challenge the order of the respondent judge denying his motion to quash the informations for rape with homicide filed against him and six other persons. We shall treat it as we would any other suit filed by any litigant hoping to obtain a just and impartial judgment from this Court.

The pertinent facts are as follows:

On July 28, 1993, the Presidential Anti-Crime Commission requested the filing of appropriate charges against several persons, including the petitioner, in connection with the rape-slay of Mary Eileen Sarmenta and the killing of Allan Gomez.

Acting on this request, the Panel of State Prosecutors of the Department of Justice conducted a preliminary investigation on August 9, 1993. Petitioner Sanchez was not present but was represented by his counsel, Atty. Marciano Brion, Jr..

On August 12, 1993, PNP Commander Rex Piad issued an "invitation" to the petitioner requesting him to appear for investigation at Camp Vicente Lim in Canlubang, Laguna. It was served on Sanchez in the morning of August 13, 1993, and he was immediately taken to the said camp.

At a confrontation that same day, Sanchez was positively identified by Aurelio Centeno and SPO III Vivencio Malabanan, who both executed extrajudicial confessions implicating him as a principal in the rape-slay of Sarmenta and the killing of Gomez. The petitioner was then placed on "arrest status" and taken to the Department of Justice in Manila.

The respondent prosecutors immediately conducted an inquest upon his arrival, with Atty. Salvador Panelo as his counsel.

After the hearing, a warrant of arrest was served on Sanchez. This warrant was issued on August 13, 1993, by Judge Enrico A. Lanzas of the Regional Trial Court of Manila, Branch 7, in connection with Criminal Cases

Nos. 93-124634 to 93-124637 for violation of Section 8, in relation to Section 11, of R.A. No. 6713. Sanchez was forthwith taken to the CIS Detention Center, Camp Crame, where he remains confined.

On August 16, 1993, the respondent prosecutors filed with the Regional Trial Court of Calamba, Laguna, seven informations charging Antonio L. Sanchez, Luis Corcolon, Rogelio Corcolon, Pepito Kawit, Baldwin Brion, Jr., George Medialdea and Zoilo Ama with the rape and killing of Mary Eileen Sarmenta.

On August 26, 1993, Judge Eustaquio P. Sto. Domingo of that court issued a warrant for the arrest of all the accused, including the petitioner, in connection with the said crime.

The respondent Secretary of Justice subsequently expressed his apprehension that the trial of the said cases might result in a miscarriage of justice because of the tense and partisan atmosphere in Laguna in favor of the petitioner and the relationship of an employee in the trial court with one of the accused. This Court thereupon ordered the transfer of the venue of the seven cases to Pasig, Metro Manila, where they were raffled to respondent Judge Harriet Demetriou.

On September 10, 1993, the seven informations were amended to include the killing of Allan Gomez as an aggravating circumstance.

On that same date, the petitioner filed a motion to quash the informations substantially on the grounds now raised in this petition. On September 13, 1993, after oral arguments, the respondent judge denied the motion. Sanchez then filed with this Court the instant petition for certiorari and prohibition with prayer for a temporary restraining order/writ of injunction.

The petitioner argues that the seven informations filed against him should be quashed because: 1) he was denied the right to present evidence at the preliminary investigation; 2) only the Ombudsman had the competence to conduct the investigation; 3) his warrantless arrest is illegal and the court has therefore not acquired jurisdiction over him; 4) he is being charged with seven homicides arising from the death of only two persons; 5) the informations are discriminatory because they do not include Teofilo Alqueza and Edgardo Lavadia; and 6) as a public officer, he can be tried for the offense only by the Sandiganbayan.

The respondents submitted a Comment on the petition, to which we required a Reply from the petitioner within a non-extendible period of five days.[1] The Reply was filed five days late.[2] The Court may consider his non-compliance an implied admission of the respondents' arguments or a loss of interest in prosecuting his petition, which is a ground for its dismissal. Nevertheless, we shall disregard this procedural lapse and proceed to discuss his petition on the basis of the arguments before us.

The Preliminary Investigation

The records of the hearings held on August 9 and 13, 1993, belie the petitioner's contention that he was not accorded the right to present counter-affidavits.

During the preliminary investigation on August 9, 1993, the petitioner's counsel, Atty. Marciano Brion, manifested that his client was waiving the presentation of a counter-affidavit, thus:

Atty. Brion, Jr.:

[W]e manifest that after reviewing them there is nothing to rebut or countermand all these statements as far as Mayor Sanchez is concerned. We are not going to submit any counter-affidavit.

ACSP Zuño to Atty. Brion:

x x x

Q. So far, there are no other statements.

A. If there is none then, we will not submit any counter-affidavit because we believe there is nothing to rebut or countermand with all these statements.

Q. So, you are waiving your submission of counter-affidavit?

A. Yes, your honor, unless there are other witnesses who will come up soon.[3]

Nonetheless, the head of the Panel of Prosecutors, respondent Jovencito Zuño, told Atty. Brion that he could still file a counter-affidavit up to August 27, 1993. No such counter-affidavit was filed.

During the hearing on August 13, 1993, respondent Zuño furnished the petitioner's counsel, this time Atty. Salvador Panelo, with copies of the sworn statements of Centeno and Malabanan, and told him he could submit counter-affidavits on or before August 27, 1993. The following exchange ensued:

ACSP Zuño:

For the record, we are furnishing to you the sworn statement of witness Aurelio Centeno y Roxas and the sworn statement of SPO3 Vivencio Malabanan y Angeles.

Do I understand from you that you are again waiving the submission of counter-affidavit?

Atty. Panelo:

Yes.

ACSP Zuño:

So, in so far as the respondent, Mayor Antonio Sanchez is concerned, this case is submitted for resolution.[4]

On the other hand, there is no support for the petitioner's subsequent manifestation that his counsel, Atty. Brion, was not notified of the inquest held on August 13, 1993, and that he was not furnished with the affidavits sworn to on that date by Vivencio Malabanan and Aurelio Centeno, or with their supplemental affidavits dated August 15, 1993. Moreover, the above-quoted excerpt shows that the petitioner's counsel at the hearing held on August 13, 1993, was not Atty. Brion but Atty. Panelo.

The petitioner was present at that hearing and he never disowned Atty. Panelo as his counsel. During the entire proceedings, he remained quiet and let this counsel speak and argue on his behalf. It was only in his tardy Reply that he has suddenly bestirred himself and would now question his representation by this lawyer as unauthorized and inofficious.

Section 3, paragraph (d), Rule 112 of the Rules of Court, provides that if the respondent cannot be subpoenaed or, if subpoenaed, does not submit counter-affidavits, the investigating officer shall base his resolution on the evidence presented by the complainant.

Just as the accused may renounce the right to be present at the preliminary investigation,[5] so may he waive the right to present counter-affidavits or any other evidence in his defense.

At any rate, it is settled that the absence of a preliminary investigation does not impair the validity of the information or otherwise render the same defective and neither does it affect the jurisdiction of the court over the case or constitute a ground for quashing the information.[6]

If no preliminary investigation has been held, or if it is flawed, the trial court may, on motion of the accused, order an investigation or reinvestigation and hold the proceedings in the criminal cases in abeyance.[7] In the case

at bar, however, the respondent judge saw no reason or need for such a step. Finding no arbitrariness in her factual conclusions, we shall defer to her judgment.

Jurisdiction of the Ombudsman

Invoking the case of *Deloso v. Domingo*,^[8] the petitioner submits that the proceedings conducted by the Department of Justice are null and void because it had no jurisdiction over the case. His claim is that it is the Office of the Ombudsman that is vested with the power to conduct the investigation of all cases involving public officers like him, as the municipal mayor of Calauan, Laguna.

The Ombudsman is indeed empowered under Section 15, paragraph (1) of R.A. 6770 to investigate and prosecute any illegal act or omission of any public official. However, as we held only two years ago in the case of *Aguinaldo v. Domagas*,^[9] this authority "is not an exclusive authority but rather a shared or concurrent authority in respect of the offense charged."

Petitioners finally assert that the information and amended information filed in this case needed the approval of the Ombudsman. It is not disputed that the information and amended information here did not have the approval of the Ombudsman. However, we do not believe that such approval was necessary at all. In *Deloso v. Domingo*, 191 SCRA 545 (1990), the Court held that the Ombudsman has authority to investigate charges of illegal acts or omissions on the part of any public official, i.e., any crime imputed to a public official. It must, however, be pointed out that the authority of the Ombudsman to investigate "any [illegal] act or omission of any public official" (191 SCRA at 550) is not an exclusive authority but rather a shared or concurrent authority in respect of the offense here charged, i.e., the crime of sedition. Thus, the non-involvement of the office of the Ombudsman in the present case does not have any adverse legal consequence upon the authority of the panel of prosecutors to file and prosecute the information or amended information.

In fact, other investigatory agencies of the government such as the Department of Justice, in connection with the charge of sedition,^[10] and the Presidential Commission on Good Government, in ill-gotten wealth cases,^[11] may conduct the investigation.

The Arrest

Was petitioner Sanchez arrested on August 13, 1993?

"Arrest" is defined under Section 1, Rule 113 of the Rules of Court as the taking of a person into custody in order that he may be bound to answer for the commission of an offense. Under Section 2 of the same Rule, an arrest is effected by an actual restraint of the person to be arrested or by his voluntary submission to the custody of the person making the arrest.

Application of actual force, manual touching of the body, physical restraint or a formal declaration of arrest is not required. It is enough that there be an intent on the part of one of the parties to arrest the other and an intent on the part of the other to submit, under the belief and impression that submission is necessary.^[12]

The petitioner was taken to Camp Vicente Lim, Canlubang, Laguna, by virtue of a letter-invitation issued by PNP Commander Rex Piad requesting him to appear at the said camp for investigation.

In *Babst v. National Intelligence Board*^[13] this Court declared:

Be that as it may, it is not idle to note that ordinarily, an invitation to attend a hearing and answer some questions, which the person invited may heed or refuse at his pleasure, is not illegal or constitutionally objectionable. Under certain circumstances, however, such an invitation can easily assume a different appearance. Thus, where the invitation comes from a powerful group composed predominantly of ranking military officers issued at a time when the country has just emerged from martial rule and when the suspension

of the privilege of the writ of habeas corpus has not entirely been lifted, and the designated interrogation site is a military camp, the same can easily be taken, not as a strictly voluntary invitation which it purports to be, but as an authoritative command which one can only defy at his peril x x x. (Emphasis supplied)

In the case at bar, the invitation came from a high-ranking military official and the investigation of Sanchez was to be made at a military camp. Although in the guise of a request, it was obviously a command or an order of arrest that the petitioner could hardly be expected to defy. In fact, apparently cowed by the "invitation," he went without protest (and in informal clothes and slippers only) with the officers who had come to fetch him.

It may not be amiss to observe that under R.A. No. 7438, the requisites of a "custodial investigation" are applicable even to a person not formally arrested but merely "invited" for questioning.

It should likewise be noted that at Camp Vicente Lim, the petitioner was placed on "arrest status" after he was pointed to by Centeno and Malabanan as the person who first raped Mary Eileen Sarmenta. Respondent Zuño himself acknowledged during the August 13, 1993 hearing that, on the basis of the sworn statements of the two state witnesses, the petitioner had been "arrested."

We agree with the petitioner that his arrest did not come under Section 5, Rule 113 of the Rules of Court, providing as follows:

Sec. 5. Arrest without warrant; when lawful. - A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has in fact just been committed and he has personal knowledge of facts indicating that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

It is not denied that the arresting officers were not present when the petitioner allegedly participated in the killing of Allan Gomez and the rape-slay of Mary Eileen Sarmenta. Neither did they have any personal knowledge that the petitioner was responsible therefor because the basis of the arrest was the sworn statements of Centeno and Malabanan. Moreover, as the rape and killing of Sarmenta allegedly took place on June 28 - June 29, 1993, or forty-six days before the date of the arrest, it cannot be said that the offense had "in fact just been committed" when the petitioner was arrested.

The original warrantless arrest of the petitioner was doubtless illegal. Nevertheless, the Regional Trial Court lawfully acquired jurisdiction over the person of the petitioner by virtue of the warrant of arrest it issued on August 26, 1993 against him and the other accused in connection with the rape-slay cases. It was belated, to be sure, but it was nonetheless legal.

Even on the assumption that no warrant was issued at all, we find that the trial court still lawfully acquired jurisdiction over the person of the petitioner. The rule is that if the accused objects to the jurisdiction of the court over his person, he may move to quash the information, but only on that ground. If, as in this case, the accused raises other grounds in the motion to quash, he is deemed to have waived that objection and to have submitted his person to the jurisdiction of the court.[14]

The Court notes that on August 13, 1993, after the petitioner was unlawfully arrested, Judge Lanzas issued a

warrant of arrest against Antonio L. Sanchez in connection with Criminal Cases Nos. 93-124634 to 93-124637 for violation of R.A. No. 6713.[15] Pending the issuance of the warrant of arrest for the rape-slay cases, this first warrant served as the initial justification for his detention.

The Court also adverts to its uniform ruling that the filing of charges, and the issuance of the corresponding warrant of arrest, against a person invalidly detained will cure the defect of that detention or at least deny him the right to be released because of such defect.* Applicable by analogy to the case at bar is Rule 102 Section 4 of the Rules of Court that:

Sec. 4. When writ is not allowed or discharge authorized. - If it appears that the person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or judge or by virtue of a judgment or order of a court of record, and that the court or judge had jurisdiction to issue the process, render the judgment, or make the order, the writ shall not be allowed; or if the jurisdiction appears after the writ is allowed, the person shall not be discharged by reason of any informality or defect in the process, judgment, or order. Nor shall anything in this rule be held to authorize the discharge of a person charged with or convicted of an offense in the Philippines or of a person suffering imprisonment under lawful judgment.

In one case,[16] the petitioner sued on habeas corpus on the ground that she had been arrested by virtue of a John Doe warrant. In their return, the respondents declared that a new warrant specifically naming her had been issued, thus validating her detention. While frowning at the tactics of the respondents, the Court said:

The case has, indeed, become moot and academic inasmuch as the new warrant of arrest complies with the requirements of the Constitution and the Rules of Court regarding the particular description of the person to be arrested. While the first warrant was unquestionably void, being a general warrant, release of the petitioner for that reason will be a futile act as it will be followed by her immediate re-arrest pursuant to the new and valid warrant, returning her to the same prison she will just have left. This Court will not participate in such a meaningless charade.

The same doctrine has been consistently followed by the Court,[17] more recently in the Umil case.[18]

The Informations

The petitioner submits that the seven informations charging seven separate homicides are absurd because the two victims in these cases could not have died seven times.

This argument was correctly refuted by the Solicitor General in this wise:

Thus, where there are two or more offenders who commit rape, the homicide committed on the occasion or by reason of each rape, must be deemed as a constituent of the special complex crime of rape with homicide. Therefore, there will be as many crimes of rape with homicide as there are rapes committed.

In effect, the presence of homicide qualifies the crime of rape, thereby raising its penalty to the highest degree. Thus, homicide committed on the occasion or by reason of the rape, loses its character as an independent offense, but assumes a new character, and functions like a qualifying circumstance. However, by fiction of law, it is merged with rape to constitute a constituent element of a special complex crime of rape with homicide with a specific penalty which is in the highest degree, i.e., death (reduced to reclusion perpetua with the suspension of the application of the death penalty by the Constitution).

It is clearly provided in Rule 110 of the Rules of Court that:

Section 13. Duplicity of offense. A complaint or information must charge but one offense, except only in those cases in which existing laws prescribe a simple punishment for various offenses.

Rape with homicide comes within the exception under R.A. 2632 and R.A. 4111, amending the Revised Penal

Code.

The petitioner and his six co-accused are not charged with only one rape committed by him in conspiracy with the other six. Each one of the seven accused is charged with having himself raped Sarmenta instead of simply helping Sanchez in committing only one rape. In other words, the allegation of the prosecution is that the girl was raped seven times, with each of the seven accused taking turns in abusing her with the assistance of the other six. Afterwards, their lust satisfied, all seven of them decided to kill and thus silence Sarmenta.

Every one of the seven accused is being charged separately for actually raping Sarmenta and later killing her instead of merely assisting the petitioner in raping and then slaying her. The separate informations filed against each of them allege that each of the seven successive rapes is complexed by the subsequent slaying of Sarmenta and aggravated by the killing of Allan Gomez by her seven attackers. The separate rapes were committed in succession by the seven accused, culminating in the slaying of Sarmenta.

It is of course absurd to suggest that Mary Eileen Sarmenta and Allan Gomez were killed seven times, but the informations do not make such a suggestion. It is the petitioner who does so and is thus hoist by his own petard.

The Alleged Discrimination

The charge of discrimination against the petitioner because of the non-inclusion of Teofilo Alqueza and Edgardo Lavadia in the informations must also be dismissed.

While the prosecuting officer is required by law to charge all those who, in his opinion, appear to be guilty, he nevertheless cannot be compelled to include in the information a person against whom he believes no sufficient evidence of guilt exists.[19] The appreciation of the evidence involves the use of discretion on the part of the prosecutor, and we do not find in the case at bar a clear showing by the petitioner of a grave abuse of such discretion.[20]

The decision of the prosecutor may be reversed or modified by the Secretary of Justice or in special cases by the President of the Philippines.[21] But even this Court cannot order the prosecution of a person against whom the prosecutor does not find sufficient evidence to support at least a prima facie case. The courts try and absolve or convict the accused but as a rule have no part in the initial decision to prosecute him.

The possible exception is where there is an unmistakable showing of a grave abuse of discretion that will justify judicial intrusion into the precincts of the executive. But in such a case the proper remedy to call for such exception is a petition for mandamus, not certiorari or prohibition.[22] Moreover, before resorting to this relief, the party seeking the inclusion of another person as a co-accused in the same case must first avail itself of other adequate remedies such as the filing of a motion for such inclusion.[23]

At any rate, it is a preposterous contention that because no charges have been filed against Alqueza and Lavadia, the charges against the petitioner and his co-accused should also be dropped.

Jurisdiction of the Sandiganbayan

The petitioner argued earlier that since most of the accused were incumbent public officials or employees at the time of the alleged commission of the crimes, the cases against them should come under the jurisdiction of the Sandiganbayan and not of the regular courts. This contention was withdrawn in his Reply but we shall discuss it just the same for the guidance of all those concerned.

Section 4, paragraph (a) of P.D. No. 1606, as amended by P.D. No. 1861, provides:

Sec. 4. Jurisdiction. - The Sandiganbayan shall exercise:

a) Exclusive original jurisdiction in all cases involving:

(1) Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code;

(2) Other offenses or felonies committed by public officers and employees in relation to their office, including those employed in government-owned or controlled corporations, whether simple or complexed with other crimes, where the penalty prescribed by law is higher than prison correccional or imprisonment for six (6) years, or a fine of P6,000.00 x x x. (Emphasis supplied)

The crime of rape with homicide with which the petitioner stands charged obviously does not fall under paragraph (1), which deals with graft and corruption cases. Neither is it covered by paragraph (2) because it is not an offense committed in relation to the office of the petitioner.

In *Montilla v. Hilario*,^[24] this Court described the "offense committed in relation to the office" as follows:

[T]he relation between the crime and the office contemplated by the Constitution is, in our opinion, direct and not accidental. To fall into the intent of the Constitution, the relation has to be such that, in the legal sense, the offense cannot exist without the office. In other words, the office must be a constituent element of the crime as defined in the statute, such as, for instance, the crimes defined and punished in Chapter Two to Six, Title Seven, of the Revised Penal Code.

Public office is not of the essence of murder. The taking of human life is either murder or homicide whether done by a private citizen or public servant, and the penalty is the same except when the perpetrator, being a public functionary, took advantage of his office, as alleged in this case, in which event the penalty is increased.

But the use or abuse of office does not adhere to the crime as an element; and even as an aggravating circumstance, its materiality arises, not from the allegations but on the proof, not from the fact that the criminals are public officials but from the manner of the commission of the crime.

There is no direct relation between the commission of the crime of rape with homicide and the petitioner's office as municipal mayor because public office is not an essential element of the crime charged. The offense can stand independently of the office. Moreover, it is not even alleged in the information that the commission of the crime charged was intimately connected with the performance of the petitioner's official functions to make it fall under the exception laid down in *People v. Montejo*.^[25]

In that case, a city mayor and several detectives were charged with murder for the death of a suspect as a result of a "third degree" investigation held at a police substation. The appearance of a senator as their counsel was questioned by the prosecution on the ground that he was inhibited by the Constitution from representing them because they were accused of an offense committed in relation to their office. The Court agreed. It held that even if their position was not an essential ingredient of the offense, there was nevertheless an intimate connection between the office and the offense, as alleged in the information, that brought it within the definition of an offense "committed in relation to the public office."

As Chief Justice Concepcion said:

It is apparent from these allegations that, although public office is not an element of the crime of murder in abstract, as committed by the main respondents herein, according to the amended information, the offense therein charged is intimately connected with their respective offices and was perpetrated while they were in the performance, though improper or irregular, of their official functions. Indeed, they had no personal motive to commit the crime and they would not have committed it had they not held their aforesaid offices. The co-defendants of respondent Leroy S. Brown, obeyed his instructions because he was their superior officer, as

Mayor of Basilan City. (Emphasis supplied).

We have read the informations in the case at bar and find no allegation therein that the crime of rape with homicide imputed to the petitioner was connected with the discharge of his functions as municipal mayor or that there is an "intimate connection" between the offense and his office. It follows that the said crime, being an ordinary offense, is triable by the regular courts and not the Sandiganbayan.

Conclusion

As above demonstrated, all of the grounds invoked by the petitioner are not supported by the facts and the applicable law and jurisprudence. They must, therefore, all be rejected. In consequence, the respondent judge, who has started the trial of the criminal cases against the petitioner and his co-accused, may proceed therewith without further hindrance.

It remains to stress that the decision we make today is not a decision on the merits of the criminal cases being tried below. These will have to be decided by the respondent judge in accordance with the evidence that is still being received. At this time, there is yet no basis for judgment, only uninformed conjecture. The Court will caution against such irrelevant public speculations as they can be based only on imperfect knowledge if not officious ignorance.

WHEREFORE, the petition is DISMISSED. The respondent judge is DIRECTED to continue with the trial of Criminal Cases Nos. 101141, 101142, 101143, 101144, 101145, 101146 and 101147 and to decide them with deliberate dispatch.

SO ORDERED.

Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Nocon, Melo, Quiason, Puno, and Vitug, JJ., concur.
Narvasa, C.J., no part.
Bellosillo, J., on leave.

[1] Resolution dated October 5, 1993.

[2] The petitioner claims in his Reply to have received the resolution on October 15, 1993. The Reply was filed only on October 25, 1993.

[3] TSN, August 9, 1993, pp. 10-11.

[4] TSN, August 13, 1993, pp. 7-10.

[5] *Guzman v. People*, 119 SCRA 337; *Cruz v. Salva*, 105 Phil. 1151.

[6] *Go v. Court of Appeals*, 206 SCRA 138; *Rodis v. Sandiganbayan*, 166 SCRA 618; *Sanciangco, Jr. v. People*, 149 SCRA 1; *People v. Gomez*, 117 SCRA 72; *People v. Yutila*, 102 SCRA 264; *Solis v. People*, 84 SCRA 377; *People v. Figueroa*, 27 SCRA 1239; *People v. Casiano*, 111 Phil 73.

[7] *Go v. Court of Appeals*, supra; *Velaquez v. Tuquero*, 182 SCRA 388; *Crespo v. Mogul*, 151 SCRA 462; *People v. La Caste*, 37 SCRA 767.

[8] 191 SCRA 545.

[9] G.R. No. 98452, September 26, 1991.

[10] *Aguinaldo v. Domagas*, supra.

[11] *Panlilio v. Sandiganbayan*, 210 SCRA 421; *Virata v. Sandiganbayan*, 202 SCRA 680; *Cojuangco v. Presidential Commission on Good Government*, 190 SCRA 226.

[12] 5 Am Jur 2d, p. 696.

[13] 132 SCRA 318.

[14] Regalado, *Remedial Law Compendium Book 2*, 1989 Ed., p. 318 citing 22 C.J.S. 1961 Ed., p. 418.

[15] Annex 1, Comment.

* The writer of this opinion has objected to this ruling but without success. While maintaining his dissent in this case, he nevertheless must acknowledge the binding character of this doctrine.

[16] *Dugay, et al v. Ramos*, G.R. No. 75221, January 15, 1987.

[17] *Harvey v. Defensor-Santiago*, 162 SCRA 840; *Domingo v. Minister of National Defense, et al.*, 124 SCRA 529; *Beltran v. Garcia*, 89 SCRA 717; *Dela Plata v. Escarcha*, 78 SCRA 208; *Cruz v. Montoya*, 62 SCRA 543.

[18] 187 SCRA 312 and 202 SCRA 215.

[19] *Alberto v. de la Cruz*, 98 SCRA 406; *People v. Santos*, 30 SCRA 100; *People v. Agasang*, 60 Phil 182; *People v. Ong*, 53 Phil. 544.

[20] *Maddela v. Aquino*, 104 Phil. 433; *People v. Morton*, 23 SCRA 1024; *Guiao v. Figueroa*, 94 Phil. 1018.

[21] Section 1, par. (d) P.D. No. 911; Section 4, Rule 112, 1985 Rules on Criminal Procedure; Department Circular No. 7, January 25, 1990; Memorandum Circular No. 1266; *Vda. de Jacob v. Puno*, 131 SCRA 144; *Crespo v. Mogul*, supra.

[22] Section 3, Rule 65, Rules of Court; *Baylosis v. Chavez*, 202 SCRA 405; *De Castro, et al., v. Castañeda, et al.*, 1 SCRA 1131; *Guiao v. Figueroa*, 94 Phil 1018.

[23] *Aquino v. Mariano*, 129 SCRA 532.

[24] 90 Phil. 49.

[25] 108 Phil. 613.

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