

THIRD DIVISION

[G.R. No. 240053, October 09, 2019]

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. MARIA CRISTINA P. SERGIO AND JULIUS LACANILAO, RESPONDENTS.

DECISION

HERNANDO, J.:

The peculiar factual circumstances surrounding the present case give rise to a novel question of law. May a prosecution witness, like Mary Jane Veloso (Mary Jane), who was convicted of drug trafficking and sentenced to death by the Indonesian Government and who is presently confined in a prison facility in Indonesia, testify by way of deposition without violating the constitutional right to confrontation of a witness by the accused?

This petition for review on *certiorari*^[1] under Rule 45 of the Rules of Court assails the December 13, 2017 Decision^[2] of the Court of Appeals in CA-G.R. SP No. 149002 which granted respondent's Petition for *Certiorari* and Prohibition and reversed the August 16, 2016 Resolution^[3] of the Regional Trial Court (trial court), Branch 88, of Sto. Domingo, Nueva Ecija, granting the motion of the prosecution to take the deposition by written interrogatories of Mary Jane in Indonesia.

The Factual Antecedents

Mary Jane, Maria Cristina P. Sergio (Cristina), and Julius L. Lacanilao (Julius) were friends and neighbors in Talavera, Nueva Ecija. Taking advantage of her dire situation and susceptibility, Cristina and Julius offered Mary Jane a job as a domestic helper in Malaysia. Believing that the job was a ray of hope, Mary Jane scraped whatever meager money she had and when the amount was not even enough to pay Cristina and Julius as placement fee, she resorted to borrowing from relatives. Still, the amount gathered was insufficient prompting Mary Jane's husband to sell even their precious motorcycle. On April 21, 2010, Mary Jane, together with Cristina, eventually left the Philippines for Malaysia. However, to Mary Jane's dismay, she was informed by Cristina upon their arrival in Malaysia that the job intended for her was no longer available. After spending a few days in Malaysia, Cristina sent Mary Jane to Indonesia for a seven-day holiday with a promise that she will have a job upon her return in Malaysia. Cristina gave Mary Jane her plane ticket as well as a luggage to bring on her trip.

Upon Mary Jane's arrival at the Adisucipto International Airport in Yogyakarta, Indonesia, she was apprehended by the police officers for allegedly carrying 2.6 kilograms of heroin inside her luggage. She was accordingly charged with drug trafficking before the District Court of Sleman, Yogyakarta, Indonesia.

Mary Jane sought comfort from her family in the Philippines and informed them that she was currently detained in Indonesia. Mary Jane's family immediately confronted

Cristina who instead of helping them even threatened them to keep the matter to themselves and not to divulge the same especially to the media. She even told Mary Jane's family that she is part of an international drug syndicate who would spend millions to get Mary Jane out of prison.

However, in October 2010, the District Court of Sleman, Yogyakarta, Indonesia, convicted Mary Jane of drug trafficking and sentenced her to death by firing squad. After the affirmance of her conviction by the High Court and the Supreme Court of Indonesia, Mary Jane and eight other felons who were similarly convicted of drug-related offenses were brought to a prison facility in the island of Nusakambangan, off Central Java, Indonesia, to await their execution by firing squad, which was originally scheduled on April 9, 2015 but later rescheduled to April 28, 2015. Eventually, the eight companions of Mary Jane were executed by firing squad. Presently, Mary Jane is detained at the Wirogunan Penitentiary in Yogyakarta, Indonesia.

Meanwhile, in the Philippines, Cristina and Julius were arrested by the operatives of the Anti-Human Trafficking Division of the National Bureau of Investigation. Thereafter, they were charged with qualified trafficking in person in violation of Section 4(a) in relation to Sections 3 (a) and 6 of Republic Act (R.A.) No. 9208, otherwise known as "*Anti-Trafficking in Persons Act of 2003*" docketed as Criminal Case No. SD (15)-3723.^[4] Cristina and Julius were likewise charged in two separate Informations with the crime of illegal recruitment as penalized under Section 6, par. (k) and (1) of R.A. No. 8042, otherwise known as "*Migrant Workers and Overseas Filipino Workers Act of 1995*," and estafa in violation of Section 2(a), Article 315 of the Revised Penal Code docketed as Criminal Case Nos. SD (15)-3724,^[5] and SD (15)3753,^[6] respectively, filed before the trial court. Upon arraignment, Cristina and Julius entered a plea of "not guilty" on all charges.

On March 31, 2015, representatives from the Philippine Drug Enforcement Agency (PDEA), the Philippine National Police (PNP) Crime Laboratory, and the Department of Foreign Affairs (DFA) went to Wirugonan Prison to interview Mary Jane. She executed a document known as "*Sinumpaang Salaysay ni Mary Jane Fiesta Veloso*."

In her *Sinumpaang Salaysay*, Mary Jane maintained her innocence and narrated how she was recruited by Cristina and Julius. She alleged that while in Malaysia, she and Cristina stayed at Sun Inn Lagoon since her supposed employer was not in Malaysia. Cristina has a boyfriend named Prince whom she conversed only by phone. Prince has a brother named "Ike." On April 24, 2010, Mary Jane and Cristina went to the hotel parking lot and met with "Ike" who was on board a white car. They then went inside the car wherein "Ike" handed the luggage to Cristina. When they returned to the hotel room, Cristina gave Mary Jane the luggage. Mary Jane noticed that it was unusually heavy but, upon checking, found nothing inside. She then asked Cristina why the luggage was heavy but the latter simply replied that because it was new. The luggage was the same bag she used on her trip to Indonesia. It was only after she was apprehended at the airport when Mary Jane realized that it contained prohibited drugs.

On the basis of her affidavit, the Philippine Government requested the Indonesian Government to suspend the scheduled execution of Mary Jane. It informed the Indonesian Government that the recruiters and traffickers of Mary Jane were already in police custody, and her testimony is vital in the prosecution of Cristina and Julius.

Thus, on April 28, 2015, or a few hours before the scheduled execution of Mary Jane, the President of Indonesia, His Excellency Joko Widodo, granted her an indefinite reprieve. The Cabinet Secretary of the Indonesian Government informed the public that President Widodo received reports about the on-going legal proceedings in the Philippines with respect to the case of Mary Jane, and that her recruiters were already in police custody.

Hence, pursuant to its obligations under the Treaty on Mutual Legal Assistance in Criminal Matters entered into by Southeast Asian Nations (ASEAN Mutual Legal Assistance Treaty), the Indonesian authorities deferred indefinitely the execution of Mary Jane to afford her an opportunity to present her case against Cristina, Julius, and "Ike" who were allegedly responsible for recruiting and exploiting her to engage in drug trafficking.

The Indonesian authorities however imposed the following conditions relative to the taking of Mary Jane's testimony, *viz.*:

(a) Mary Jane shall remain in detention in Yogyakarta, Indonesia;

(b) No cameras shall be allowed;

(c) The lawyers of the parties shall not be present; and

(d) The questions to be propounded to Mary Jane shall be in writing.

Thereafter, the State filed a "*Motion for Leave of Court to Take the Testimony of Complainant Mary Jane Veloso by Deposition Upon Written Interrogatories*." ^[7] It averred that the taking of Mary Jane's testimony through the use of deposition upon written interrogatories is allowed under Rule 23 of the Revised Rules of Court because she is out of the country and will not be able to testify personally before the court due to her imprisonment. The prosecution also pointed out that Rule 23 of the Rules of Court applies suppletorily in criminal proceedings and the use of deposition upon written interrogatories in criminal cases is not expressly prohibited under the Rules of Court. Further, it pointed out that the Supreme Court has allowed dispensation of direct testimony in open court under the Rules of Environmental Cases and the Judicial Affidavit Rule. Lastly, the OSG averred that Cristina and Julius will still have an opportunity to examine Mary Jane by propounding their own set of written interrogatories through the designated consular officer who will be taking the deposition; moreover, they were not precluded from objecting to the questions and answers.

Cristina and Julius objected to the motion asserting that the deposition should be made before and not during the trial. The depositions under Rules 23 and 25 of the Rules of Court are not designed to replace the actual testimony of the witness in open court and the use thereof is confined only in civil cases. Also, they argued that such method of taking testimony will violate their right to confront the witness, Mary Jane, or to meet her face to face as provided under Section 14(2) of the 1987 Constitution. Finally, they claimed that the prosecution's reliance on the Rules of Procedure for Environmental Cases and the Judicial Affidavit Rule was misplaced because the affiants therein were still subject to cross-examination.

Ruling of the Regional Trial Court:

In its Resolution dated August 16, 2016, the trial court granted the prosecution's motion subject to the following conditions:

1. Considering that the Prosecution has already submitted their proposed questions in the written interrogatories, the accused, through counsel, is given a period of ten (10) days from receipt of this Resolution to submit their comment to the proposed questions on the deposition upon written interrogatories for the witness Mary Jane Veloso. Upon receipt of the Comment, the Court shall promptly rule on the objections;
2. The Court shall schedule the taking of the deposition in Yogyakarta, Indonesia, which shall be presided by the undersigned trial judge. The final questions for the deposition (after ruling on the Defense objections), shall be propounded by the Consul of the Philippines in the Republic of Indonesia or his designated representative. The answers of the deponent to the written interrogatories shall be taken verbatim by a competent staff in the Office of the Philippine Consulate in the Republic of Indonesia;
3. The transcribed copy of the answers of the deponent shall be furnished the accused, through counsel, who shall thereafter submit their proposed cross interrogatory questions to the Prosecution within ten (10) days from receipt;
4. The Prosecution is given the same period often (10) days from receipt of the proposed cross interrogatory questions of the Defense stating the ground for the objections. Upon receipt of the comment, the Court shall promptly rule on the objections:
5. The Court shall schedule the conduct of the cross interrogatory questions for the deposition of Mary Jane Veloso in Yogyakarta, Indonesia, which shall be presided by the undersigned trial judge. The final questions for the written cross interrogatories (after ruling on the Prosecution's objections) shall be propounded by the Consul of the Philippines in the Republic of Indonesia or his designated representative. The answers of the deponent to the written cross interrogatories shall be taken verbatim by a competent staff in the Office of the Philippine Consulate in the Republic of Indonesia;
6. Unless the Prosecution opts to conduct re-direct written interrogatories, the testimony of Mary Jane Veloso by way of deposition upon written interrogatories shall be deemed terminated. In case the Prosecution propounds re-direct written interrogatories on the deponent, the above-mentioned procedure for the conduct of direct and cross interrogatories shall be observed.

[8]

Cristina and Julius immediately filed their "*Omnibus Motion for Reconsideration and to Suspend Period of Time to File Comments to Proposed Questions for Deposition of Mary Jane Veloso*." [9] However, the trial court denied their Omnibus Motion in its November 3, 2016 Resolution. [10]

Undeterred, Cristina and Julius filed a Petition for *Certiorari* and Prohibition with Urgent Prayer for Temporary Restraining Order and/or Preliminary Injunction [11]

before the Court of Appeals averring that the trial court judge gravely abused her discretion in the issuance of the assailed Resolutions.

Ruling of the Court of Appeals:

Finding grave abuse of discretion on the part of the trial court, the appellate court, in its assailed December 13, 2017 Decision, granted the Petition for *Certiorari* and reversed the August 16, 2016 Resolution of the trial court. It held that, contrary to the RTC's findings, the conditional examination of witnesses in criminal proceedings are primarily governed by Rule 119 of the Rules on Criminal Procedure. According to the appellate court, the State failed to establish compelling reason to depart from such rule and to apply instead Rule 23 of the Rules on Civil Procedure which only applies in civil cases. Thus, pursuant to Rule 119, the taking of deposition of Mary Jane or her conditional examination must be made not in Indonesia but before the court where the case is pending, *i.e.*, the Regional Trial Court of Sto. Domingo, Nueva Ecija, Branch 88, and that Cristina and Julius, being the accused in the criminal proceedings, should be notified thereof so they can attend the examination.

The appellate court further reasoned that to allow the prosecution to take the deposition of Mary Jane through written interrogatories will violate the right of Cristina and Julius as the accused to confront a witness or to meet the witness face to face.

The Office of the Solicitor General (**OSG**) sought for reconsideration^[12] but it was denied by the appellate court in its June 5, 2018 Resolution.^[13]

Aggrieved, the OSG filed the present Petition for Review on *Certiorari* under Rule 45 of the Rules of Court before this Court alleging mainly that: (a) the Court of Appeals erred in giving due course to Cristina and Julius's petition for *certiorari* because there was another plain, speedy and adequate remedy available in the ordinary course of law; in addition, the OSG contended that the Petition for *Certiorari* should not have been given due course considering the lack of grave abuse of discretion amounting to lack of jurisdiction on the part of the trial court; and; (b) Rule 23 of the Rules of Court with respect to deposition under written interrogatories can be applied suppletorily in the taking of the testimony of Mary Jane given her extraordinary circumstances.

Meantime, spouses Cesar and Celia Veloso, parents of Mary Jane, filed a "Motion for Leave to Intervene and to Admit Attached Petition-In-Intervention."^[14] They prayed to be allowed to intervene, on behalf of Mary Jane, in the instant proceeding for the purpose of protecting and preserving their daughter's substantial and immediate interest. Attached to their motion was their Petition-in-Intervention.^[15]

The OSG, on the other hand, submitted its Manifestation and Motion.^[16] It informed the Court that the trial court proceeded with the hearing of the criminal cases in accordance with A.M. No. 15-06-10-SC, or the Revised Guidelines for Continuous Trial of Criminal Cases. The prosecution has only Mary Jane to present as a witness. Hence, the OSG prays that the Court immediately resolve the instant Petition for Review and to suspend the application of A.M. No. 15-06-10-SC in the criminal proceedings before the trial court.