

FIRST DIVISION

[A.M. No. MTJ-03-1506 (A.M. OCA-IPI No. 01-995-MTJ), August 28, 2003]

PABLO B. MABINI, COMPLAINANT, VS. JUDGE LORINDA B. TOLEDO-MUPAS, MUNICIPAL TRIAL COURT, DASMARIÑAS, CAVITE, RESPONDENT.

R E S O L U T I O N

YNARES-SANTIAGO, J.:

This is an administrative complaint against respondent Judge Lorinda B. Toledo-Mupas for Abuse of Authority and Ignorance of the Law relative to Criminal Case No. 98-0939 entitled, *"People of the Philippines versus Ruel Tasoy,"* for Frustrated Homicide.

It appears that respondent Judge conducted the preliminary investigation of the above-entitled case and found probable cause against the accused for Frustrated Homicide. However, when the case was remanded to the Office of the Provincial Prosecutor of Cavite, the latter downgraded the charge to Attempted Homicide and returned the case, together with the Information for Attempted Homicide, to respondent Judge considering that the same was within her jurisdiction.

Complainant filed the instant complaint against respondent Judge, alleging that the preliminary investigation of the complaint was not conducted by a public prosecutor. Moreover, he assails the resolution reducing the charge from Frustrated Homicide to attempted homicide and the recommended bail from P24,000.00 to only P12,000.00.

In sum, complainant argues that only the Provincial Prosecutor is empowered to conduct a preliminary investigation and not the Municipal Trial Court Judge of Dasmariñas, Cavite. Complainant also contends that the case should have been forwarded to the Regional Trial Court of Imus. It appears that complainant, not being conversant with the court procedure, suspected respondent and her staff of wrongdoing when Criminal Case No. 98-0939 was remanded to the Municipal Trial Court instead of being elevated to the Regional Trial Court of Imus.

The complaint was referred to Executive Judge Lucenito Tagle of the Regional Trial Court of Imus, Cavite for investigation. Judge Tagle thereafter submitted a report, recommending the dismissal of the complaint after finding that the charges against respondent are without basis.

We agree.

Respondent Judge had the authority to conduct the preliminary investigation of the