

DUARDO E. KAPUNAN, JR., PETITIONER, VS. THE COURT OF APPEALS, THE SECRETARY OF THE DEPARTMENT OF JUSTICE, FELICIANA OLALIA, EROLINA ALAY-AY, AND THE PRESIDING JUDGE OF BRANCH 71...

G.R. Nos. 148213-17. March 13, 2009

Ponente: TINGA, J.

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TINGA, J.:

Petitioners face criminal charges in connection with the 1986 killing of Kilusang Mayo Uno (KMU) Chairman Rolando Olalia and his driver, Leonor Alay-ay. These consolidated petitions ask us to consider whether petitioners are immune from prosecution for the Alay-ay/Olalia slayings by reason of a general grant of amnesty issued by President Fidel V. Ramos to rebels, insurgents and other persons who had committed crimes in furtherance of political ends. The Court of Appeals, in its Joint Decision[1] dated 29 December 1999, as well as in its Resolution[2] dated 22 May 2001, had held that they had not.

I.

Olalia and Alay-ay were both found dead with their bodies riddled with bullets on 13 November 1986. The double murders stirred considerable public anger, given Olalia's high profile as Chairman of the KMU at the time of his death.

On 12 January 1998, private respondents Feliciano C. Olalia and Perolina G. Alay-ay filed a letter-complaint before the Department of Justice (DOJ) charging petitioner Eduardo E. Kapunan, Jr. (Kapunan, Jr.), petitioner Oscar E. Legaspi (Legaspi), and other officers and men of the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP) for the complex crime of kidnapping with murder of Alay-ay and Olalia. The affidavits of TSgt. Medardo Barreto (Barreto) and Eduardo E. Bueno were annexed to the complaint, which was docketed as I.S. No. 98-025.

Then Secretary of Justice Serafin R. Cuevas created a panel of investigators[3] (Panel) who were tasked to conduct the preliminary investigation on the complaint. Bueno and especially Barreto provided the crux of the factual allegations against petitioners.

On 26 February 1998, Kapunan, Jr., filed a motion to dismiss[4] the charges against him before the Panel. On the same day, Legaspi likewise filed a motion to dismiss[5] alleging that his criminal liability had been totally extinguished by the amnesty granted to him under Proclamation No. 347, entitled "Granting Amnesty to Rebels, Insurgents, and All Other Persons Who Have or May Have Committed Crimes Against Public Order, Other Crimes Committed in Furtherance of Political Ends, and Violations of the Article of War, and Creating a National Amnesty Commission." [6] The DOJ Prosecutor refused to rule on the motions to dismiss and instead treated them as their counter-affidavits.

In a Resolution[7] dated 18 March 1998, the Panel recommended the filing of two informations each for a separate count of murder against Kapunan, Jr., Legaspi, Ricardo Dicon, Cirilio Almario, Filomeno Crizaldo Maligaya, Edger Sumido, Jose Bacera, Jr., Dennis Jabatan, Freddie Sumagaysay, Fernando Casanova, Gene Paris, Gilberto Galicia, and Desiderio Perez. The Panel determined that Olalia and Alay-ay were seized on the night of 12 November 1986 along Julia Vargas Avenue in Pasig.[8] Thereafter, the two were brought to a "safehouse" in Cubao, then to a secluded area in Antipolo where they were shot dead. The alleged perpetrators belonged to a team of members of the AFP.

The Panel rendered the following findings on the involvement of Kapunan, Jr., and Legaspi in the Olalia/Alay-ay slayings, thus:

Respondent Eduardo E. Kapunan, Jr. is alleged to have created the Counter-Intelligence and special project team. He later ordered the transfer of the agents of SOG-OMND to the Operation Control (OPCON) headed by respondent Ricardo Dicon. On that occasion, he ordered Barreto and Sabalza to help Sumido in his surveillance mission on Rolando Olalia. When a news item came about the [sic] Lancer with Plate No. BBB-678, used in the abduction of Olalia and Alay-ay, he called Barreto and Sabalza and [discussed] the matter. He ordered the two (2) to clean-up the mess. Upon the suggestion of Barreto and Sabalza to change the paint of all the vehicles involved, he instructed the Finance Officer, Evelyn Estocapio to extend the needed financial support. Subsequently, in the [sic] small gathering in his office, he admonished the agents involved in [the] Olalia-Alay-ay operation to keep everything secret. In his defense, he denies his presence at the safehouse. Likewise, he claims Barreto did not point to him as the one who gave the orders to respondent Dicon. Similarly, he cannot be considered among those superiors (itaas) of the group because Barreto, Sabalza and Sumido were no longer under him. Also, he claims as grantee of Amnesty pursuant to Proclamation No. 347, it [sic] extinguished his criminal liability.

We find the denial insufficient to prevail over the positive and clear assertions of the witness about his participation (People v. Pasiliao, 215 SCRA 163). The specific acts committed by him before, during and after the Olalia-Alay-ay SOG-OMND operation as pointed out by Barreto are [sic] clear indication of his concurrence to the said operation in pursuance of a common unlawful objective. Hence, it is inescapable for us to conclude that he is a co-conspirator in the offense charged.

Respondent Oscar Legaspi, per allegations of Barreto, was present at the safehouse when Sumido announced the arrival of Olalia and Alay-ay upon their abduction. He went to the living room and peered over them up to the moment they were brought upstairs by Matammu [sic]. Months later, when the Olalia-Alay-ay murder case was hotly pursued by the authorities for investigation, he planned the sending abroad of the SOG agents suspected of being involved in the killing, and gave respondent Almario P80,000.00 to send Sabalza abroad. In his defense, he did not controvert these points. Instead, he claims that the offense charged is absorbed in the crime of rebellion. He being a grantee of amnesty pursuant to Proclamation No. 347, his criminal liability is extinguished. Thus, his presence at the safehouse, and the giving of the P80,000.00 to Almario to send Sabalza abroad, are impliedly admitted by him [sic]. Such act, although apparently appearing as independent acts from the commission of the offense, are however, suggestive of concurrence of will in pursuance of the common unlawful objective. Accordingly, probable cause against him exists as co-conspirator in the commission of the offense.[9]

The Panel refused to consider petitioners' defense of amnesty on the ground that documents pertaining to the amnesty failed to show that the Olalia-Alay-ay murder case was one of the crimes for which the amnesty was applied for. Moreover, the Panel pointed out that the criminal liability of therein respondents (herein petitioners) was not obliterated by the amnesty granted to them. It was held that the killings were not committed in furtherance of a political belief because at that time, there was no rebellion yet launched against the Cory Aquino government. The rebellion mounted by the Reform the Armed Forces Movement (RAM) against the government

was made long after the killing.[10]

On 23 April[11] and 9 May 1998[12] respectively, Kapunan, Jr., and Legaspi appealed the said Resolution to the Secretary of Justice. Pending appeal of the case, the Panel filed criminal informations before the Regional Trial Court (RTC) of Antipolo, Branch 71, docketed as Criminal Cases Nos. 98-14881[13] and 98-14882.[14]

In a letter-resolution[15] dated 28 July 1998, the Secretary of Justice dismissed their appeal, citing the inapplicability of the two proclamations invoked by petitioners. The Secretary ruled thus:

We are in accord with the findings of the Investigating Panel that in this particular case, the grant of amnesty to the respondents concerned, does not extinguish their criminal liability for the Olalia-Alay-ay killings. There is no showing that this case was one of those crimes for which amnesty was applied for and subsequently granted. Logic and reason dictate that amnesty for a particular offense could not have been granted when it was not even applied for. Besides, Proclamation No. 348 (granting amnesty to certain AFP/PNP personnel who may have committed certain acts defined herein) dated March 25, 1994, as amended by Proclamation No. 348 dated May 10, 1994, provides that for amnesty to be granted, the acts or omissions for which it is sought do not constitute serious human rights violations, such as acts of torture, extra-legal execution, arson, massacre, rape, other crimes against chastity, or robbery of any form (underscoring supplied). Evidently, the Olalia-Alay-ay murder partakes of the nature of extra-legal execution and could not have come within the ambit of the law.

Section 2(a) of Proc. No. 347 provides that amnesty under such Proclamation shall extinguish any criminal liability for acts committed in pursuit of a political belief. However, considering the circumstances and factual backdrop of the instant case, it cannot be assumed or even safely concluded that the Olalia-Alay-ay killing was committed in pursuance of a political belief. At the time of the abduction and killing, there was no rebellion yet launched against the Corazon Aquino government. As aptly found by the Panel, the rebellion mounted by the RAM against the government was made long after the killings.[16]

Kapunan, Jr. and Legaspi moved for reconsideration[17] but their motion was denied in another resolution dated 9 February 1999.

Kapunan, Jr. filed his second petition for certiorari before the Court of Appeals docketed as CA-G.R. SP No. 52142[18] while Legaspi brought his first petition docketed as CA-G.R. SP No. 52188. In these petitions, they impugned the 28 July 1998[19] and 9 February 1999 letter-resolutions of the Secretary of Justice denying their appeal and approving their prosecution for the double murder of Olalia and Alay-ay.

In a Joint Decision dated 29 December 1999, the Special Sixth Division of the Court of Appeals dismissed the petition. Finding no grave abuse of discretion on the part of the Secretary of Justice, the appellate court refused to rule on the applicability of amnesty to Kapunan and Legaspi on the ground that this matter involves evaluation of evidence which is not within its jurisdiction to resolve in a petition for certiorari.[20] It held, thus:

The Court of Appeals has held that:

x x x a perusal of the Certificate of Amnesty granted in favor of petitioner Kapunan, Jr. x x x and the certification issued in favor of petitioner Legaspi x x x inevitably brings us several questions of facts, to wit: (1) whether or not the murder of Rolando Olalia and Leonor Alay-ay were committed in pursuit of political beliefs; (2) whether or not said crimes of murder were committed for personal ends; and (3) whether or not the murder of victims Olalia and Alay-ay were disclosed in Legaspi's application because if only "mutiny" was invoked, then it follows that the subject crime of murder is not covered by the amnesty in favor of Legaspi - matters which are not within the province of this Court to determine in the present petitions.

x x x

Both Proclamations [Proclamation Nos. 347 and 348] unequivocally gives the impression that Proclamation

No. 347 covers rebels and insurgent returnees and not personnel of the Armed Forces of the Philippines (AFP); and, that Proclamation No. 348 applies to all personnel of the AFP and the PNP, such as herein petitioners Kapunan and Legaspi who both hold the rank of Colonel.

x x x

Thus, another set of questions involving both factual and legal issues crop up - (1) whether or not petitioners are rebels/insurgents or personnel of the AFP, a factual issue which is not within the jurisdiction of this Court to ascertain in the present petitions for certiorari; and

(2) whether or not the amnesty granted to Kapunan and Legaspi under Proclamation No. 347 is valid; stated differently, are Kapunan and Legaspi covered by Proclamation No. 347 or No. 348? - a legal issue which is likewise not within the jurisdiction of this Court to determine under the present petitions for certiorari.

The determination of the above issues as to which proclamation covers petitioners is crucial considering that the crimes that are not covered by the amnesty under said Proclamations are different. Under Proclamation No. 347, all persons, more particularly, rebels and insurgents, who committed "crimes against chastity and other crimes committed for personal ends" cannot avail of amnesty; while under Proclamation No. 348, all personnel of the AFP and PNP who committed crimes which "constitute serious human rights violations, such as acts of torture, extra-legal execution, arson, massacre, rape, other crimes against chastity, or robbery of any form" are not entitled to amnesty.

Thus, it must be established first by competent evidence whether petitioners are rebels or insurgents covered by Proclamation No. 347 or members of the AFP covered by Proclamation No. 348. If petitioners are rebels or insurgents, then they may invoke the amnesty granted to them under Proclamation No. 347 at any stage of the criminal proceedings before the RTC of Antipolo as earlier discussed in this decision subject to the sound discretion of said court whether or not it will take judicial notice of the amnesty or admit further evidence to satisfy itself that the subject crimes of murder are covered by the amnesty granted to petitioners by the National Amnesty Commission. If petitioners are members of the AFP, then they should have been granted amnesty under Proclamation No. 348 and not under Proclamation No. 347; in which case, it becomes necessary to determine whether or not the subject crimes constitute "acts of torture or extra-legal execution." If in the affirmative, petitioners could not validly avail of the amnesty under Proclamation No. 348; and in the negative, then we go back to the question, is the amnesty granted to Kapunan and Legaspi under Proclamation No. 347 valid or not?

Clearly from the foregoing, Proclamation No. 347 or Proclamation No. 348 could not be applied automatically in favor of petitioners and they are not entitled to instant exoneration from criminal prosecution without first proving in court that the amnesty granted to them is not within the exceptions provided for in the Proclamations.

Furthermore, respondent Secretary of Justice did not commit any grave abuse of discretion in not considering the finding of the Fact-Finding Commission or Davide Commission sufficient to sustain petitioners' claim that the murders were in pursuit of political beliefs.

x x x

As can be readily gleaned therefrom, the findings were merely referred to as allegations of the NBI and a mere suggestion that the murders of Olalia and Alay-ay "could have been" part of simulated events to effect a tense and unstable atmosphere necessary for a coup d' etat.

And even if we are to consider the "findings" of the Davide Commission, still another set of questions of fact arises - are petitioners mere loyalists or members of the RAM-HF?; are the murders of Olalia and Alay-ay in pursuit of petitioners' political beliefs?; are the petitioners covered by Proclamation Nos. 347 or 348? - issues which are ascertainable only after due hearing in the RTC of Antipolo and not this Court in the present

petitions for certiorari as herein previously discussed.

Consequently, this Court cannot substitute its judgment for that of the Secretary of Justice in the absence of a showing that the latter has committed a grave abuse of discretion. (*Mantruste Systems, Inc. v. Court of Appeals*, 179 SCRA 136, 144-145)[21]

x x x

In time, Kapunan and Legaspi moved for a reconsideration[22] but their motion was similarly denied by the appellate court in its Resolution[23] of 22 May 2001.

On 13 June 2001, Kapunan filed his petition for review on certiorari,[24] docketed as G.R. Nos. 148213-17, for the reversal of the 29 December 1999 Court of Appeals Joint Decision and its 22 May 2001 Resolution and the annulment of the 28 July 1998 and 9 February 1999 letters-resolution of the Secretary of Justice. He likewise prayed for the issuance of a temporary restraining order or writ of preliminary injunction to enjoin the Secretary of Justice from prosecuting him for the Olalia-Alay-ay double murder and/or the Presiding Judge of the RTC from proceeding with the criminal cases during the pendency of the petition.[25]

Kapunan invokes as grounds for the allowance of this petition the Court of Appeals' erroneous refusal to: (1) rule on the applicability of amnesty to him; and (2) the issue of whether the Olalia-Alay-ay double murder was committed in pursuit of a political belief.[26]

On 12 July 2001, Legaspi also filed a petition for review docketed as G.R. No. 148243,[27] praying for the same relief sought by Kapunan. He submits the lone issue of whether the Court of Appeals committed grave abuse of discretion in failing to recognize the legal effects of the grant of amnesty to him under Proclamation No. 347.[28]

On 16 January 2002, the Court resolved to consolidate the two petitions.[29]

II.

The main issues raised by Kapunan and Legaspi may be synthesized into one, that is, whether or not the grant of amnesty extinguished their criminal liability. Before we turn to those issues, let us focus briefly on the findings of probable cause determined by the Investigating Panel and the Secretary of Justice.

As a rule, the Court considers it sound judicial policy to refrain from interfering in the conduct of preliminary investigations and to leave the Department of Justice ample latitude of discretion in the determination of what constitutes sufficient evidence to establish probable cause for the prosecution of supposed offenders. Consistent with this policy, courts do not reverse the Secretary of Justice's findings and conclusions on the matter of probable cause except in clear cases of grave abuse of discretion.[30]

Earlier, we restated the rationale propounded by the Investigating Panel for finding probable cause against petitioners. They do not possess any inherent flaws that would ring alarm bells. Moreover, both petitioners do not offer before this Court any argument that disputes such findings of fact or probable cause offered by the Investigating Panel or the DOJ. Instead, they squarely focus their arguments on whether the grant of amnesty to them entitles them to shelter from prosecution for the Olalia/Alay-ay killings.

III.

Kapunan claims that he is a military rebel and that he committed crimes in furtherance of a political end. He is no longer connected with the AFP and has not committed any crime in connection with counter-insurgency operations. Thus, Proclamation No. 347 and not Proclamation No. 348 should have been used by the Secretary of

Justice in determining whether criminal liability is extinguished by the grant of amnesty. He further argues that the exclusion of "serious human rights violations, such as acts of torture and extra-legal executions" from the coverage of amnesty under Proclamation No. 348 should not be applied to those who have been granted amnesty under Proclamation No. 347 as it only covers "those crimes against chastity, and other crimes committed for personal ends." [31]

Legaspi, on the other hand, assails the Court of Appeals' refusal to rule on the factual issue of whether he is covered by Proclamation Nos. 347 or 348. He insists that he is a grantee of amnesty under Proclamation No. 347 by virtue of the Certificate of Amnesty issued to him on 13 November [32] 1995 by the National Amnesty Commission (NAC). According to Legaspi, the statement of the appellate court that Proclamation No. 347 covers rebels and insurgent returnees and not personnel of the AFP is unfounded. He ratiocinated that Proclamation No. 347 also applies to personnel of the AFP since the same covers crimes committed in pursuit of political beliefs including rebellion, insurrection, coup d' etat or disloyalty of public officers. The crime of coup d' etat can be committed only by persons belonging to the military or police or those holding any public office or employment. Therefore, the coverage of Proclamation Nos. 347 and 348 differs not so much on the group or classification of persons to which they may apply but on the nature of the offenses covered. [33]

A.

Proclamation Nos. 347 and 348 were issued on the same day, 25 March 1994, by President Fidel Ramos. Their respective texts warrant examination. Section 1 of Proclamation No. 347 reads, thus:

Section 1. Grant of Amnesty. - Amnesty is hereby granted to all persons who shall apply therefore and who have or may have committed crimes, on or before thirty (30) days following the publication of this Proclamation in two (2) newspapers of general circulation, in pursuit of political beliefs, whether punishable under the Revised Penal Code or special laws, including but not limited to the following: rebellion or insurrection; coup d' etat; conspiracy and proposal to commit rebellion, insurrection or coup d' etat; disloyalty of public officers or employees; inciting to rebellion or insurrection; sedition; conspiracy to commit sedition; inciting to sedition; illegal assembly; illegal association; direct assault; indirect assault; resistance and disobedience to a person in authority or the agents of such person; tumults and other disturbances of public order; unlawful use of means of publication and unlawful utterances; alarms and scandals; illegal possession of firearms, ammunition or explosives, committed in furtherance of, incident to, or in connection with the crimes of rebellion or insurrection; and violations of Articles 59 (desertion), 62 (absence without leave), 67 (mutiny or sedition), 68 (failure to suppress mutiny or sedition), 94 (various crimes) 96 (conduct unbecoming an officer and a gentleman), and 97 (general article) of the Articles of War: Provided, that the amnesty shall not cover crimes against chastity and other crimes committed for personal ends.

Section 1 of Proclamation No. 348, as amended by Section 1 of Proclamation No. 377, provides:

Section 1. Grant of Amnesty. - Amnesty is hereby granted to all personnel of the AFP and PNP who shall apply therefore and who have or may have committed, as of the date of this Proclamation, acts or omissions punishable under the Revised Penal Code, the Articles of War or other special laws, in furtherance of, incident to, or in connection with counter-insurgency operations; Provided, that such acts or omissions do not constitute serious human rights violations, such as acts of torture, extra-legal execution, arson, massacre, rape, other crimes against chastity or robbery of any form; and Provided, That the acts were not committed for personal ends. (Emphasis supplied)

Administrative Order No. 1-94, as amended, serves as the implementing rules to the two proclamations. [34] It provides further clarification as to their respective coverage.

RULE III

Section 1. Persons Who May Apply. â€- The following persons may apply for amnesty, whether or not they have been investigated, detained, charged, convicted or have served sentence or escaped imprisonment, or are serving sentence:

(a) Under Proclamation No. 347. â€-Any and all rebels, insurgents, or persons who have or may have committed acts or omissions as defined in Section 2(a) hereunder.

(b) Under Proclamation No. 348, as amended. â€- Any member of the AFP or PNP who have or may have committed acts or omission as defined in Section 2(b) hereunder.

Section 2. Crimes/Acts Covered. â€- The following acts or omissions may be subject to amnesty, whether or not punishable under the Revised Penal Code, the Articles of War, or special laws:

(a) Under Proclamation No. 347. - Crimes committed in pursuit of a political belief on or before April 30, 1994, including, but not limited to, the following:

- a. Rebellion or insurrection
- b. Coup d' etat
- c. Conspiracy and proposal to commit rebellion, insurrection, or coup d' etat
- d. Disloyalty of public officers or employees
- e. Inciting to rebellion or insurrection
- f. Sedition
- g. Conspiracy to commit sedition
- h. Inciting to sedition
- i. Illegal assembly
- j. Illegal association
- k. Direct assault
- l. Indirect assault
- m. Resistance and disobedience to a person in authority or the agents of such person
- n. Tumults and other disturbances of public order
- o. Unlawful use of means of publication and unlawful utterances
- p. Alarms and scandals
- q. Illegal possession of firearms, ammunition, or explosives committed in furtherance of, incident to, or in connection with the crimes of rebellion or insurrection.
- r. Violation of the following Articles of War:

AW 59 (desertion),
AW 62 (absence without leave),
AW 67 (mutiny or sedition)
AW 68 (failure to suppress mutiny or sedition)
AW 94 (various crimes),
AW 96 (conduct unbecoming of an officer and a gentleman)
AW 97 (general article)

(b) Under Proclamation No. 348, as amended. â€- Crimes/acts committed in furtherance of, incident to, or in connection with counter-insurgency operations on or before March 25, 1994, including but not limited to the following:

- a. Willfull killing
- b. Willful infliction of physical injuries
- c. Illegal detention
- d. Arbitrary detention
- e. Coercion

- f. Threats
- g. Illegal possession of firearms, ammunition, or explosives
- h. Violation of the following Articles of War:

AW 94 (various crimes),
AW 96 (conduct unbecoming of an officer and a gentleman)
AW 97 (general article)

Section 3. Crimes/Acts Not Covered. â€- Amnesty shall not be extended for the crimes committed for personal ends, and the crimes enumerated hereunder:

(a) Under Proclamation No. 347. â€-

- i. Rape
- ii. Other Crimes Against Chastity

(b) Under Proclamation No. 348, as amended. â€- Serious human rights violations, including but not limited to:

- i. Torture
- ii. Extra-legal execution
- iii. Arson
- iv. Massacre
- v. Rape
- vi. Other crimes against chastity
- vii. Robbery of any form (Emphasis supplied)

The Court of Appeals alluded to a measure of ambiguity in respect to whether Proclamation No. 347 also extend to personnel of the Armed Forces of the Philippines considering that Proclamation No. 348, issued on the same day, does specifically cover such class of persons. It ultimately concluded that AFP personnel were not included in Proclamation No. 347, the same including only "rebels and insurgent returnees" in its ambit.

We note that on the contrary the text of Proclamation No. 347 is sufficiently clear that members of the Armed Forces of the Philippines are indeed covered by the Proclamation. If AFP personnel were not under the coverage of Proclamation No. 347, then Section 2(b) thereof would be utterly inutile. The provision reads:

SECTION. 2. Effects. â€- x x x

(b) The amnesty herein proclaimed shall not ipso facto result in the reintegration or reinstatement into the service of former Armed Forces of the Philippines and Philippine National Police personnel. Reintegration or reinstatement into the service shall continue to be governed by existing laws and regulations; Provided, however, that the amnesty shall reinstate the right of AFP and PNP personnel to retirement and separation benefits, if so qualified under existing laws, rules and regulations at the time of the commission of the acts for which amnesty is extended x x x.

It appears that the interpretation of the Court of Appeals that military personnel were not covered under Proclamation No. 347 was derived from the belief that rebels/insurgents were mutually exclusive with military personnel. There is no doubting that "rebels" or "insurgents" have acquired a connotative association with armed insurrectionists who originate outside the forces of the government, as contradistinguished from members of the AFP who take up arms against the State. Still, the very text of Section 1 of Proclamation No. 347 extends to "all persons" who committed the particular acts described in the provision, and not just "rebels" or "insurgents." Nothing in the text of the proclamation excludes military personnel by reason of their association, and indeed as we pointed out, Section 2(b) makes it evident that they are included.

B.

At the same time, a close reading of Proclamation No. 347 reveals that it is not a unilateral grant of amnesty. Section 1 states that it is granted "to all persons who shall apply therefore." [35] Pursuant to Section 4, it is the NAC which is primarily tasked "with receiving and processing applications for amnesty, and determining whether the applicants are entitled to amnesty under this Proclamation." [36] Pursuant to its functions, it has the power to "promulgate rules and regulations subject to the approval of the President." [37] Final decisions or determinations of the NAC are appealable to the Court of Appeals.

The extension of amnesty under Proclamation No. 347 takes effect only after the determination by the National Amnesty Commission as to whether the applicant is qualified under the terms of the proclamation. To fulfill its mandate, the NAC is empowered to enact rules and regulations, to summon witnesses and issue subpoenas. Evidently, the NAC does not just stamp its approval to every application before it. It possesses the power to determine facts, and therefrom, to decide whether the applicant is qualified for amnesty. The fact that the decisions of the NAC are subject to judicial review further supports the conclusiveness of its findings.

Both petitioners had duly applied for amnesty with the National Amnesty Commission, and both had been issued amnesty certificates. However, an examination of these certificates reveals that the grant of amnesty was not as far-reaching as the petitioners imply.

Kapunan's Certificate of Amnesty states:

This is to certify that

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was granted AMNESTY for acts constituting Rebellion on March 23, 1995 pursuant to the provisions of Proclamation No. 347, issued on March 25, 1994 by His Excellency, President Fidel V. Ramos.

The amnesty granted to Kapunan extends to acts constituting only one crime, rebellion. Thus, any inquiry whether he is liable for prosecution in connection with the Olalia killings will necessarily rely not on the list of acts or crimes enumerated in Section 1 of Proclamation No. 347, but on the definition of rebellion and its component acts.

Let us now examine the Certificate of Amnesty issued in favor of Legaspi.

CERTIFICATION

This is to certify that the amnesty application (No. A-270) under Proclamation No. 347 of MR. OSCAR E. LEGASPI, filed with the Local Amnesty Board of Metro Manila, was GRANTED by the NATIONAL AMNESTY COMMISSION en banc on 13 November 1995 subject to the qualification that the grant of amnesty shall cover only those offenses which Mr. Legaspi disclosed in his application. In his application, Mr. Legaspi stated that he participated in the 1987 and 1989 coup attempts, for which respective acts, he was charged with mutiny before a General Court Martial and Rebellion (which was archived) before the Quezon City Regional Trial Court. Mr. Legaspi further stated in his application that he went on AWOL in 1987 (Please refer to attached resolution addressed to Mr. Oscar Legaspi, dated 13 January 1995). [38]

The limited scope of the amnesty granted to Legaspi is even more apparent. At most, it could only cover offenses connected with his participation in the 1987 and 1989 coup attempts.

IV.

Given these premises, is there sufficient basis for us to enjoin the prosecution of petitioners for the slayings of Olalia and Alay-ay?

A.

Let us first examine the circumstances surrounding Kapunan. On their face, the murders of Olalia and Alay-ay do not indicate they are components of rebellion. It is not self-explanatory how the murders of two private citizens could have been oriented to the aims of rebellion, explained in the Revised Penal Code as "removing from the allegiance to [the] Government or its laws, the territory of the Republic of the Philippines or any part thereof, of any body of land, naval or other armed forces, of depriving the Chief Executive or the Legislature, wholly or partially, of any of their powers or prerogatives." [39]

For exculpatory context, Kapunan cites the Final Report of the independent fact-finding commission popularly known as the "Davide Commission" [40] created by Republic Act No. 6832 (R.A. No. 6832) to "investigate all the facts and circumstances of the failed coup d'état of December 1989, and recommend measures to prevent similar attempts at a violent seizure of power." [41]

The Final Report adverted to a planned coup d'état codenamed "God Save the Queen" in November 1986, the same month as the murders of Olalia and Alay-ay. The Final Report recounted the killings as well as the resulting nationwide protests in reaction thereto "where labor and other cause-oriented groups denounced the military as the perpetrators of the crime." [42] The Final Report took note of the accusations as to the possible motive for the military to execute the murders, and the investigation undertaken by the National Bureau of Investigation (NBI) which allegedly found evidence to link some RAM officers to the killing. The Final Report stated: "The argument was made that the timing and brutality of the murders were meant to create an unstable situation favorable for a coup. Perhaps, it was the realization that their actions could be exploited by the ultra-right that radical labor unions and organizations desisted from prolonged massive demonstrations at that time." [43]

The Final Report also concluded that among the possible classifications for "triggering events" leading to military intervention was "simulated events that could be created or provoked in order to effect the tense and unstable atmosphere necessary for a coup." [44] Political assassinations, "which the brutal killing of Rolando Olalia could have been," were described as "a good example" of such simulated events. [45]

We do not wish to denigrate from the wisdom of the Davide Commission. However, its findings cannot be deemed as conclusive and binding on this Court, or any court for that matter. Nothing in R.A. No. 6832 mandates that the findings of fact or evaluations of the Davide Commission acquire binding effect or otherwise countermand the determinative functions of the judiciary. The proper role of the findings of fact of the Davide Commission in relation to the judicial system is highlighted by Section 1(c) of R.A. No. 6832, which requires the Commission to "[t]urn over to the appropriate prosecutorial authorities all evidence involving any person when in the course of its investigation, the Commission finds that there is reasonable ground to believe that he appears to be liable for any criminal offense in connection with said coup d'état." [46]

Whatever factual findings or evidence unearthed by the Davide Commission that could form the basis for prosecutorial action still need be evaluated by the appropriate prosecutorial authorities to serve as the nucleus of either a criminal complaint or exculpation therefrom. If a criminal complaint is indeed filed, the same findings or evidence are still subject to the normal review and evaluation processes undertaken by the judge, to be assessed in accordance with our procedural law.

Any equation between rebellion and the Olalia/Alay-ay killings requires accompanying context such as that possibly provided by the Final Report. However, there is no such context that we are able to appreciate and act upon at this juncture. Assuming that Kapunan, Jr. was intent to invoke the amnesty granted him in his defense against the charges connected with the Olalia/Alay-ay slays, it would be incumbent upon him to prove before the courts that the murders were elemental to his commission or attempted commission of the crime of rebellion, and not just by way of a general averment, but through detailed evidence.

The same may be said of the affidavit of Barreto, which made two relevant claims: that the entire force of the Security Group of the Ministry of Defense was then actively preparing for the launch of a rumored military exercise akin to the 1986 People Power Revolution;^[47] and that he was told by another respondent, Captain Dicon, that the murder of Olalia was needed to create an atmosphere of destabilization spurred by the protest actions of the KMU which the RAM could then use as justification for military intervention similar to the first EDSA

revolt.^[48] Based on these claims in Barreto's affidavit, the Investigating Panel itself stated in its findings that the killings of Olalia and Alay-ay were undertaken on the premise "that their death would bring about massive protest action that will contribute to the destabilization of the Cory Aquino government and eventually a military take over of the government."^[49]

Barreto's affidavit, as integrated in the findings of the Investigating Panel, would have been extremely favorable to Kapunan had the relevant question been whether the Olalia/Alay-ay murders were committed in furtherance of a political belief. However, as we pointed out earlier, such motive under Proclamation No. 347 operates only to the extent of entitling the criminal to apply for amnesty. The actual grant of amnesty still depends on the NAC's determination as to whether the applicant is indeed entitled to amnesty. In Kapunan's case, the grant of amnesty extended to him pertains only to the crime of rebellion.

Kapunan himself admits before this Court that the November 1986 "God Save the Queen" coup plot "was pre-empted."^[50] We can take judicial notice that there was no public uprising or taking up of arms against the Aquino government that took place in November of 1986, and no serious coup attempt until 28 August 1987. The tenor of Barreto's claims make it clear that the Olalia/Alay-ay killings were intended to spark immediate instability which would be exploited for the coup attempt. The absence of any immediate rebellion taking place

contemporaneous with or immediately after the Olalia/Alay-ay killings calls to question whether there was a causal connection between the murders and the consummated crime of rebellion. At the very least, that circumstance dissuades us from concluding with certainty that the killings were inherent to or absorbed in the crime of rebellion. Such a matter can be addressed instead through a full-dress trial on the merits.

B.

What we said as to Kapunan, Jr. also answers Legaspi's similar contentions. In the latter's case, the grant of amnesty was specifically limited to his participation in the 1987 and 1989 coup attempts against the Aquino administration. The murders took place in November 1986. They were supposedly intended to create an atmosphere that would facilitate an immediate coup d'etat. It is difficult for the Court to appreciate at this point how the Olalia/Alay-ay killings were connected with the 1987 or 1991 coup attempts, though Legaspi is free to establish such a connection through a trial on the merits.

The Court is satisfied that there is prima facie evidence for the prosecution of the petitioners for the murders of Rolando Olalia and Leonor Alay-ay. The arguments that petitioners are exempt from prosecution on account of the grants of amnesty they had received are ultimately without merit, on account of the specified limitations in the

said grant of amnesty.

WHEREFORE, the petition is dismissed. The assailed Joint Decision of the Court of Appeals dated 29 December 1999, as well as its Resolution dated 22 May 2001 are hereby AFFIRMED. Costs against petitioners.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Velasco, Jr., and Brion, JJ., concur.

[1] Rollo (G.R. No. 148243), pp. 30-56. Penned by Associate Justice Ma. Alicia Austria-Martinez (now Supreme Court Associate Justice) and concurred in by Associate Justices Martin S. Villarama, Jr. and Andres B. Reyes, Jr.

[2] Id. at 73-74.

[3] Manuel Torrevillas, Ruben Carretas, Edna Valenzuela, Lagrimas Agaran and Pablo Formaran.

[4] CA rollo (G.R. Nos. 148213-17), pp. 129-138.

[5] Rollo (G.R. Nos. 148213-17), pp. 121-130.

[6] Rollo (G.R. No. 148243), p. 11.

[7] Rollo (G.R. Nos. 148213-17), pp. 132-156.

[8] Id. at 135.

[9] Id. at 147-148.

[10] Id. at 153-154.

[11] Rollo (G.R. No. 148243), pp. 88-96.

[12] CA rollo, pp. 141-165.

[13] Id. at 290-293.

[14] Id. at 294-297.

[15] Rollo (G.R. Nos. 148213-17), pp. 157-167.

[16] Id. at 165-166.

[17] CA rollo, pp. 227-234.

[18] Rollo (G.R. Nos. 148213-17), pp. 213-253.

[19] Id. at 185-195.

[20] Rollo (G.R. No. 148243), p. 63.

[21] Rollo (G.R. No. 148243), pp. 61-69.

[22] Rollo (G.R. Nos. 148213-17), pp. 254-267.

[23] Supra at note 2.

[24] Id. at 3-42.

[25] Rollo (G.R. Nos. 148213-17), pp. 37-38.

[26] Id. at 24.

[27] Rollo (G.R. No. 148243), pp. 9-29.

[28] Id. at 13.

[29] Id. at 162-163.

[30] First Women's Credit Corp. v. Perez, G.R. No. 169026, 15 June 2006, 490 SCRA 774, 777.

[31] Rollo (G.R. Nos. 148213-17), p. 27.

[32] Rollo (G.R. No. 148243), p. 92.

[33] Id. at 19.

[34] Rules and Regulations Implementing Proclamation No. 347, Dated March 25, 1994, and Proclamation No. 348, Dated March 25, 1994, as amended by Proclamation No. 377 Dated May 10, 1994.

[35] Proclamation No. 347 (1994), Sec. 1.

[36] Proclamation No. 347 (1994), Sec. 4.

[37] Proclamation No. 347 (1994), Sec. 4(a).

[38] Rollo (G.R. No. 148243), p. 121.

[39] See Revised Penal Code, Art. 134.

[40] So-called after its Chairman, then COMELEC Chairman (later Chief Justice) Hilario G. Davide, Jr.

[41] Republic Act No. 68321 (1990), Sec. 1.

[42] Rollo (G.R. No. 148243), p. 9.

[43] Id.

[44] Id. at 83.

[45] Id.

[46] Republic Act No. 6832 (1990), Sec. 1(c).

[47] Rollo (G.R. No. 148243), p. 103.

[48] Id. at 108.

[49] Rollo (G.R. Nos. 148213-17), p. 145.

[50] Rollo (G.R. No. 148243), p. 34.

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