

SECOND DIVISION

[G.R. Nos. 172070-72, June 01, 2007]

VICENTE P. LADLAD, NATHANAEL S. SANTIAGO, RANDALL B. ECHANIS, AND REY CLARO C. CASAMBRE, PETITIONERS, VS. SENIOR STATE PROSECUTOR EMMANUEL Y. VELASCO, SENIOR STATE PROSECUTOR JOSELITA C. MENDOZA, SENIOR STATE PROSECUTOR AILEEN MARIE S. GUTIERREZ, STATE PROSECUTOR IRWIN A. MARAYA, AND STATE PROSECUTOR MERBA A. WAGA, IN THEIR CAPACITY AS MEMBERS OF THE DEPARTMENT OF JUSTICE PANEL OF PROSECUTORS INVESTIGATING I.S. NOS. 2006-225, 2006-226 AND 2006-234, JUSTICE SECRETARY RAUL M. GONZALEZ, DIRECTOR GENERAL ARTURO C. LOMIBAO, IN HIS CAPACITY AS CHIEF, PHILIPPINE NATIONAL POLICE, P/CSUPT. RODOLFO B. MENDOZA, JR., AND P/SUPT. YOLANDA G. TANIGUE, RESPONDENTS.

[G.R. NOS. 172074-76]

IZA L. MAZA, JOEL G. VIRADOR, SATURNINO C. OCAMPO, TEODORO A. CASIÑO, CRISPIN B. BELTRAN, AND RAFAEL V. MARIANO, PETITIONERS, VS. RAUL M. GONZALEZ, IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF JUSTICE, JOVENCITO R. ZUÑO, IN HIS CAPACITY AS CHIEF STATE PROSECUTOR, THE PANEL OF INVESTIGATING PROSECUTORS COMPOSED OF EMMANUEL Y. VELASCO, JOSELITA C. MENDOZA, AILEEN MARIE S. GUTIERREZ, IRWIN A. MARAYA AND MERBA A. WAGA (PANEL), RODOLFO B. MENDOZA, IN HIS CAPACITY AS ACTING DEPUTY DIRECTOR, DIRECTORATE FOR INVESTIGATION AND DETECTIVE MANAGEMENT (DIDM), YOLANDA G. TANIGUE, IN HER CAPACITY AS ACTING EXECUTIVE OFFICER OF DIDM, THE DEPARTMENT OF JUSTICE (DOJ), AND THE PHILIPPINE NATIONAL POLICE (PNP), RESPONDENTS.

[G.R. NO. 175013]

CRISPIN B. BELTRAN, PETITIONER, QUISUMBING, J., CHAIRPERSON, VS. PEOPLE OF THE PHILIPPINES, SECRETARY RAUL M. GONZALEZ, IN HIS CAPACITY AS THE SECRETARY OF JUSTICE AND OVERALL SUPERIOR OF THE PUBLIC PROSECUTORS, HONORABLE ENCARNACION JAJA G. MOYA, IN HER CAPACITY AS PRESIDING JUDGE OF REGIONAL TRIAL COURT OF MAKATI CITY, BRANCH 146, AND HONORABLE ELMO M. ALAMEDA, IN HIS CAPACITY AS PRESIDING JUDGE OF REGIONAL TRIAL COURT OF MAKATI CITY, BRANCH 150, RESPONDENTS.

DECISION

CARPIO, J.:

The Case

These are consolidated petitions for the writs of prohibition and certiorari to enjoin petitioners' prosecution for Rebellion and to set aside the rulings of the Department of Justice (DOJ) and the Regional Trial Court of Makati City (RTC Makati) on the investigation and prosecution of petitioners' cases.

The Facts

Petitioner in G.R. No. 175013, Crispin B. Beltran (Beltran), and petitioners in G.R. Nos. 172074-76, Liza L. Maza (Maza), Joel G. Virador (Virador), Saturnino C. Ocampo (Ocampo), Teodoro A. Casiño (Casiño), and Rafael V. Mariano (Mariano),^[1] are members of the House of Representatives representing various party-list groups.^[2] Petitioners in G.R. Nos. 172070-72 are private individuals. Petitioners all face charges for Rebellion under Article 134 in relation to Article 135 of the Revised Penal Code in two criminal cases pending with the RTC Makati.

G.R. No. 175013 (The Beltran Petition)

Following the issuance by President Gloria Macapagal-Arroyo of Presidential Proclamation No. 1017 on 24 February 2006 declaring a "State of National Emergency," police officers^[3] arrested Beltran on 25 February 2006, while he was en route to Marilao, Bulacan, and detained him in Camp Crame, Quezon City. Beltran was arrested without a warrant and the arresting officers did not inform Beltran of the crime for which he was arrested. On that evening, Beltran was subjected to an inquest at the Quezon City Hall of Justice for Inciting to Sedition under Article 142 of the Revised Penal Code based on a speech Beltran allegedly gave during a rally in Quezon City on 24 February 2006, on the occasion of the 20th anniversary of the EDSA Revolution. The inquest was based on the joint affidavit of Beltran's arresting officers who claimed to have been present at the rally. The inquest prosecutor^[4] indicted Beltran and filed the corresponding Information with the Metropolitan Trial Court of Quezon City (MeTC).^[5]

The authorities brought back Beltran to Camp Crame where, on 27 February 2006, he was subjected to a second inquest, with 1st Lt. Lawrence San Juan (San Juan), this time for Rebellion. A panel of State prosecutors^[6] from the DOJ conducted this second inquest. The inquest was based on two letters, both dated 27 February 2006, of Yolanda Tanigue (Tanigue) and of Rodolfo Mendoza (Mendoza). Tanigue is the Acting Executive Officer of the Criminal Investigation and Detection Group (CIDG), Philippine National Police (PNP), while Mendoza is the Acting Deputy Director of the CIDG. The letters referred to the DOJ for appropriate action the results of the CIDG's investigation implicating Beltran, the petitioners in G.R. Nos. 172074-76, San Juan, and several others as "leaders and promoters" of an alleged foiled plot to overthrow the Arroyo government. The plot was supposed to be carried out jointly by members of the Communist Party of the Philippines (CPP) and the Makabayang Kawal ng Pilipinas (MKP), which have formed a "tactical alliance."

On 27 February 2006, the DOJ panel of prosecutors issued a Resolution finding probable cause to indict Beltran and San Juan as "leaders/promoters" of Rebellion. The panel then filed an Information with the RTC Makati. The Information alleged that Beltran, San Juan, and other individuals "conspiring and confederating with each other, x x x, did then and there willfully, unlawfully, and feloniously form a tactical alliance between the CPP/NPA, renamed as Partidong Komunista ng Pilipinas (PKP) and its armed regular members as Katipunan ng Anak ng Bayan (KAB) with the Makabayang Kawal ng Pilipinas (MKP) and thereby rise publicly and take up arms against the duly constituted government, x x x."^[7] The Information, docketed as Criminal Case No. 06-452, was raffled to Branch 137 under Presiding Judge Jenny Lind R. Aldecoa-Delorino (Judge Delorino).

Beltran moved that Branch 137 make a judicial determination of probable cause against him.^[8] Before the motion could be resolved, Judge Delorino recused herself from the case which was re-raffled to Branch 146 under Judge Encarnacion Jaja-Moya (Judge Moya).

In its Order dated 31 May 2006, Branch 146 sustained the finding of probable cause against Beltran.^[9] Beltran sought reconsideration but Judge Moya also inhibited herself from the case without resolving Beltran's motion. Judge Elmo M. Alameda of Branch 150, to whom the case was re-raffled, issued an Order on 29 August 2006 denying Beltran's motion.

Hence, the petition in G.R. No. 175013 to set aside the Orders dated 31 May 2006 and 29 August 2006 and to enjoin Beltran's prosecution.

In his Comment to the petition, the Solicitor General claims that Beltran's inquest for Rebellion was valid and that the RTC Makati correctly found probable cause to try Beltran for such felony.

G.R. Nos. 172070-72 and 172074-76 (The Maza and Ladlad Petitions)

Based on Tanigue and Mendoza's letters, the DOJ sent subpoenas to petitioners on 6 March 2006 requiring them to appear at the DOJ Office on 13 March 2006 "to get copies of the complaint and its attachment." Prior to their receipt of the subpoenas, petitioners had quartered themselves inside the House of Representatives building for fear of being subjected to warrantless arrest.

During the preliminary investigation on 13 March 2006, the counsel for the CIDG presented a masked man, later identified as Jaime Fuentes (Fuentes), who claimed to be an eyewitness against petitioners. Fuentes subscribed to his affidavit before respondent prosecutor Emmanuel Velasco who then gave copies of the affidavit to media members present during the proceedings. The panel of prosecutors^[10] gave petitioners 10 days within which to file their counter-affidavits. Petitioners were furnished the complete copies of documents supporting the CIDG's letters **only** on 17 March 2006.

Petitioners moved for the inhibition of the members of the prosecution panel for lack of impartiality and independence, considering the political milieu under which petitioners were investigated, the statements that the President and the Secretary

of Justice made to the media regarding petitioners' case,^[11] and the manner in which the prosecution panel conducted the preliminary investigation. The DOJ panel of prosecutors denied petitioners' motion on 22 March 2006. Petitioners sought reconsideration and additionally prayed for the dismissal of the cases. However, the panel of prosecutors denied petitioners' motions on 4 April 2006.

Petitioners now seek the nullification of the DOJ Orders of 22 March 2006 and 4 April 2006.

Acting on petitioners' prayer for the issuance of an injunctive writ, the Court issued a status quo order on 5 June 2006. Prior to this, however, the panel of prosecutors, on 21 April 2006, issued a Resolution finding probable cause to charge petitioners and 46 others with Rebellion. The prosecutors filed the corresponding Information with Branch 57 of the RTC Makati, docketed as Criminal Case No. 06-944 (later consolidated with Criminal Case No. 06-452 in Branch 146), charging petitioners and their co-accused as "principals, masterminds, [or] heads" of a Rebellion.^[12] Consequently, the petitioners in G.R. Nos. 172070-72 filed a supplemental petition to enjoin the prosecution of Criminal Case No. 06-944.

In his separate Comment to the Maza petition, the Solicitor General submits that the preliminary investigation of petitioners was not tainted with irregularities. The Solicitor General also claims that the filing of Criminal Case No. 06-944 has mooted the Maza petition.

The Issues

The petitions raise the following issues:

1. In G.R. No. 175013, (a) whether the inquest proceeding against Beltran for Rebellion was valid and (b) whether there is probable cause to indict Beltran for Rebellion; and
2. In G.R. Nos. 172070-72 and 172074-76, whether respondent prosecutors should be enjoined from continuing with the prosecution of Criminal Case No. 06-944.^[13]

The Ruling of the Court

We find the petitions meritorious.

On the Beltran Petition

The Inquest Proceeding against Beltran for Rebellion is Void.

Inquest proceedings are proper only when the accused has been lawfully arrested without warrant.^[14] Section 5, Rule 113 of the Revised Rules of Criminal Procedure provides the instances when such warrantless arrest may be effected, thus:

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 just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

x x x x

In cases falling under paragraphs (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with section 7 of Rule 112.

The joint affidavit of Beltran's arresting officers^[15] states that the officers arrested Beltran, without a warrant,^[16] for Inciting to Sedition, and not for Rebellion. Thus, the inquest prosecutor could only have conducted – as he did conduct – an inquest for Inciting to Sedition and no other. Consequently, when another group of prosecutors subjected Beltran to a second inquest proceeding for Rebellion, they overstepped their authority rendering the second inquest void. None of Beltran's arresting officers saw Beltran commit, in their presence, the crime of Rebellion. Nor did they have personal knowledge of facts and circumstances that Beltran had just committed Rebellion, sufficient to form probable cause to believe that he had committed Rebellion. What these arresting officers alleged in their affidavit is that they saw and heard Beltran make an allegedly seditious speech on 24 February 2006.^[17]

Indeed, under DOJ Circular No. 61, dated 21 September 1993, the initial duty of the inquest officer is to determine if the arrest of the detained person was made "in accordance with the provisions of paragraphs (a) and (b) of Section 5, Rule 113."^[18] If the arrest was not properly effected, the inquest officer should proceed under Section 9 of Circular No. 61 which provides:

Where Arrest Not Properly Effected.– Should the Inquest Officer find that the arrest was not made in accordance with the Rules, he shall:

- a) recommend the release of the person arrested or detained;
- b) note down the disposition on the referral document;
- c) prepare a brief memorandum indicating the reasons for the action taken; and
- d) forward the same, together with the record of the case, to the City or Provincial Prosecutor for appropriate action.

Where the recommendation for the release of the detained person is approved by the City or Provincial Prosecutor **but the evidence on hand warrant the conduct of a regular preliminary investigation, the order of release shall be served on the officer having custody of said detainee and shall direct the said officer to serve upon the detainee the subpoena or notice of preliminary investigation,** together with the copies of the charge sheet or complaint, affidavit or sworn statements of the complainant and his witnesses and other supporting evidence. (Emphasis supplied)