

## THIRD DIVISION

[ **A.M. No. RTJ-14-2376 [Formerly OCA I.P.I. No. 11-3625-RTJ], March 05, 2014 ]**

**MA. LIZA M. JORDA, CITY PROSECUTOR'S OFFICE, TACLOBAN CITY, COMPLAINANT, VS. JUDGE CRISOLOGO S. BITAS, REGIONAL TRIAL COURT, BRANCH 7, TACLOBAN CITY, RESPONDENT.**

[**A.M. NO. RTJ-14-2377 [FORMERLY OCA I.P.I. NO. 11-3645-RTJ]]**

**PROSECUTOR LEO C. TABAO, COMPLAINANT, VS. JUDGE CRISOLOGO S. BITAS, REGIONAL TRIAL COURT, BRANCH 7, TACLOBAN CITY RESPONDENT.**

### D E C I S I O N

**PERALTA, J.:**

Before this Court are Consolidated Complaints dated March 29, 2011<sup>[1]</sup> and March 25, 2011<sup>[2]</sup> filed by Prosecutor Leo C. Tabao, Office of the City Prosecutor, Tacloban City and Ma. Liza M. Jorda, Associate City Prosecutor, Tacloban City, respectively, against respondent Judge Crisologo S. Bitas (*respondent judge*), Presiding Judge, Regional Trial Court (RTC), Branch 7, Tacloban City, for Grave Abuse of Authority, Irregularity in the Performance of Official Duties, Bias and Partiality, relative to Criminal Case Nos. 2009-11-537,<sup>[3]</sup> 2009-11-538, 2009-11-539 entitled *People v. Danilo Miralles, et al.*

The antecedent facts of the case, as culled from the records, are as follows:

**A.M. OCA I.P.I. No. 11-3645-RTJ**  
***City Prosecutor Leo C. Tabao, Tacloban City v. Judge Crisologo S. Bitas, RTC, Branch 7, Tacloban City***

The complaint stemmed from Criminal Case Nos. 2009-11-537; 2009-11-538 and 2009-11-539<sup>[4]</sup> for Qualified Trafficking and Violation of Article VI, Section 10 of Republic Act (R.A.) No. 7610, which were filed against Danilo Miralles (*Miralles*), *et al.* before the Regional Trial Court, Branch 7, Tacloban City where respondent Judge Bitas presides.

Complainant alleged that on January 15, 2010, accused Miralles, through counsel, filed a Motion for Judicial Determination of Probable Cause with Motion to Hold in Abeyance the Issuance of a Warrant of Arrest. On the same day, respondent Judge issued an order taking cognizance of the same and directed Prosecutor Anthea G. Macalalag to file her comment on the motion. The prosecution then filed its

comment/opposition and moved for the issuance of the required warrant for the arrest of Miralles. No warrant of arrest was issued against Miralles.

On February 2, 2011, respondent judge issued an Order which states:

After the prosecution presented their witnesses, the Court finds that there is probable cause to hold the accused for trial for Violation of 4 (a & e) of R.A. 9208 and, therefore, the court orders Lynna Brito y Obligar to file a bail bond of Forty Thousand Pesos (PhpP40,000.00) for her temporary liberty. Danilo Miralles is, likewise, ordered to put up a bail bond of Forty Thousand Pesos (P40,000.00) for each of the three (3) cases.

Subsequently, on February 4, 2011, Sheriff Jose Cabcabin of the Office of the RTC Clerk of Court issued a certification that Miralles surrendered to him to avail of his right to bail. The cash bail bond in the amount of P120,000.00 was approved by respondent judge on the same day.

Complainant lamented that respondent judge disregarded his duties and violated mandatory provisions of the Rules of Court when he did not issue a warrant of arrest against the accused Miralles, who was charged with two (2) non-bailable criminal offenses. As early as November 19, 2009, criminal complaints against Miralles for Qualified Trafficking were already filed, yet respondent judge never issued a warrant of arrest for Miralles despite accused's presence during the court hearings.

Moreover, respondent judge granted a reduced bail of P40,000.00 for accused Miralles even without any petition for the fixing of bail. In fact, complainant reiterated that even after respondent judge found probable cause to hold accused Miralles for trial, he did not order the arrest of the accused. Instead, respondent judge summarily granted a reduced bail in the absence of a motion to fix bail and the prosecution was not given the opportunity to interpose its objections. Complainant claimed that such acts of respondent judge were evident of his bias towards accused Miralles.

In his Answer, respondent judge reasoned that it was wrong to arrest Miralles, because the court was still in the process of determining whether there is sufficient evidence to hold the accused for trial. He explained that Miralles had always made himself available during the hearings for the determination of probable cause; thus, the court already acquired jurisdiction over the person of the accused.

After the hearing for the determination of probable cause, the court ruled that there is no strong evidence presented by the prosecution. On February 4, 2011, accused Danilo Miralles surrendered to Sheriff Jose Cabcabin and posted P40,000.00 bail for each of the three (3) cases, or a total of P120,000.00.

Respondent judge claimed that there was no more need for a petition for bail, because in the judicial determination of probable cause the court found that the evidence against accused was weak.<sup>[5]</sup>

Respondent judge further averred that complainant did not know the facts of the

case and whether the evidence for the prosecution is strong, yet he was faulted for granting bail and for not issuing a warrant of arrest. He stressed that when the court has acquired jurisdiction over the person of the accused, there is no more need to issue a warrant of arrest. Respondent judge pointed out that Miralles always made himself available, hence, he believed that the ends of justice had not been frustrated. He insisted that there is no anomaly in the procedure because a warrant of arrest will be issued only upon the finding of probable cause. In this case, however, he was able to post his bail bond before a warrant of arrest can be issued against him. Thus, the warrant of arrest had become *fait accompli*.

**A.M. OCA IPI No. 11-3625-RTJ**

***Ma. Liza M. Jorda, Associate City  
Prosecutor, Tacloban City v. Judge  
Crisologo S. Bitas, RTC, Branch 7,  
Tacloban City***

This complaint, borne from the same criminal cases, has substantially the same facts involving accused Danilo Miralles referred to in A.M. OCA I.P.I. No. 11-3645-RTJ.

Complainant, Prosecutor Liza M. Jorda, Associate City Prosecutor, alleged that during the hearing on the Petition for Involuntary Commitment of the minor victim Margie Baldoza, to the Department of Social Welfare and Development (*DSWD*), respondent judge propounded a series of questions which appeared to mitigate Miralles' role in the crime charged. The pertinent portion of which is quoted as follows:

Q. Did you see Danny shouting at you and get angry as what you have stated in the record of the court?

A. No.

x x x x

Q. In other words, you are only for a presumption that it is Danny who is getting angry where in fact you have seen him at anytime?

A. It was Lynna whom he was [scolding] because the women under her are stubborn.

Q. You have seen him scolding to (sic) your nanay Lynna?

A. She would be called to the room in the Office and there she would be scolded.

Q. You have not seen nanay Lynna and Danny Miralles in the office, you have not seen them?

A. No.

Q. Never have you (sic) seen them?

A. No.

Q. So did you come to the conclusion that she [was] being scolded by

Danny Miralles?

A. Yes.<sup>[6]</sup>

Complainant pointed out that respondent judge's line of questions went beyond judicial authority and discretion. Upon investigation, complainant claimed to have discovered that the family members of respondent judge are close associates of Miralles.

Prompted by said events, complainant filed a motion for inhibition on December 14, 2009 against respondent judge. Respondent judge denied the motion. During the hearing on December 15, 2009, complainant alleged that respondent judge publicly humiliated her and exhibited his anger and animosity towards her for filing the motion for inhibition.<sup>[7]</sup> Respondent judge was quoted saying, among others things, that:

"I don't want to see your face! Why did you file the motion for inhibition when it should have been Attorney Sionne Gaspay who should have filed the same[?]"

"You better transfer to another court! You are being influenced by politicians. I am not a close family friend of the Miralles(es), it is my sister who is now in the United States who was close to the Miralles(es)."

"So you are questioning the integrity of this court, you better transfer to another court."

"I don't want to see your face."<sup>[8]</sup>

Complainant added that when she was supposed to conduct the cross-examination, respondent judge stated off-the-record: "*I don't want you to participate anymore,*" and refused to allow her to do the cross-examination.

In support of her allegation, complainant presented the Joint Affidavit<sup>[9]</sup> of Carmela D. Bastes and Marilou S. Nacilla, social workers who were present during the December 15, 2009 hearing of the subject case, and corroborated that indeed respondent judge uttered the abovementioned statements to complainant in open court in the presence of court personnel and the lawyers of the parties.

Due to the continued hostility of respondent judge towards complainant during the subsequent hearings of the case, complainant opted to transfer to another court, pursuant to an office order issued by City Prosecutor Ruperto Golong.

In a Supplemental Complaint-Affidavit<sup>[10]</sup> dated April 8, 2011, complainant raised the possibility of "misrepresentation." She alleged that it was made to appear that a hearing on the subject case was conducted on February 2, 2011, when in fact there was none. She claimed that the Order dated February 2, 2011 appeared to have been inserted in the records of the case, when in fact no hearing transpired that day.

On April 7, 2011, the Office of the Court Administrator (OCA) directed respondent judge to comment on the complaint against him.<sup>[11]</sup>

In his Answer and Comment<sup>[12]</sup> dated May 10, 2011, respondent judge denied the allegations in the complaint and contended that complainant was piqued when he blamed her for making baseless assumptions. He claimed that complainant was incompetent as showed by the lack of evidence against Miralles.

Respondent judge further averred that, contrary to complainant's allegation that it was her option to transfer to another court, it was he who caused her transfer. He accused complainant of lacking in knowledge of the law and that she appeared for politicians and not for the Republic of the Philippines.

Regarding complainant's accusation that he was close to the Miralleses, respondent judge explained that it was his sister who was a classmate of one Nora Miralles. He claimed that he is unaware of any personal relation between Nora Miralles and the accused Danilo Miralles. He insisted that complainant merely assumed things even if she has no evidence that he knew Danilo Miralles.

Respondent judge also admitted that he indeed stopped complainant from conducting a cross-examination on the witness during the hearing for involuntary commitment, because the lawyer for petitioner DSWD should be the one actively participating in the case, and not the prosecutors. He, however, added that the court had already ordered that minor Margie Baldoza be committed to the DSWD Home for Girls pending resolution of the criminal cases.

As to the other allegations in the Complaint, respondent judge commented that these were mere rehash of the complaint filed in A.M. OCA I.P.I. No. 11-3645-RTJ and reiterated that the evidence found against accused Miralles during the judicial determination of the existence of probable cause in the trafficking case was weak. Therefore, he ordered the posting of P40,000.00 bail by the accused. Respondent judge claimed that he merely acted upon the evidence presented and made a resolution on what was right for the case.

In her Reply<sup>[13]</sup> dated May 21, 2011, complainant refuted respondent judge's allegation of incompetence against her and insisted on respondent's apparent bias in favor of Miralles. She argued that respondent judge granted bail to the accused even when there was no motion to fix bail and no hearing was conducted thereon. Despite the finding of probable cause, respondent judge did not issue a warrant of arrest against the accused. Complainant also reiterated the controversy surrounding the appearance of an Order dated February 2, 2011, when in fact no hearing transpired that day.

In his 2<sup>nd</sup> Indorsement<sup>[14]</sup> dated June 14, 2011, respondent judge denied that he falsified any document. He explained that his stenographer made a mistake in placing the date as February 2, 2011 instead of February 3, 2011, the date when the hearing was conducted. He attached the affidavits<sup>[15]</sup> of his court stenographer and court interpreter in support of his explanation.

On May 11, 2001, the OCA directed Judge Bitas to file his Comment on the instant complaint.