

## SECOND DIVISION

[ G.R. No. 214986, February 15, 2017 ]

**ATTY. HERMINIO HARRY L. ROQUE, JR., PETITIONER, VS. ARMED FORCES OF THE PHILIPPINES (AFP) CHIEF OF STAFF, GEN. GREGORIO PIO CATAPANG, BRIG. GEN. ARTHUR ANG, CAMP AGUINALDO CAMP COMMANDER, AND LT. COL. HAROLD CABUNOC, AFP PUBLIC AFFAIRS OFFICE CHIEF, RESPONDENTS.**

### DECISION

**LEONEN, J.:**

We resolve a Petition to Cite for Indirect Contempt<sup>[1]</sup> filed by petitioner Atty. Herminio Harry L. Roque, Jr. against respondents Gen. Gregorio Pio Catapang, Brig. Gen. Arthur Ang, and Lt. Col. Harold Cabunoc, for violating Rule 139-B, Section 18 of the Rules of Court.

On October 11, 2014, Jeffrey "Jennifer" Laude, 26-year old Filipino, was allegedly killed at a motel in Olongapo City by 19-year old US Marine Private Joseph Scott Pemberton.<sup>[2]</sup> After nearly a month since the killing, police had not been able to obtain Pemberton's latent fingerprints and oral swabs, because he was confined by his superiors on a ship and placed under their custody.<sup>[3]</sup> Thus, the question of custody over Pemberton was subject of public discussions.<sup>[4]</sup> Pemberton was eventually transferred from his ship to a facility in the headquarters of the Armed Forces of the Philippines.<sup>[5]</sup> However, Philippine authorities maintained that until a case was filed against Pemberton, custody over him remained with the United States of America.<sup>[6]</sup>

On October 22, 2014, news broke out that Pemberton had been flown into Camp Aguinaldo, where a detention facility had been constructed for him, in the premises of the Mutual Defense Board-Security Engagement Board.<sup>[7]</sup>

Thus, petitioner, together with his clients, the family of the slain Jeffrey "Jennifer" Laude, and German national Marc Sueselbeck, went to Camp General Emilio Aguinaldo, Quezon City, to demand to see Pemberton.<sup>[8]</sup>

Respondents state that petitioner, with his clients, forced their way inside the premises of the Mutual Defense Board-Security Engagement Board and gained entry despite having been instructed by Military Police personnel not to enter the compound, and even though the gates were closed.<sup>[9]</sup>

SSg Norly R. Osio PA ("Osio"), a guard who was detailed at Gate 6 Bravo of Camp Aguinaldo, attested that he flagged down a BMW vehicle with Regulation Plate Number UDR-628 sometime between 3:00 and 4:00 p.m. for inspection, and for the issuance of an appropriate Vehicle Pass, but the vehicle did not stop, and sped

directly into the Camp.<sup>[10]</sup> Immediately following the BMW vehicle was a silver Toyota Innova with Regulation Plate Number AHJ-129, with the word "MEDIA" displayed on the windshield.<sup>[11]</sup> Upon inquiry, the driver of the Innova informed Osio that they were heading to the Public Affairs Office.<sup>[12]</sup>

Cpl Walter Francisco 796690 (INF) PA attested that he had been posted at the perimeter fence of the MDB-SEB, and was instructed that no media be allowed inside.<sup>[13]</sup> He narrated encountering petitioner at the MDBSEB, in front of members of the media:

....

3. Pagdating namin sa Iugar ay pumuwesto ako sa perimeter fence ng MDB-SEB compound. Naabutan naming maraming media na nakapwesto malapit sa Golf Driving Range na humigit-kumulang 15 metro lamang sa tapat ng perimeter fence na kinaroroonan ko. Binantayan na namin ang mga media na baka sila ay makapasok sa loob ng MDB SEB compound.

4. Mga bandang alas tres ng hapon ay dumating si Atty. Harry Roque. Sinalubong sya ng media at sya ay ininterview sa may parking area ng Golf Driving Range at dumating na rin ang nanay ni Jennifer Laude.

5. Pagkatapos ay bigla silang tumawid, kasama ang media at galit na galit na sumugod sa aking kinatatayuan malapit sa perimeter fence ng binabantayan kong compound.

6. Noong sandaling iyon ay pinagsabihan ko sila na "Hanggang dyan lang po muna kayo at wala pang advice ang taga PAO (Public Affairs Office, Armed Forces of the Philippines)."

7. Nung makalapit na sila ay minura ako ni Atty. Roque ng "Putang ina, bakit hindi taga PAO ang pumunta dito! [A]t hindi kami ang pupunta sa kanila!"

8. Pagkatapos ay napilitan akong umalis sa pwesto ko sa dami nila na sumugod sa akin. Sa pagkakataong iyon ay sinabihan ko ang tropa sa pamamamagitan ng handheld radio na isara at ilock ang gate ng AFRESCOM dahil papunta sila Atty. Roque at pamilya Laude dyan kasama mga media sa loob ng compound.

9. Habang sila ay papunta sa gate ng AFRESCOM ay sinundan ko sila para awatin ngunit sadya silang marami kaya nakaya nilang maitulak ang gate ng AFRESCOM na sya naming pilit na pinigilan nina Cpl Abdulla at SSg Arica na nasa likod ng gate ng AFRESCOM. Sa pagkakataong iyon, ay tuluyan nakapasok ang grupo nila Mr. Sueselbeck at Atty. Roque kasama na rin ang media.<sup>[14]</sup>

....

As narrated by respondents, petitioner fomented disorder by inciting his clients to scale the perimeter fence, to see Pemberton. TSG Mariano C. Pamittan 787924 PA

and SGT Alfonso A. Bungag 810943 PA attested:

Nakita ko na pinangunahan nina ATTY. ROQUE at nung German ang pwersahang pagpasok sa Main Gate ng AFPRESCOM at MDB-SEB, at pagkatapos tumapat sila sa Gate ng MDB-SEB na kung saan kami ay nakaduty ng oras na iyon, at doon nagsisigaw si Marilou Laude, kapatid ni Jeffrey Laude, na "ilabas nyo si PEMBERTON at gusto namin makita kung nandyan ba talaga!"

Pagkatapos magsisigaw ay biglang umakyat na si Marilou Laude sa bakod ng MDB-SEB, at inawat namin itong dalawa. Pagkatapos makaakyat ni Marilou Laude ay nakita namin yung German na umakyat na rin ng bakod, at pagbaba nilang pareho ay sinabihan namin na bawal ang ginagawa nila.

Napansin din namin na habang umaakyat yung dalawa ay imbes na pigilin ni ATTY. ROQUE ay ginagatongan pa niya sila at pinagsasalitahan din kami ng masama.

Samantala ay dumating na si Camp Commander sa lugar. Pag dating niya ay agad niyang pinakiusapan ang dalawang umakyat ng bakod na lumabas na.

Habang pinapakiusapan niya sila ay kung ano anong mga masasakit na salita ang sinasabi ni ATTY. ROQUE kay Camp Commander at sa amin. Bagaman siya ay sinasabihan ng masama patuloy parin na nakikiusap si Camp Commander.

Natigillamang sa pagsasalita niya ng masama si ATTY. ROQUE ng nagagsabihan ni Camp Commander na umalis muna ang media sa lugar.

[15]

Respondents allege that the foregoing events are of public knowledge, having been subject of various national television, radio, internet, and print media publications.

[16]

In response to the events of October 22, 2014, respondents released a press statement that they were considering filing disbarment proceedings against petitioner.<sup>[17]</sup> Thus, on October 30, 2014, respondent Cabunoc, the AFP Public Affairs Office Chief, was quoted by the Philippine Daily Inquirer:

"The [AFP Chief of Staff] is strongly considering the filing of a formal complaint against him before the Integrated Bar of the Philippines, if warranted. The bases for this complaint are his inappropriate actions inside camp premises during the intrusion incident on October 22," AFP Public Affairs Office Chief Lieutenant Colonel Harold Cabunoc said on Wednesday night.<sup>[18]</sup>

The Inquirer also quoted petitioner's Twitter account:

Roque, in his Twitter account, said he was looking forward to responding to the AFP's complaint.

"I look forward to answering the complaint of AFP before the IBP. They will hopefully stop their tirades which I consider as a threat to my security," he said.<sup>[19]</sup>

Similarly, on November 4, 2014, the Philippine Star reported:

AFP to proceed with disbarment case vs Laude lawyer

MANILA, Philippines - The military leadership will push through with its plan to file a disbarment case against lawyer Harry Roque, counsel of the family of Filipino transgender Jeffrey "Jennifer" Laude ...

Lt. Col. Harold Cabunoc, Armed Forces of the Philippines-Public Affairs Office (AFP-PAO) chief, said military lawyers will file legal action against Roque at the Integrated Bar of the Philippines (IBP) for his conduct when he and members of the Laude family gate-crashed at Camp Aguinaldo in their bid to confront US Marine Private First Class Joseph Scott Pemberton.

....

Roque, for his part, said that he is not at all threatened by the AFP move to have him disbarred, saying that the military move will clarify a lawyer's role in pushing the victims' rights and national sovereignty.

In return, Roque said he would also be filing graft charges against the AFP for allowing the US to have custody over Pemberton at Camp Aguinaldo.

"It's graft when they allow the US to have custody over Pemberton. If they win, I will be disbarred. If I win, they end up in jail," Roque said.

He added that his filing of charges against the AFP is without prejudice to the filing of contempt charges against those who have repeatedly and publicly threatened him with disbarment.<sup>[20]</sup>

On November 3, 2014, the Sun Star reported:

MANILA The Armed Forces of the Philippines (AFP) formally filed Monday a disbarment case against Harry Roque, the lawyer of the slain transgender Filipino Jeffrey "Jennifer" Laude before the Integrated Bar of the Philippines (IBP), a military official said Monday.

AFP Public Affairs chief Lieutenant Colonel Harold Cabunoc said AFP chief of staff Gregorio Catapang ordered the military's legal office to file the case against Roque in relation to the inappropriate actions he displayed during the intrusion of Laude's family in restricted areas at the AFP headquarters in Camp Aguinaldo in Quezon City.

On October 22, United States authorities turned over alleged suspect, US Marine Private First Class Joseph Scott Pemberton to Camp Aguinaldo, where he will be detained temporarily while facing murder charges related to Laude's death last October 11.

After attending the hearing of the Senate committee on foreign relations... Laude's family together with Roque went to Camp Aguinaldo to personally see Pemberton and confront him.

The family were able to pass through the first gate of the facility where Pemberton is being held. Marilou, sister of Laude, and German national Marc Sueselbeck climbed over the fence of the second gate as they tried to move closely to where the alleged suspect is detained.

The said facility was considered a restricted area, Cabunoc said.

He said Roque was apparently the one who pushed Laude's family to violate the camp rules and regulations.

"Ang isang abogado supposedly ay dapat sa aming paningin ay siyang dapat ang mag-uphold sa law dahil sila ang nakakaalam kung ano ang batas," Cabunoc said adding that Roque deceived the military police by dropping his name as the person they will visit upon entering the camp.

In a text message, Roque said the case is a chance for him to "clarify a lawyer's role in pushing victims' rights and sovereignty."

"On my part, I will file graft charges vs. AFP. Its (sic) graft when they allow the US to have custody over Pemberton in Aguinaldo. If they win, I will be disbarred. If I win, they end up in jail. This is without prejudice to filing contempt charges vs those who have repeatedly and publicly threatened me with disbarment. AFP should be taught what a civilian officer of the court stands for," he said.<sup>[21]</sup>

On November 4, respondents filed a disbarment complaint against petitioner, before the Integrated Bar of the Philippines.<sup>[22]</sup> On the same day, respondent Cabunoc called a conference at Camp Aguinaldo, and publicly announced that a disbarment complaint had been filed against petitioner.<sup>[23]</sup> Respondent Cabunoc also distributed a press statement, which reads:

*Press Statement: AFP files disbarment complaint against Atty. Harry Roque*

CAMP AGUINALDO, Quezon City - At about 2 p.m. today, the AFP has filed a verified disbarment complaint before the Integrated Bar of the Philippines (IBP) against Atty. Harry Roque for violation of the Code of Professional Responsibility.

As a lawyer, Atty. Roque is, at all times, subject to the watchful public eye and community approbation.

He is bound to maintain and live up to the standards of the legal profession not only in keeping a high regard of legal proficiency which he undoubtedly possesses but also of distinct high regard for morality, honesty, integrity and fair dealing.