

SECOND DIVISION

[A.M. No. RTJ-99-1472 (Formerly OCA IPI No. 98-598-RTJ), September 20, 2001]

SPOUSES HERMINIO AND MILA DIZON AND SPOUSES NOEL AND LILIA ZAMORA, COMPLAINANTS, VS. HON. DEMETRIO D. CALIMAG, PRESIDING JUDGE, REGIONAL TRIAL COURT, SANTIAGO CITY, BRANCH 35, RESPONDENT.

RESOLUTION

QUISUMBING, J.:

In a sworn complaint dated July 27, 1998, complainants Mila Dizon and Lilia Zamora charged Judge Demetrio D. Calimag of the Regional Trial Court of Santiago City, Branch 35 with grave misconduct and/or gross ignorance of the law relative to Criminal Cases Nos. 2565-66, both for illegal possession of firearms, as well as Criminal Case No. 2581 for grave threats.

Complainants allege that they are the respective wives of Herminio Dizon and Noel Zamora. They aver that on May 15, 1998, an information for violation of P.D. No. 1866, as amended by R.A. No. 8294, docketed as Criminal Case No. 2565, was filed against Noel "Boyot" Zamora. On the same date, Herminio "Hermie" Dizon was charged with the same offense in Criminal Case No. 2566. Both accused were committed to the Isabela Provincial Jail in Ilagan, Isabela.

On May 27, 1998, another information, docketed as Criminal Case No. 2581, was filed against Herminio and Noel, indicting them for grave threats.

All three cases were raffled off to the RTC of Santiago City, Branch 35. Respondent judge then issued a warrant of arrest in Criminal Case No. 2581 and ruled the offense unbailable.

Herminio and Noel filed a petition for bail in all three cases. Their petition was heard on June 9, 1998 and was denied by respondent judge in his order dated June 25, 1998.^[1]

Both accused filed a motion to quash the informations in Criminal Cases Nos. 2565-66 on the ground that the RTC did not have jurisdiction over the offense charged. They likewise moved for reconsideration of the order denying them bail.

On July 24, 1998, respondent judge denied all the foregoing motions.^[2]

On August 18, 1998, complainants filed a petition for *habeas corpus*, docketed as CA-G.R. SP No. 48673, with the Court of Appeals.

On August 26, 1998, the appellate court granted the petition, thus:

WHEREFORE, the petition is GRANTED, and the accused Noel "Boyet" Zamora and Herminio "Hermie" Dizon y Pascual, accused in Crim. Case No. 2581, are ordered RELEASED from custody upon their posting a bail bond in the amount of P40,000.00 each.

Crim. Cases No. 2565 and No. 2566 are DISMISSED, without prejudice to their being filed with the proper Municipal Trial Court.

SO ORDERED.^[3]

Complainants now contend that the denial by respondent judge of their motion to quash and petition for bail are not only illegal, whimsical, and arbitrary but constitute gross misconduct and gross ignorance of the law since the RTC has no jurisdiction over the offenses charged in Criminal Cases Nos. 35-2565 to 66. Moreover, all three criminal cases are bailable.

In his comment of March 15, 1999, respondent judge argues that the administrative charges were only filed by disgruntled litigants to harass and intimidate him. He points out that prior to the filing of this complaint, complainants also filed a complaint against him for arbitrary detention with the Provincial Prosecutor's Office in Ilagan, Isabela and with the Office of the Ombudsman. Both were dismissed.

Respondent submits that complainants' allegation that he dilly-dallied in resolving the motion to quash the information and the petition for bail is baseless as both incidents were decided within the mandatory 30-day period. Nor was the denial of the motion to quash and petition for bail made for some ulterior motive or some other consideration as complainants allege. Respondent judge contends that his ruling on said incidents was made on legal grounds and points out that in all three cases, the prosecutor had recommended no bail for the accused. Moreover, as a judicial officer, he had to exercise his sound discretion based on the evidence presented and the applicable laws. Thus, even assuming, for the sake of argument, that he committed an error in resolving the said incidents, it was done in good faith.

In its evaluation and recommendation report dated July 7, 1999,^[4] the Office of the Court Administrator found that the challenged orders of respondent judge were void *ab initio* for having been issued without jurisdiction. Respondent likewise exhibited lack of legal knowledge, particularly in the application of the Indeterminate Sentence Law and the duration and graduation of penalties. The OCA recommends that respondent be fined P2,000.00 for gross ignorance of the law.

The record shows that respondent judge acknowledged that illegal possession of firearms is punishable by *prision correccional* maximum^[5] and a fine of not less than P35,000.00, hence, making the offense bailable. However, he cited the charge for grave threats as a deterrent to the admission of the accused to bail, thus:

...Grave Threat under Article 282 of the Revised Penal Code provides that: "any person who shall threaten another with the infliction upon the person, honor or property of the latter or his family of any wrong amounting to a crime, shall suffer:

1. The penalty next lower in degree than that prescribed by law for the crime he threatened to commit, if the offender shall have made the