

EN BANC

[G.R. No. 176830, February 11, 2014]

SATURNINO C. OCAMPO, PETITIONER, VS. HON. EPHREM S. ABANDO, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF HILONGOS, LEYTE, BRANCH 18, CESAR M. MERIN, IN HIS CAPACITY AS APPROVING PROSECUTOR AND OFFICER-IN-CHARGE, ROSULO U. VIVERO, IN HIS CAPACITY AS INVESTIGATING PROSECUTOR, RAUL M. GONZALEZ, IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF JUSTICE, RESPONDENTS.

[G.R. No. 185587]

RANDALL B. ECHANIS, PETITIONER, VS. HON. THELMA BUNYI-MEDINA, IN HER CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MANILA, BRANCH 32, HON. EPHREM S. ABANDO, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF HILONGOS, LEYTE, BRANCH 18, CESAR M. MERIN, IN HIS CAPACITY AS APPROVING PROSECUTOR AND OFFICER-IN-CHARGE, ROSULO U. VIVERO, IN HIS CAPACITY AS INVESTIGATING PROSECUTOR, RAUL M. GONZALEZ, IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF JUSTICE, RESPONDENTS.

[G.R. No. 185636]

RAFAEL G. BAYLOSIS, PETITIONER, VS. HON. THELMA BUNYI-MEDINA, IN HER CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MANILA, BRANCH 32, HON. EPHREM S. ABANDO, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF HILONGOS, LEYTE, BRANCH 18, CESAR M. MERIN, IN HIS CAPACITY AS APPROVING PROSECUTOR AND OFFICER-IN-CHARGE, ROSULO U. VIVERO, IN HIS CAPACITY AS INVESTIGATING PROSECUTOR, RAUL M. GONZALEZ, IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF JUSTICE, RESPONDENTS.

[G.R. No. 190005]

VICENTE P. LADLAD, PETITIONER, VS. HON. THELMA BUNYI-MEDINA, IN HER CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MANILA, BRANCH 32, AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

DECISION

SERENO, C.J.:

On 26 August 2006, a mass grave was discovered by elements of the 43rd Infantry Brigade of the Philippine Army at *Sitio Sapang Daco, Barangay Kaulisihan, Inopacan, Leyte*.^[1] The mass grave contained skeletal remains of individuals believed to be victims of "Operation Venereal Disease" (Operation VD) launched by members of the Communist Party of the Philippines/New People's Army/National Democratic Front of the Philippines (CPP/NPA/NDFP) to purge their ranks of suspected military informers.

While the doctrine of hierarchy of courts normally precludes a direct invocation of this Court's jurisdiction, we take cognizance of these petitions considering that petitioners have chosen to take recourse directly before us and that the cases are of significant national interest.

Petitioners have raised several issues, but most are too insubstantial to require consideration. Accordingly, in the exercise of sound judicial discretion and economy, this Court will pass primarily upon the following:

1. Whether petitioners were denied due process during preliminary investigation and in the issuance of the warrants of arrest.
2. Whether the murder charges against petitioners should be dismissed under the political offense doctrine.

ANTECEDENT FACTS

These are petitions for certiorari and prohibition^[2] seeking the annulment of the orders and resolutions of public respondents with regard to the indictment and issuance of warrants of arrest against petitioners for the crime of multiple murder.

Police Chief Inspector George L. Almaden (P C/Insp. Almaden) of the Philippine National Police (PNP) Regional Office 8 and Staff Judge Advocate Captain Allan Tiu (Army Captain Tiu) of the 8th Infantry Division of the Philippine Army sent 12 undated letters to the Provincial Prosecutor of Leyte through Assistant Provincial Prosecutor Rosulo U. Vivero (Prosecutor Vivero).^[3] The letters requested appropriate legal action on 12 complaint-affidavits attached therewith accusing 71 named members of the Communist Party of the Philippines/New People's Army/National Democratic Front of the Philippines (CPP/NPA/NDFP) of murder, including petitioners herein along with several other unnamed members.

The letters narrated that on 26 August 2006, elements of the 43rd Infantry Brigade of the Philippine Army discovered a mass grave site of the CPP/NPA/NDFP at *Sitio Sapang Daco, Barangay Kaulisihan, Inopacan, Leyte*.^[4] Recovered from the grave site were 67 severely deteriorated skeletal remains believed to be victims of Operation VD.^[5]

The PNP Scene of the Crime Operation (SOCO) Team based in Regional Office 8 was immediately dispatched to the mass grave site to conduct crime investigation, and to collect, preserve and analyze the skeletal remains.^[6] Also, from 11-17 September 2006, an investigation team composed of intelligence officers, and medico-legal and DNA experts, conducted forensic crime analysis and collected from

alleged relatives of the victims DNA samples for matching.^[7]

The Initial Specialist Report^[8] dated 18 September 2006 issued by the PNP Crime Laboratory in Camp Crame, Quezon City, was inconclusive with regard to the identities of the skeletal remains and even the length of time that they had been buried. The report recommended the conduct of further tests to confirm the identities of the remains and the time window of death.^[9]

However, in a Special Report^[10] dated 2 October 2006, the Case Secretariat of the Regional and National Inter-Agency Legal Action Group (IALAG) came up with the names of ten (10) possible victims after comparison and examination based on testimonies of relatives and witnesses.^[11]

The 12 complaint-affidavits were from relatives of the alleged victims of Operation VD. All of them swore that their relatives had been abducted or last seen with members of the CPP/NPA/NDFP and were never seen again. They also expressed belief that their relatives' remains were among those discovered at the mass grave site.

Also attached to the letters were the affidavits of Zacarias Piedad,^[12] Leonardo C. Tanaid, Floro M. Tanaid, Numeriano Beringuel, Glecerio Roluna and Veronica P. Tabara. They narrated that they were former members of the CPP/NPA/NDFP.^[13] According to them, Operation VD was ordered in 1985 by the CPP/NPA/NDFP Central Committee.^[14] Allegedly, petitioners Saturnino C. Ocampo (Ocampo),^[15] Randall B. Echanis (Echanis),^[16] Rafael G. Baylosis (Baylosis),^[17] and Vicente P. Ladlad (Ladlad)^[18] were then members of the Central Committee.

According to these former members, four sub-groups were formed to implement Operation VD, namely, (1) the Intel Group responsible for gathering information on suspected military spies and civilians who would not support the movement; (2) the Arresting Group charged with their arrests; (3) the Investigation Group which would subject those arrested to questioning; and (4) the Execution Group or the "cleaners" of those confirmed to be military spies and civilians who would not support the movement.^[19]

From 1985 to 1992, at least 100 people had been abducted, hog-tied, tortured and executed by members of the CPP/NPA/NDFP^[20] pursuant to Operation VD.^[21]

On the basis of the 12 letters and their attachments, Prosecutor Vivero issued a subpoena requiring, among others, petitioners to submit their counter-affidavits and those of their witnesses.^[22] Petitioner Ocampo submitted his counter-affidavit.^[23] Petitioners Echanis^[24] and Baylosis^[25] did not file counter-affidavits because they were allegedly not served the copy of the complaint and the attached documents or evidence. Counsel of petitioner Ladlad made a formal entry of appearance on 8 December 2006 during the preliminary investigation.^[26] However, petitioner Ladlad did not file a counter-affidavit because he was allegedly not served a subpoena.^[27]

In a Resolution^[28] dated 16 February 2007, Prosecutor Vivero recommended the

filing of an Information for 15 counts of multiple murder against 54 named members of the CPP/NPA/NDFP, including petitioners herein, for the death of the following: 1) Juanita Aviola, 2) Concepcion Aragon, 3) Gregorio Eras, 4) Teodoro Recones, Jr., 5) Restituto Ejoc, 6) Rolando Vasquez, 7) Junior Milyapis, 8) Crispin Dalmacio, 9) Zacarias Casil, 10) Pablo Daniel, 11) Romeo Tayabas, 12) Domingo Napoles, 13) Ciriaco Daniel, 14) Crispin Prado, and 15) Ereberto Prado.^[29]

Prosecutor Vivero also recommended that Zacarias Piedad, Leonardo Tanaid, Numeriano Beringuel and Glecerio Roluna be dropped as respondents and utilized as state witnesses, as their testimonies were vital to the success of the prosecution.^[30] The Resolution was silent with regard to Veronica Tabara.

The Information was filed before the Regional Trial Court (RTC) Hilongos, Leyte, Branch 18 (RTC Hilongos, Leyte) presided by Judge Ephrem S. Abando (Judge Abando) on 28 February 2007, and docketed as Criminal Case No. H-1581.^[31] Petitioner Ocampo filed an Ex Parte Motion to Set Case for Clarificatory Hearing dated 5 March 2007 prior to receiving a copy of the Resolution recommending the filing of the Information.^[32]

On 6 March 2007, Judge Abando issued an Order finding probable cause "in the commission by all mentioned accused of the crime charged."^[33] He ordered the issuance of warrants of arrest against them with no recommended bail for their temporary liberty.^[34]

On 16 March 2007, petitioner Ocampo filed before us this special civil action for certiorari and prohibition under Rule 65 of the Rules of Court and docketed as G.R. No. 176830 seeking the annulment of the 6 March 2007 Order of Judge Abando and the 16 February 2007 Resolution of Prosecutor Vivero.^[35] The petition prayed for the unconditional release of petitioner Ocampo from PNP custody, as well as the issuance of a temporary restraining order/ writ of preliminary injunction to restrain the conduct of further proceedings during the pendency of the petition.^[36]

Petitioner Ocampo argued that a case for rebellion against him and 44 others (including petitioners Echanis and Baylosis^[37] and Ladlad^[38] docketed as Criminal Case No. 06-944 was then pending before the RTC Makati, Branch 150 (RTC Makati).^[39] Putting forward the political offense doctrine, petitioner Ocampo argues that common crimes, such as murder in this case, are already absorbed by the crime of rebellion when committed as a necessary means, in connection with and in furtherance of rebellion.^[40]

We required^[41] the Office of the Solicitor General (OSG) to comment on the petition and the prayer for the issuance of a temporary restraining order/ writ of preliminary injunction, and set^[42] the case for oral arguments on 30 March 2007. The OSG filed its Comment on 27 March 2007.^[43]

The following were the legal issues discussed by the parties during the oral arguments:

1. Whether the present petition for certiorari and prohibition is the proper remedy of petitioner Ocampo;
2. Assuming it is the proper remedy, whether he was denied due process during preliminary investigation and in the issuance of the warrant of arrest;
3. Whether the murder charges against him are already included in the rebellion charge against him in the RTC.^[44]

Afterwards, the parties were ordered to submit their memoranda within 10 days.^[45] On 3 April 2007, the Court ordered the provisional release of petitioner Ocampo under a P100,000 cash bond.^[46]

Acting on the observation of the Court during the oral arguments that the single Information filed before the RTC Hilongos, Leyte was defective for charging 15 counts of murder, the prosecution filed a Motion to Admit Amended Information and New Informations on 11 April 2007.^[47] In an Order dated 27 July 2007, Judge Abando held in abeyance the resolution thereof and effectively suspended the proceedings during the pendency of G.R. No. 176830 before this Court.^[48]

While the proceedings were suspended, petitioner Echanis was arrested on 28 January 2008 by virtue of the warrant of arrest issued by Judge Abando on 6 March 2007.^[49] On 1 February 2008, petitioners Echanis and Baylosis filed a Motion for Judicial Reinvestigation/ Determination of Probable Cause with Prayer to Dismiss the Case Outright and Alternative Prayer to Recall/ Suspend Service of Warrant.^[50]

On 30 April 2008, Judge Abando issued an Order denying the motion.^[51] Petitioners Echanis and Baylosis filed a Motion for Reconsideration^[52] dated 30 May 2008, but before being able to rule thereon, Judge Abando issued an Order dated 12 June 2008 transmitting the records of Criminal Case No. H-1581 to the Office of the Clerk of Court, RTC Manila.^[53] The Order was issued in compliance with the Resolution dated 23 April 2008 of this Court granting the request of then Secretary of Justice Raul Gonzales to transfer the venue of the case.

The case was re-raffled to RTC Manila, Branch 32 (RTC Manila) presided by Judge Thelma Bunyi-Medina (Judge Medina) and re-docketed as Criminal Case No. 08-262163.^[54] Petitioner Echanis was transferred to the PNP Custodial Center in Camp Crame, Quezon City. On 12 August 2008, petitioners Echanis and Baylosis filed their Supplemental Arguments to Motion for Reconsideration.^[55]

In an Order^[56] dated 27 October 2008, Judge Medina suspended the proceedings of the case pending the resolution of G.R. No. 176830 by this Court.

On 18 December 2008, petitioner Ladlad filed with the RTC Manila a Motion to Quash and/or Dismiss.^[57]

On 23 December 2008, petitioner Echanis filed before us a special civil action for certiorari and prohibition under Rule 65 of the Rules of Court seeking the annulment of the 30 April 2008 Order of Judge Abando and the 27 October 2008 Order of Judge