

PABLO G. QUIÑON, PETITIONER, VS. SANDIGANBAYAN AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. 113908 & 114819. April 18, 1997

Ponente: NARVASA, C.J.

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NARVASA, C.J.:

The special civil actions of certiorari and prohibition at bar treat of two (2) criminal actions, both against the same accused, herein petitioner, and both pending in the Sandiganbayan. One is docketed as Criminal Case No. 16279; the other, Criminal Case No. 19561.

Criminal Case No. 16279

On November 5, 1990, an information was filed in the Sandiganbayan against Pablo B. Quiñon, then the Station Commander of Calinog, Iloilo PC/INP, charging him with the felony of "malversation of public properties" under Article 217 of the Revised Penal Code. The information alleged that on or about March 14, 1988, having come into the possession and control in his official capacity of two (2) pistols and their magazines, and one (1) shotgun, with a total value of P15,000.00, and being accountable, by reason of the duties of his office, for public properties coming to his possession and control, he applied and converted the firearms to his personal use and benefit to the damage and prejudice of the government. The case was docketed as Criminal Case No. 16279, and raffled to the Third Division.

On arraignment, Quiñon entered a plea of not guilty, after which the case was set for pre-trial and trial on July 18, and 19, 1991. At the instance of Quiñon and his counsel, Atty. Teodulo Colado, the pre-trial and trial were reset to September 16, and 17, 1992 for the reason that Colada had been appointed Municipal Judge of Cabatuan, Isabela.

On September 16, 1991, Quiñon's new counsel, Atty. Gerardo B. Roldan, Jr., filed a motion to reset the case to November 12, 14 and 15, 1991, pleading other important commitments and his lack of preparation for trial. The Sandiganbayan reset the case to November 14, and 15, 1991.

On November 14, 1991 only Atty. Roldan appeared, alleging he could not get in touch with Quiñon. It appearing that Quiñon had been duly notified of the hearing through personal service of subpoena and through his bondsmen, and on motion of the Public Prosecutor, the Sandiganbayan thereupon ordered Quiñon arrested, his bond confiscated, and the case reset on January 23 and 24, 1992.

On January 8, 1992, Atty. Roldan sought reconsideration of the Order of November 14, 1991. He argued that Quiñon's failure to appear on that date was due to inability to travel on account of hypertension, a medical certificate of a Dr. Renato Armada, Rural Health Physician of Janiway, Iloilo dated November 8, 1992 being submitted in substantiation. The Court set aside its Order of November 14, 1991 and recalled the warrant for Quiñon's arrest. The setting of January 23 and 24 was maintained.

Quiñon again failed to appear in Court for the hearing of January 23, 1992, the same reason being adduced: essential hypertension. The Sandiganbayan directed the aforementioned Dr. Renato Armada, and the Provincial

Health Officer, to examine Quiñon and submit a report of their findings within ten days. The hearing was once more reset to March 25 and 26, 1992, and then, on account of an error in scheduling, to April 7 and 8, 1992.

The hearing was scheduled anew on June 9 and 10, 1992, on Quiñon's averment that he could not appear on April 7 and 8, 1992 because he was suffering dizziness on account of hypertension.

On June 9, 1992, Atty. Geraldo Roldan filed a motion for leave to withdraw as counsel for Quiñon on the ground that having been elected municipal councilor of Mandaluyong, Metro Manila, he (Roldan) was no longer allowed to practice by reason of "the effectivity of the Local Government Code of 1991 (Republic Act No. 7160) on January 1, 1992 **." However, by Order dated June 9, 1992, the Sandiganbayan denied the motion "in the meantime" because it did not bear Quiñon's conformity, and required that notice of the motion be given to Quiñon so that, "if he conforms thereto, he can proceed to retain another counsel to defend him" (Annex C, petition).

Quiñon did not show up on June 9, 1992 although, as shown by the records, subpoena had been duly served on him through both his wife, Leticia L. Quiñon, and his bondsmen (Gregorio Brasileño and Asuncion Armada). Accordingly, the Court issued another Order which, observing that Quiñon had put in an appearance only once, at his arraignment, and had been absent during all the six (6) times that the case had been set for pre-trial and trial, required him to show cause in ten (10) days why he should not be held in contempt for failing to appear; and reset the case for pre-trial and trial on November 5 and 6, 1992 at 8:30 o'clock A.M. The subpoena was served on Quiñon, again through both his wife, Leticia, and his bondsmen.

This time, on November 5, 1992, Quiñon put in an appearance, but without his lawyer. Quiñon advised the Court that his lawyer was down with typhoid fever, and asked that the case be reset. The Sandiganbayan acceded, and transferred the pre-trial and trial to February 23 and 24, 1993. The corresponding subpoena was served on Quiñon and his bondsmen.

Quiñon failed to present himself on February 23, 1993. Instead he caused submission to the Court of an affidavit of his, once more adverting to his "severe dizziness" as evidenced by a medical certificate of Dr. Noel Gigare of the Janiuary District Hospital, dated February 19, 1993.

The Sandiganbayan dealt with the affidavit on the day following. It issued an Order dated February 24, 1993, in which it deemed the affidavit to be "in fact ** a request for postponement of the case on account of an alleged illness of the accused;" noted the prosecution's objection thereto; recalled that in prior "settings, accused and counsel had asked for postponement of trial on the same ground;" agreed with the prosecution's observation that "it takes time, energy and great expense for witnesses to come all the way from Iloilo and so, if they come only to find that the accused has asked for postponement of trial, it engenders disappointment to the prosecution and embarrassment to the Court;" remarked that "the excuses put up by the accused ** were flimsy and obviously designed to delay trial;" considered the accused "to have waived his presence during trial today" and authorized the "prosecution ** (to) proceed to present evidence in accordance with law."

The prosecution thereupon presented its proofs and then rested its case, after which the Sandiganbayan issued another Order to the effect that "the accused Pablo Quiñon may present evidence in his defense on July 22 and 23, 1993, at 8:30 o'clock in the morning."

Neither Quiñon nor his counsel came to the Court on the appointed date, July 22, 1993. After waiting until 11 o'clock that morning, the Sandiganbayan issued an Order in open Court declaring the case submitted for decision, Quiñon's "failure to appear notwithstanding ** that notice was given to him and that he was given the opportunity to present evidence today ** (being) considered a waiver of his right to present evidence;" directing the prosecutor "to present a memorandum for the prosecution within ten (10) days;" and commanding that Quiñon be

arrested, his bond confiscated, and his bondsmen required to produce him within thirty (30) days and "show cause in writing why judgment on the bond shall not be rendered under the circumstances." As directed, the prosecution filed on July 28, 1993 a memorandum recommending conviction of Quiñon of the felony charged.

Ten weeks or so afterwards, or on October 8, 1993, Quiñon filed a motion seeking reconsideration of the Sandiganbayan's Orders of February 24, 1993 and July 22, 1993, claiming denial of due process as his lawyer (Atty. Roldan) had not been notified of the hearings of February 23, 1993 and July 22, 1992; that his failure to appear on February 23 and 24, 1993 was justified by illness, as certified by Dr. Gigare's certificate dated February 19, 1993; and that although the subpoena received by him for the hearing of July 22 and 23, 1993 directed him to inform his counsel thereof, his inability to get in touch with the latter made him decide not appear on said dates. The motion was denied by Resolution of the Sandiganbayan dated January 18, 1994 which "consequently deemed (the case) ready for decision." At this time, Quiñon was being represented by still another counsel, Atty. Ramon A. Gonzales.

G.R. No. 13908

Quiñon filed with this Court a petition for certiorari and prohibition, dated February 22, 1994 -- docketed as G.R. No. 13908. The petition (1) alleged (a) that the Sandiganbayan had no jurisdiction to try the case against him; (b) that the facts charged do not constitute an offense; and (c) that the Sandiganbayan was gravely abusing its jurisdiction "in denying petitioner's motion to re-open the case and present evidence after the prosecution ** rested its case; and (2) prayed for annulment, and perpetual proscription of enforcement, of the Orders of February 24, 1993, July 22, 1993, and January 18, 1994 or, alternatively, that Quiñon be allowed "to cross-examine the People's witnesses and adduce evidence in his behalf."

Criminal Case No. 19561

At about the time of the rendition (on February 24, 1993) of the first Order challenged in G.R. No. 13908, another event occurred which has since given rise to another proceeding involving Quiñon. This was the filing in the Office of the Iloilo Provincial Prosecution, on or about February 20, 1993, of another criminal complaint against Quiñon, resulting in the filing by the Office of the Ombudsman, after preliminary investigation, of an information dated August 2, 1993 also charging him with "malversation of public property." The indictment averred that on or about January 7, 1993, there were issued to Quiñon government property consisting of two (2) revolvers and a shotgun with a total value of P16,000.00, and once in possession thereof he did, with abuse of trust and confidence, malverse, misappropriate and convert to his own personal use said firearms to the damage and prejudice of the government. The case was docketed as Criminal Case No. 19561 and raffled to the First Division.

Quiñon filed a motion to quash the information on February 22, 1994 on the ground that:

- 1) the information did not charge an offense as it did not allege that he was an accountable public officer having "custody of subject firearms and in-charge of their safekeeping," and not being an accountable officer, he may not be charged with malversation under Article 217 of the Revised Penal Code;
- 2) the Sandiganbayan had no jurisdiction to try the felony because the complaint was originally filed with the Iloilo prosecution office which consequently acquired jurisdiction over it to the exclusion of the Ombudsman; and
- 3) under Section 4, Rule 112 of the Rules of Court, it was not the Special Prosecutor of the Sandiganbayan, but the Iloilo Provincial Prosecutor that had authority to file the information.

Quiñon thereafter submitted a "Supplemental Motion to Quash" dated March 3, 1994, invoking another ground for dismissal of the case against him: that the Sandiganbayan had no jurisdiction in view of Section 46, R.A. No.

6975 conferring jurisdiction over the crime in question on "regular courts," thus excluding the Sandiganbayan which is a "special court."

The Sandiganbayan denied both motions, by Resolution dated March 7, 1994. Its ruling pertinently reads:

" ***

"The information does narrate facts which constitute an offense. Both Art. 217 and Art. 220 hold persons who are not 'accountable officers' as such when they are, nonetheless, accountable for specific public property as when they have a duty to return the same or to dispose thereof as provided by law or by lawful regulations or orders of their superiors.

"This Court does have jurisdiction of the case because the alleged conversion by the accused of the firearms earlier issued to him as Police Sergeant constituted an office-related offense over which the Sandiganbayan has jurisdiction (Sec. 4, PD 1606).

"This Court possesses jurisdiction over the case involving a police officer charged in connection with the performance of his duties since it has been the view of this Court that the designation of 'regular courts' in Sec. 46 R.A. No. 6975 is in contradistinction from military courts and not against 'specialized' court such as the Sandiganbayan.

"For the last two reasons, the preliminary investigation herein was properly conducted and the Information filed by the Office of the Ombudsman."

G.R. No. 114819

Subsequently the Sandiganbayan set Quiñon's arraignment on March 25, 1994 but reset it to May 6, 1994 on motion of the latter's lawyer, Atty. Ramon A. Gonzales, it appearing that on April 19, 1994, the latter had filed in the Supreme Court a petition for certiorari and prohibition dated April 14, 1994. In said petition he contended that in denying the motion to quash the Sandiganbayan had acted with grave abuse of discretion amounting to lack or excess of jurisdiction; and he prayed that the Order of March 23, 1994 be annulled. The case was docketed as G.R. No. 114819.

Consolidation of G.R. Nos. 114819 and 113908

Later, on February 13, 1995, G.R. No. 114819 was consolidated with G.R. No. 113908.

The Court's Dispositions

I. Sandiganbayan has Jurisdiction Over Offenses Charged

Petitioner's first contention is that the Sandiganbayan has no jurisdiction over the cases because under the law, R.A. 6975, criminal actions involving members of the Philippine National Police are "within the exclusive jurisdiction of the regular courts;" and since the Sandiganbayan is not a regular, but a special, court, it follows that it is not competent to take cognizance of the accusations against petitioner, a member of the PNP. The issue has already been dealt with by this Court in *Republic v. Hon. Maximiano Asuncion, et al.*, 231 SCRA 211 (1994). In that case, after analyzing and considering the provisions of R.A. 6975 in relation to the Constitution (Section 6, Article XVI, creating a national police force), and the official transcript of the deliberations of the Bicameral Conference Committee on National Defense, this Court declared (at pp. 213 et seq) that:

"** the terms civil courts and regular courts were used interchangeably or were considered as synonymous by the Bicameral Committee and then by the Senate and House of Representatives, ** (hence,) the term regular courts in Section 46 of R.A. No. 6975 means civil courts. There could have been no other meaning intended since the

primary purposes of the law is to remove from courts-martial the jurisdiction over criminal cases involving members of the PNP and to vest it in the courts within our judicial system, i.e., the civil courts which, as contradistinguished from courts-martial, are the regular courts. Courts-martial are not courts within the Philippine judicial system; they pertain to the executive department of the government and are simply instrumentalities of the executive power. Otherwise stated, courts-martial are not regular courts.

** ** *

'Regular courts are those within the judicial department of the government, namely, the Supreme Court and such lower courts as may be established by law. Per Section 16, Chapter 4, Book II of the Administrative Code of 1987, such lower courts 'include the Court of Appeals, Sandiganbayan, Court of Tax Appeals, Regional Trial Courts, Shari'a District Courts, Metropolitan Trial Courts, Municipal Trial Courts, Municipal Circuit Trial Courts, and Shari'a Circuit Courts.'

The Sandiganbayan was created by P.D. No. 1486 pursuant to the mandate of section 5, Article XIII of the 1973 Constitution. This was revised by P.D. No. 1606. The latter was amended by P.D. No. 1861. Under the amendments introduced by P.D. No. 1861, 'the Sandiganbayan has ** (e)xclusive original jurisdiction in all cases involving:

** ** *

(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 correctional or imprisonment for six (6) years or a fine of P6,000.00 **.'

"Undoubtedly then, the Sandiganbayan is a regular court and is thus included in the term regular courts in Section 46 of R.A. No. 6975."

Petitioner's plea that this ruling be re-examined and abandoned is unpersuasive. The Court perceives no reason to go over the arguments already extensively considered and passed upon in 1994 when it promulgated the Asuncion decision. Petitioner's present arguments add nothing of substance to the contentions then rejected by the Court. The doctrine is sound, its logic obvious. It must be maintained.

II. Informations Filed By Proper Authorized Officers

Petitioner next theorizes that the complaint which initiated Criminal Case No. 16279 was originally filed with the Iloilo prosecution office; consequently, this office acquired jurisdiction over it to the exclusion of the Ombudsman; and under Section 4, Rule 112 of the Rules of Court, it is not the Special Prosecutor of the Sandiganbayan, but the Iloilo Provincial Prosecutor who had authority to file the information.

The theory is plainly untenable. It is confuted by relevant provisions of the Ombudsman Act of 1989 (RA 6770) which inter alia (1) confers on the Office of the Special Prosecutor -- "an organic component of the Office of the Ombudsman . . . under the supervision and control of the Ombudsman" -- the power to "conduct preliminary investigation and prosecute criminal cases within the jurisdiction of the Sandiganbayan" (Sec. 11), and (2) recognizes the "primary jurisdiction" of the Office of the Ombudsman "over cases cognizable by the Sandiganbayan and (its power) in the exercise of this primary jurisdiction, ** to take over, at any stage, from any investigatory agency of Government, the investigation of such cases" (Sec. 15). Moreover, pursuant to Department Circular No. 50, dated November 6, 1991, jointly promulgated by Ombudsman Conrado M. Vasquez and Acting Secretary Silvestre Bello III of the Department of Justice, it is the Ombudsman's responsibility and

prerogative to approve the resolution of the investigating prosecutor who conducts the preliminary investigation of a crime cognizable by the Sandiganbayan, and to file the corresponding information with said court.

Also germane is Administrative Order No. 8 of the Ombudsman, dated November 8, 1990, viz.:

"For purposes of investigation and prosecution, Ombudsman cases involving criminal offenses may be subdivided into two classes, to wit: (1) those cognizable by the Sandiganbayan, and (2) those falling under the jurisdiction of the regular courts. The difference between the two, aside from the category of the courts wherein they are filed, is on the authority to prosecute, such cases.

"The power to investigate or conduct a preliminary investigation in any Ombudsman case may be exercised by an investigator or prosecutor of the Office of the Ombudsman, or by any Provincial or City Prosecutor or their assistants, either in their regular capacities or as deputized Ombudsman prosecutors.

"The prosecution of cases cognizable by the Sandiganbayan shall be under the direct exclusive control and supervision of the Office of the Ombudsman. In cases cognizable by the regular courts, the control and supervision by the Office of the Ombudsman is only in Ombudsman cases in the sense defined above. The law recognizes a concurrence of jurisdiction between the Office of the Ombudsman and other investigation agencies of the government in the prosecution of the cases of the government in the prosecution of cases cognizable by regular courts." (citing IV Herrera, Remedial Law, Criminal Procedure, pp. 754-755).

In light of the broad powers conferred by law on the Ombudsman and the Special Prosecutor, it is thus completely inconsequential that the complaint by which Criminal Case No. 16279 was instituted --charging a crime cognizable by the Sandiganbayan -- might have been originally filed with the Iloilo Prosecution Office, or the preliminary investigation therein conducted.

III. Information in Either Case Adequately Charges Offense

Next, petitioner Quiñon postulates that the informations in both cases do not charge an offense. He asserts that (1) the indictment in Criminal Case No. 16279 does not characterize him as a public officer who is the custodian of the firearms or otherwise in charge of their safekeeping, and (2) that in Case No. 19561 does not allege that he was accountable for the guns as "the custodian ** (thereof) with authority to safeguard the same." In other words, he claims that his position in either case was not fiduciary in nature; hence, he may not be charged with malversation under Article 217 of the Revised Penal Code; the proper charge would be of a violation of Article 218 of said Code.

This contention is as indefensible as the others already dealt with.

The information in Criminal Case No 16279 dated November 5, 1990 (rollo of G.R. No. 113908, pp. 105-106) pertinently alleges that

- 1) Quiñon "was a public officer, being then the Station Commander of Calinog, Iloilo PC/PNP;"
- 2) that "by reason of the duties of his office ** (he was) accountable for public properties that come to his possession and control;"
- 3) that he "received in his official capacity ** (specifically described) firearms;" and
- 4) that thereafter, "with grave abuse of confidence, (he) did then feloniously apply and convert to his personal use and benefit the said firearms to the damage and prejudice of the government in total amount of Fifteen Thousand Pesos (P15,000.00), Philippine currency."

On the other hand, the information in Criminal Case No. 19561 dated August 2, 1993 (rollo, G.R. No. 114819, pp. 33-34), relevantly avers that:

- 1) Quiñon was the station Police Commander at Janiuay, Iloilo;
- 2) by reason of his office, there were issued to him government properties consisting of particularly described firearms;
- 3) once in possession of the above-described properties, ** (Quiñon), with abuse of trust and confidence, malversed, misappropriated and converted to his own personal use and benefit said properties ** thereby causing damage and prejudice to the government in the aforementioned sum of P16,000.00, Philippine Currency.

It can hardly be doubted that the first indictment (in Criminal Case No 16279) explicitly and adequately sets out all the familiar elements of the felony of malversation under Article 217 of the Revised Penal Code, viz.:

"(a) That the offender be a public officer.

(b) That he had the custody or control of funds or property by reason of the duties of his office.

(c) That those funds or property were public funds or property for which he was accountable.

(d) That he appropriated, took, misappropriated, or consented or, through abandonment or negligence, permitted another person to take them." (SEE Luis B. Reyes, *The Revised Penal Code, Criminal Law*, 11th ed. 1977, Book Two, Art. 114-367, p. 382; *Fundamental of Criminal Law, Revised*, Gregorio, 1971, 3rd Ed., p. 302).

The second information, in Criminal Case No 19561, is substantially identical to the first, except that it does not contain the averment that "by reason of the duties of his office ** (he was) accountable for public properties that come to his possession and control ** ." This is of no moment. The second information states that there were issued to Quiñon by reason of his office as Police Station Commander of Janiuay, Iloilo, government properties consisting of particularly described firearms. The delivery to Quiñon, by reason of the duties of his office as PNP Station Commander, of the firearms belonging to the Government, necessarily and inescapably entailed the implicit obligation on his part to safely keep the firearms, use them for the purposes for which they were obviously entrusted to him, and to return them to the proper authority at termination of his tenure as commander, or on demand by the owner: the duty, in other words, to account for said firearms. And his act -- also expressly stated in the information -- of malversing, misappropriation and converting the firearms to his own personal use and benefit, with abuse of trust and confidence -- completed the basic description of the crime of malversation attributed to him.

No error can therefore be imputed to the ruling of the respondent Sandiganbayan (March 7, 1994: rollo, G.R. No. 114819, p. 53) to the following effect:

"The Motion to Quash filed by the accused dated February 22, 1994 and the Supplement thereto dated March 3, 1994 are denied.

"The Information does narrate facts which constitute an offense. Both Art. 217 and Art. 220 hold persons who are not 'accountable officers' as such when they are, nonetheless, accountable for specific public property as when they have a duty to return the same or to dispose thereof as provided by law or by lawful regulation or orders of their superiors.

"This Court does have jurisdiction of the case because the alleged conversion by the accused of the firearm earlier issued to him as a Police Sergeant constitutes an office related offense over which the Sandiganbayan has jurisdiction (Sec. 4, PD. 1606).

"This Court possesses jurisdiction over the case involving a police officer charged in connection with the

performance of his duties since it has been the view of this Court that the designation of 'regular court' in Section 46 of R.A. No. 6975 is in contradistinction from military courts and not against 'specialized' court such as the Sandiganbayan."

IV. No Abuse of Discretion by Sandiganbayan In Denying Quiñon's Motion to Reopen Case and Present Evidence

Petitioner finally theorizes that the Sandiganbayan gravely abused its discretion in Case No. 16279, "in denying petitioner's motion to re-open the case and present evidence after the prosecution ** rested its case." The material facts, recited at some length in this opinion, more than adequately belie this asseveration. In *Pulido v. Lazaro* (158 SCRA 107 [1988]), the Court ruled that "(t)here was no denial of due process where petitioner had many opportunities and had been afforded adequate hearing to argue his case." Far from being tainted by error, therefore, the Sandiganbayan's challenged resolution, founded upon the undisputed facts on record, correctly reflected the legal principles involved, viz.:

"Considering the circumstances obtaining in this case, circumstances which caused inordinate delay of trial of the accused's own making, the Court cannot but stand pat on the Orders sought to be reconsidered. It is very clear that the accused had asked for innumerable postponements of trial simply for purposes of delay, posing a challenge to, and defiance of, the Court's authority.

"The accused had simply taken the Court for granted. It can be seen that accused's alleged severe dizziness and/or hypertension, his frequent reasons for asking for delay or trial, are not such illnesses as would prevent accused's appearance in court. Due process of law pertains not only to the accused but also to the prosecution. Court proceedings in the Sandiganbayan is peculiar in the sense that the parties to a case most often come from distant provinces in Mindanao, the Visayas and Northern Luzon. It is hard for witnesses for the prosecution or for the accused for that matter to bring witnesses from distant provinces to Manila. It is harder still to bring them to Manila only to find that a party has asked for postponement of trial. If witnesses reside only in the same municipality where the Court holds sessions or even in the same province where the Court is stationed, there would be little inconvenience for the witnesses to come back and forth without being heard. As we have stated earlier, this is not so in trial of cases in the Sandiganbayan."

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"We repeat that the Court, in a magnanimous gesture, ordered on February 25, 1993 that, while the Court was constrained to hear the witnesses for the prosecution because they come all the way from Iloilo, notwithstanding the absence of the accused, the accused be given the opportunity to present evidence on July 22 & 23, 1993. The accused did not appear in court for trial on the dates aforesaid."

It merely needs be pointed out that the foregoing conclusions of the Sandiganbayan are entirely in accord (1) with Section 14(2), Article III of the Constitution which states that:

(2) in all criminal prosecution, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he had been duly notified and his failure to appear is unjustifiable" **;

as well as (2) with Section 1 (c), Rule 115 of the Rules of Court, providing that:

In all criminal prosecutions, the accused shall be entitled:

(c) To be present and defend in person and by counsel at every stage of the proceedings, from the arraignment

to the promulgation of the judgment. The accused may, however, waive his presence at the trial pursuant to the stipulations set forth in his bail bond, unless his presence is specifically ordered by the court for purposes of identification. The absence of the accused without any justifiable cause at the trial of a particular date of which he had notice shall be considered a waiver of his right to be present during that trial. When an accused under custody had been notified of the date of the trial and escapes, he shall be deemed to have waived his right to be present on said date and on all subsequent trial dates until custody is regained. Upon motion, the accused may be allowed to defend himself in person when it sufficiently appears to the court that he can properly protect his right without the assistance of counsel;" (emphasis supplied.)

V. A Last Word

The Court feels that before closing this opinion, a reminder of certain basic propositions is needful.

The special civil action of certiorari or prohibition is not the proper remedy against interlocutory orders such as those assailed in these proceedings; i.e., an order denying a motion to quash the information, and one declaring the accused to have waived his right to present evidence and considering the case submitted for decision. As pointed out by the Office of the Solicitor General (citing *Nierras v. Dacuycuy*, 181 SCRA 1 [1990], and *Acharon v. Purisima, et al.*, 13 SCRA 309; *People v. Madaluyo*, 1 SCRA 990), the established rule is that when such an adverse interlocutory order is rendered, the remedy is not to resort forthwith to certiorari or prohibition, but to continue with the case in due course and, when an unfavorable verdict is handed down to take an appeal in the manner authorized by law. It is only where there are special circumstances clearly demonstrating the inadequacy of an appeal that the special civil action of certiorari or prohibition may exceptionally be allowed. The Court has been cited to no such special circumstances in the cases at bar.

WHEREFORE, the petitions for certiorari and prohibition are DENIED for lack of merit, with costs against petitioner.

IT IS SO ORDERED.

Davide, Jr., Melo, Francisco, and Panganiban, JJ., concur.

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