

## EN BANC

**[ A. M. No. 16-03-10-SC, October 15, 2019 ]**

### **RE: NEWS REPORT OF MR. JOMAR CANLAS IN THE MANILA TIMES ISSUE OF 8 MARCH 2016**

**CARPIO, J.:**

On 8 March 2016, The Manila Times published, both on its printed and online publication, an article written by its senior reporter, Jomar Canlas (Canlas). The article reads in full:

JUSTICES OFFERED P50-million bribe  
To disqualify Poe-sources

Justices of the Supreme Court (SC) were offered P50 million each to disqualify Senator Grace Poe from running as a presidential candidate in the May elections, well-placed sources at the High Court said on Monday.

The bribery attempt was disclosed on the eve of an en banc session where SC justices were expected to vote on the disqualification case against the senator.

The sources told The Manila Times two attempts were made to buy off the votes of the magistrates, both by persons "very close" to President Benigno Aquino 3<sup>rd</sup> and Manuel "Mar" Roxas 2<sup>nd</sup>, the standard bearer of the Liberal Party (LP).

The first to offer, the sources said, came from a female lawyer who is supportive of Roxas' presidential candidacy. The lawyer, a former Malacañang official, now works at a private law office. The sources said the law firm is behind the special operation to disqualify Poe.

"The offer was P50 million for each justice who will disqualify Poe," one of the sources said. "The justices refused (the offer)," he added.

The source said the offer was relayed to one of the justices appointed by Aquino.

Another source said that a member of the ruling LP dangled the same offer to a senior justice, who also declined it.

The source said a lawmaker and his "partner," a former businessman close to Aquino and Roxas, were behind the second attempt to bribe the justices.

*The Manila Times* tried to interview several justices but they refused to discuss the bribery attempt.

But a magistrate who asked not to be identified stressed that the tribunal will not bow to any pressure to decide on the case in exchange for cash.

The bribery offer was compared to what happened during the Senate impeachment trial for Chief Justice Renato Corona, who eventually lost his office.

Senator Jose "Jinggoy" Estrada said there was an offer of P50 million for each senator who would convict Corona, who was later impeached.

Justices of the high tribunal will tackle the disqualification case against Poe today, the last day for the magistrates to submit their dissenting or concurring opinions to the draft written by Associate Justice Mariano del Castillo.

If no voting is held today, it is likely to resume on Wednesday during a special en banc session the tribunal has set.

Sources had told *The Manila Times* that del Castillo pushed for the disqualification of Poe because she failed to meet the residency requirement for those presidential candidates.

The justices said the Commission on Elections did not commit grave abuse of discretion when it disqualified Poe, thus, he said the temporary restraining order issued by the SC stopping the poll body from dropping Poe from the list of presidential candidates should be lifted.<sup>[1]</sup>

In its 15 March 2016 Resolution, the Court, citing that "certain statements and innuendoes in Mr. Jomar Canlas' news report tend, directly or indirectly, to impede, obstruct, or degrade the administration of justice, within the purview of Section 3(d), Rule 71 of the 1997 Rules on Civil Procedure[,]" directed Canlas to explain, within five days from receipt of the resolution, why no sanction should be imposed on him for indirect contempt of court.

Canlas moved for extensions of time to submit his explanation, which the Court granted. On 22 April 2016, Canlas submitted his explanation, alleging that the disqualification cases against Grace Poe (Poe) have generated national interest and any attempt to bribe Justices to influence their decision is a matter of public interest and is a legitimate subject for any journalist. He added that he was moved by a sense of civic duty, and he was prodded by his responsibility as a newspaperman. Thus, he proceeded "to expose and denounce what he perceived [as] an insidious attempt to sway the justices in their decision over the case."<sup>[2]</sup> Canlas alleged that he never made any accusation or criticism against the Court or any of the Justices, but he only reported about the failed attempts to bribe certain Justices and how the attempts were rebuffed.

Canlas also stated that he made several attempts to secure an interview with, and get the side of, the Justices but he was unsuccessful. Still, he reported the comment of a Justice who refused to be named that the Court "will not bow to any pressure to decide on the case in exchange for cash."<sup>[3]</sup> According to him, the article paints an image of the Court that is incorruptible and which cannot be swayed or influenced by anyone even by those in powerful positions. Canlas added that, assuming the article may have unintentionally caused unflattering innuendoes about the Court, for which he "sincerely apologizes," his intention was to let the public know about the

failed attempts. His action was done with good motives and for justifiable ends. Canlas alleged that it is important to consider good faith or the lack of it in the disposition of this case.

The legitimate exercise of freedom of speech and of the press is a protected Constitutional right. Section 4, Article III of the 1987 Constitution provides:

SECTION 4. No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.

In *In the Matter of the Allegations Contained in the Columns of Mr. Macasaet Published in Malaya dated September 18, 19, 20 and 21, 2007*,<sup>[4]</sup> the Court once again recognized the role of the mass media in a democratic government. In that case, the court stated:

The mass media in a free society uphold the democratic way of life. They provide citizens with relevant information to help them make informed decisions about public issues affecting their lives. Affirming the right of the public to know, they serve as vehicles for the necessary exchange of ideas through fair and open debate. As the fourth Estate in our democracy, they vigorously exercise their independence and vigilantly guard against infringement. Over the year, the Philippine media have earned the reputation of being the "freest and liveliest" in Asia.

Members of the Philippine media have assumed the role of a watchdog and have been protective and assertive of this role. They demand accountability of government officials and agencies. They have been adversarial when they relate with any of the three branches of government. They uphold the citizen's right to know, and make public officials, including judges and justices, responsible for their deeds and misdeeds. Through their watchdog function, the media motivate the public to be vigilant in exercising the citizen's right to an effective, efficient and corrupt free government.<sup>[5]</sup>

The freedom of speech and of the press, however, is not absolute. In *Zaldivar v. Sandiganbayan*,<sup>[6]</sup> this Court ruled:

x x x. [F]reedom of speech and of expression, like all constitutional freedoms, is not absolute and that freedom of expression needs on occasion to be adjusted to and accommodated with the requirements of equally important public interest. One of these fundamental public interests is the maintenance of the integrity and orderly functioning of the administration of justice. There is no antimony between free expression and the integrity of the system of administering justice. For the protection and maintenance of freedom of expression itself can be secured only within the context of a functioning and orderly system of dispensing justice, within the context, in other words, of viable independent institutions for delivery of justice which are accepted by the general community.<sup>[7]</sup>

Once again, we are confronted with the issue of balancing the role of the media *vis-a-vis* judicial independence.