

## **THIRD DIVISION**

**[ A.M. No. MTJ-99-1205, November 29, 2000 ]**

**OFELIA DIRECTO, COMPLAINT, VS. JUDGE FABIAN M. BAUTISTA,  
RESPONDENT.**

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

**MELO, J.:**

On December 24, 1996 at around 8 o'clock in the evening, Baltazar Directo was shot to death. The police of the Municipality of Santol, La Union arrested Herminigildo Acosta, Jaime Acosta, and Maximino Acosta in connection with Baltazar's death and filed a criminal complaint against the three for the crime of murder. The Municipality of Santol having no public prosecutor of its own, Judge Fabian M. Bautista, Acting Municipal Trial Court Judge conducted a preliminary investigation based on the criminal complaint. Thereafter, Judge Bautista issued an order dated January 10, 1997 stating:

After conducting the preliminary examination in writing and under oath of the complainant and his/her witnesses in the above-entitled case, the Court finds reasonable ground to believe the crime charged has been committed and all the accused are probably guilty thereof.

However, inasmuch as the evidence for the conspiracy angle which implicated Jaime & Maximino Acosta to the crime charged for which Herminigildo is the alleged triggerman is not strong, and further because there is practically nothing to support the qualifying circumstance of evident premeditation, and that the evidence of the qualifying circumstance of treachery is not strong, this Court has decided to grant to the accused their constitutional right to bail.

WHEREFORE, let a warrant be issued for the arrest of all the accused who enjoy their provisional liberty by posting a bail bond in the amount of P60,000.00 each.

It is in relation with this order that Ofelia Directo, private complainant in the criminal case and wife of the victim, filed a letter-complaint with the Court Administrator against respondent on May 6, 1997 for allegedly failing to follow the procedural requirements in the allowance of bail. She alleged that respondent judge granted bail to the accused and further reduced it without notice or hearing.

Respondent comments, in justification of his actions, that an application for admission to bail is filed only in instances when the investigating judge issues an order finding probable cause against the accused for a capital offense, and when there was initially a denial of bail. Such petition for bail necessitates a hearing. In the particular case at hand, however, respondent judge contended that there was no need for a hearing in order to give the prosecution a chance to prove that the