

## FIRST DIVISION

[ G.R. Nos. 170609-13, January 30, 2009 ]

**BERNIE G. MIAQUE, PETITIONER, VS. HON. VIRGILIO M. PATAG,  
IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL  
TRIAL COURT OF ILOILO CITY, BRANCH 33, VICENTE C.  
ARAGONA, AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

### R E S O L U T I O N

**CORONA, J.:**

This is a special civil action for certiorari<sup>[1]</sup> assailing the orders of the Regional Trial Court (RTC) of Iloilo City, Branch 33 dated August 25, 2005<sup>[2]</sup> and September 19, 2005<sup>[3]</sup> in Criminal Case Nos. 05-61407 to 05-61411 captioned *People of the Philippines versus Bernie Miaque, et al.*

On January 31, 2000, five Informations for libel<sup>[4]</sup> were filed in the RTC of Iloilo City, Branch 26, against petitioner Bernie G. Miaque and three others.<sup>[5]</sup> In an order dated February 17, 2005,<sup>[6]</sup> these Informations were quashed for lack of jurisdiction over the offenses charged. Specifically, said Informations failed to allege either that private respondent (therein private complainant) Vicente Aragona actually held office in Iloilo City at the time of the commission of the offenses or that the alleged libelous remarks were printed or first published in Iloilo City.<sup>[7]</sup>

On June 22, 2005, Assistant Provincial Prosecutor Jerry Marañon issued a resolution recommending the filing of Informations for libel against petitioner and his co-accused. Accordingly, five new Informations for libel docketed as Criminal Case Nos. 05-61407 to 05-61411 were filed against petitioner and his co-accused in the RTC of Iloilo City, Branch 33, presided by respondent Judge Virgilio M. Patag.

The new Informations were similarly worded as those previously quashed but with these added allegations: (1) Aragona, Regional State Prosecutor VI of the Department of Justice, held office at the Hall of Justice, Iloilo City or (2) the alleged libelous remarks were written, printed and published in Iloilo City (on the pertinent dates thereof). Said Informations were likewise signed and filed by Assistant Provincial Prosecutor Marañon.

In view of the filing of the new Informations, petitioner filed his motions (dated August 8, 2005) not to issue warrants of arrest and, if already issued, to recall them and remand the Informations to the Provincial Prosecutor's Office for preliminary investigation.<sup>[8]</sup> In an order dated August 25, 2005, respondent judge denied petitioner's motions on the ground that petitioner was beyond the court's jurisdiction as he was not under the custody of the court.<sup>[9]</sup> Petitioner's motion for reconsideration was denied in an order dated September 19, 2005. Hence, this petition.

Petitioner challenges the August 25, 2005 and September 19, 2005 orders of respondent judge for being contrary to law and for having been issued with grave abuse of discretion. He contends that the Informations were filed without the mandatory preliminary investigation. Moreover, the new Informations were filed by one who had no authority to do so because these were filed by the Iloilo Provincial Prosecutor's Office and not the Iloilo City Prosecutor's Office. Jurisdiction over the subject matter supposedly belonged to the latter. Petitioner likewise assails the refusal of respondent judge to recall the warrants of arrest issued against him.

The Office of the Solicitor General (OSG), representing the People of the Philippines, contends that the quashed Informations were merely amended to include the allegations that Aragona actually held office in Iloilo City at the time of the commission of the offenses or that the libelous remarks were printed and first published in Iloilo City. A new preliminary investigation was therefore unnecessary. On the warrant of arrest, the OSG alleges that the trial court acquired jurisdiction over petitioner in view of the filing of his August 8, 2005 motions. The filing of the motions supposedly was tantamount to voluntarily submitting to the jurisdiction of the court.

Generally, a direct resort to us in a petition for certiorari is incorrect for it violates the hierarchy of courts.<sup>[10]</sup> A regard for judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level courts should be filed in the RTC and those against the latter should be filed in the Court of Appeals.<sup>[11]</sup> This rule, however, may be relaxed when pure questions of law<sup>[12]</sup> are raised as in this case.

We grant the petition. The Informations must be quashed.

One of the issues raised in the petition is the authority of the Iloilo Provincial Prosecutor's Office to file and sign the new Informations against petitioner. The offenses charged in each of the new Informations were alleged to have been committed in Iloilo City but said Informations were filed by the Iloilo Provincial Prosecutor's Office.

Sections 9 and 11 of Presidential Decree No. 1275<sup>[13]</sup> provide:

SEC. 9. *Offices of Provincial Fiscals and City Fiscals' Staffing.* -- There shall be in each province and each subprovince; one provincial fiscal and such number of assistant provincial fiscals as may hereinafter be provided for.

There shall be in each city one city fiscals and such number of assistant city fiscals as may hereinafter be provided.

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SEC. 11. *Provincial Fiscals and City Fiscals; Duties and Functions.* - The provincial fiscal or the city fiscal shall:

a) xxx

b) Investigate and/or cause to be investigated all charges of