

**EVA ESTRADA-KALAW AND ERNESTO RONDON, PETITIONERS, VS.
THE HONORABLE RICARDO P. TENSUAN, PRESIDING JUDGE OF THE
COURT OF FIRST INSTANCE OF RIZAL, SEVENTH JUDICIAL
DISTRICT, BRAN...**

G.R. Nos. 60232-34. April 28, 1983

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

On November 23, 1982, this Court issued a temporary restraining order to restrain respondent judge, his agents and representatives from conducting further proceedings in Criminal Case No. Q-18959, entitled, "People of the Philippines versus Raul Manglapus, et al.," in the Court of First Instance of Rizal, Branch IV, Quezon City, only insofar as petitioner Kalaw is concerned, pending resolution of the instant petition seeking the review of the denial of petitioners' motion for a bill of particulars and a motion to quash.

On December 1, 1982, Fiscal Apostol filed with the Court of First Instance an urgent motion alleging that petitioner Kalaw had violated the lower court's order of February 12, 1982 which directed that she should remain in her residence under police guard. The fiscal prayed that petitioner Kalaw be confined in the city jail until the case is finally terminated.

During the hearing of said motion, Fiscal Apostol was allowed to present evidence showing that petitioner Kalaw had violated the aforesaid order of February 12, 1982, despite the manifestation of petitioner's counsel that the temporary restraining order issued by the Supreme Court bars any consideration of further proceedings.

Petitioner Kalaw filed in this Court an urgent motion dated December 1, 1982, raising the issue of whether or not Judge Tensuan possesses the power to consider the fiscal's motion asking Judge Tensuan to withdraw his previous order placing petitioner Kalaw under house arrest in view of the issuance of a temporary restraining order mentioned at the threshold of this Resolution. Petitioner prayed that Judge Tensuan, and anybody acting for and in his behalf, be directed to cease and desist from acting on the fiscal's motion.

On December 7, 1982, Judge Tensuan issued an order directing the confinement of petitioner Kalaw at Fort Bonifacio Detention Center. On the same date, this Court issued a resolution requiring respondents to comment on petitioner Kalaw's motion dated December 1, 1982.

Petitioner Kalaw filed a subsequent motion on December 8, 1982, praying that Judge Tensuan and Police Col. Eduardo San Pascual be declared in contempt of court for violating the temporary restraining order issued on November 23, 1982, for having proceeded to hear the Fiscal's motion and ordered petitioner's confinement in the Fort Bonifacio Detention Center.

The Solicitor General, in his comment, in compliance with this Court's resolution, argues inter alia that:

1. The temporary restraining order was intended only to stop the trial of Criminal Case No. Q-18959 from being

conducted in order that the present proceeding for certiorari and mandamus will not be rendered moot and academic, and not to restrain the Court from taking such interlocutory measures necessary to maintain the integrity of its order placing Kalaw under house arrest. It would be absurd to consider the temporary restraining order as a handcuff totally incapacitating Judge Tensuan from taking such necessary action not materially relevant to the proceedings.

2. The modification of Judge Tensuan's order requiring Kalaw's confinement at the Fort Bonifacio Detention Center will not render moot and academic the review by this Court of the denial of petitioner's motions for bill of particulars and to quash information. The place and manner of confinement is not a relevant factor to determine the propriety of her motions.

3. If Judge Tensuan tolerates and closes his eyes to the violation of petitioner Kalaw, he may lose his jurisdiction to continue the proceedings in Criminal Case No. Q-18959 should the Supreme Court finally decide that the present petition is without merit. From merely going out of her house, petitioner Kalaw's infraction of the house arrest order may escalate into her flight from the court's jurisdiction. Judge Tensuan would have been remiss in his duties if he did not take steps to prevent this situation from arising.

4. As far as Police Col. San Pascual is concerned, he simply complied with the order of respondent judge. The same is true with the other persons who enforced the confinement order.

The comment of the Solicitor General is well taken.

The modification by Judge Tensuan of his previous order of arrest is an act within every court's "inherent power to amend and control its processes so as to make them conformable to law and justice." (Sec. 5 [g], Rules 135, Rules of Court)

It appears that during the hearing of the fiscal's aforementioned motion, respondent judge found by uncontroverted evidence that petitioner Kalaw had repeatedly disregarded the house arrest order. The judge thus is justified in amending that previous order to make it "conform to law and justice".

Absent any showing of arbitrariness, illegality and bias, the lower court's modified order should be sustained. The violation of petitioner Kalaw of the previous order puts a challenge on the integrity of the court, and if the presiding judge would remain silent in such a situation, erosion of the confidence of the people in the court's ability to maintain the rule of law would follow as an unavoidable consequence. This should not by any means be allowed to happen.

In modifying his previous order, Judge Tensuan preserved his authority and jurisdiction to take action on the case, after the instant petition shall have finally been resolved by this Court, one way or the other. He only acted within the powers legally vested upon him to preserve and make effective his jurisdiction over the main criminal action.

As regards Police Col. Eduardo San Pascual and his agents, We find no cogent reason to hold them in contempt of court. They merely followed the order of respondent who as above demonstrated, acted in conformity with law and justice.

At any rate, the Solicitor General in his manifestation dated December 27, 1982 avers that petitioner Kalaw has been released from Fort Bonifacio Detention Center after having suffered a heart attack and transferred to the Makati Medical Center to undergo treatment by doctors of her own choice, and submits that petitioner Kalaw's urgent motion has become moot and academic. We agree.

WHEREFORE, the motion of petitioner to declare in contempt respondents Judge Tensuan and Police Col. Eduardo San Pascual and his agents having become moot and academic, the same is hereby noted.

SO ORDERED.

Makasiar, Concepcion Jr., Guerrero, Melencio-Herrera, Plana, Escolin, Vasquez, Relova and Gutierrez, Jr., JJ., concur.

Fernando, C.J., and Aquino, J., took no part.

Teehankee, J., in the result.

Abad Santos, J., I reserve my vote.

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