

THIRD DIVISION

[G.R. No. 125108, August 03, 2000]

ALEJANDRA PABLO, PETITIONER, VS. HON. SILVERIO Q. CASTILLO, PRESIDING JUDGE, BRANCH 43, REGIONAL TRIAL COURT, FIRST JUDICIAL REGION, DAGUPAN CITY AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

D E C I S I O N

PURISIMA, J.:

At bar is an original petition for certiorari under Rule 65 of the Rules of Court imputing grave abuse of discretion amounting to lack or excess of jurisdiction to the Regional Trial Court, Branch 43, Dagupan City, for denying petitioner's application for probation and the motion for reconsideration of two Orders dated March 25, 1996 and April 29, 1996, respectively.

The antecedent facts are as follows:

On January 12, 1994, petitioner Alejandra Pablo was charged with a violation of Batas Pambansa Bilang 22, otherwise known as the Bouncing Checks Law, in three separate Informations, for issuing three bad checks in the total amount of P2,334.00 each to complainant Nelson Mandap.

All three Informations alleged that on or about the 25th of May, 1993, petitioner did then and there willfully, unlawfully and criminally draw, issue and deliver various checks to Nelson Mandap, in partial payment of a loan she obtained from him, knowing that at the time of the issuance of such checks, she did not have sufficient funds in or credit with the bank. Subject checks were dishonored by the drawee bank upon presentment for payment, it appearing that the current account of petitioner had been closed, and she failed to pay the amount or make arrangements for the payment thereof, despite notice of dishonor.

Docketed as Criminal Cases Nos. 94-00197-D, 94-00198-D and 94-00199-D, respectively, the three cases were not consolidated. The first two were raffled and assigned to Branch 43 while the third case to Branch 41 of the Regional Trial Court in Dagupan City.

On June 21, 1995, Branch 41 of the said lower court rendered judgment in Criminal Case No. 94-0199-D, convicting petitioner of the crime charged and imposing upon her a fine of P4, 648.00.

On November 28, 1995, Branch 43 promulgated its decision in Criminal Cases Nos. 94-00197-D and 94-00198-D, finding petitioner guilty of violating B.P. Blg. 22, and sentencing her to pay the amount of P4, 668.00 and to serve a prison term of thirty (30) days in each case.

Petitioner applied for probation in Criminal Cases Nos. 94-00197-D and 94-00198-D. Her application was given due course and the probation office was required to submit a post-sentence investigation report.

On March 25, 1996, the probation office arrived at a favorable evaluation on the suitability of petitioner for probation. However, the recommendation of the local probation office was overruled by the National Probation Office. It denied petitioner's application for probation on the ground that the petitioner is disqualified under Section 9 of P.D. 968 (Probation Law). Respondent judge denied petitioner's application for probation in the Order dated March 25, 1996. Petitioner moved for reconsideration but to no avail. The same was denied on April 29, 1996.

Undaunted, petitioner brought the present petition.

The sole issue for resolution here is whether or not the respondent court acted with grave abuse of discretion in denying petitioner's application for probation on the ground of disqualification from probation under Section 9 of P.D. 968.

Under Section 9 of the Probation Law, P.D. 968, the following offenders cannot avail of the benefits of probation:

- a) those sentenced to serve a maximum term of imprisonment of more than six years;
- b) those convicted of subversion or any crime against the national security or the public order;
- c) *those who have previously been convicted by final judgment of an offense punished by imprisonment of not less than one month and one day and/or fine of not less than two hundred pesos;*
- d) those who have been once on probation under the provisions of this Decree; and
- e) those who are already serving sentence at the time the substantive provisions of this Decree became applicable pursuant to Section 33 hereof.

The National Probation Office denied petitioner's application for probation under Section 9 paragraph (c) P.D. 968 because a prior conviction was entered against the petitioner on June 21, 1995 in Criminal Case No. 94-0199, penalizing her with a fine of P4,648.00; thereby placing her within the ambit of disqualification from probation under Section 9 paragraph (c) of P.D. 968.

Petitioner assails the denial of her application for probation; invoking the ruling of this Court in several cases favoring liberal interpretation of the provisions of P.D. 968 so as to afford first offenders a second chance to reform in consonance with the avowed purpose and objective of the Probation Law. She theorized that "previous conviction" under Section 9 paragraph (c) should not be literally and strictly interpreted but should rather be understood as referring to a situation wherein the accused was previously convicted of a crime that arose differently, or was done on a different date, from the conviction of a crime for which probation is applied for. It is contended by petitioner that Section 9 paragraph (c) should not refer, as in her particular case, where several crimes arose out of a single act or transaction.