

SECOND DIVISION

[G.R. No. 126170, August 27, 1998]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EMMA
MAQUILAN, ACCUSED-APPELLANT.**

R E S O L U T I O N

MENDOZA, J.:

Accused-appellant Emma Maquilan was found guilty of drug-pushing in violation of R.A. No. 6425, as amended, and sentenced to suffer the penalty of reclusion perpetua in a decision rendered by the Regional Trial Court of Sindangan, Zamboanga del Norte (Branch 11) on October 14, 1994. The 59 sticks of handrolled marijuana cigarettes and the matchbox of marijuana seeds seized from her were ordered destroyed.

Accused-appellant filed a notice of appeal as a result of which the records of the case (Criminal Case No. S-2191) were forwarded to this Court. However, before the Court could act on the appeal and require her to file an appellant's brief, accused-appellant moved to withdraw her appeal. In a handwritten letter, dated March 14, 1997, prepared for her by another person, accused-appellant stated that she was going to file a petition for the issuance of a writ of habeas corpus to seek her release from confinement for the sake of her children who needed a mother's support and guidance. ("*Sumulat po ako para po ipaalam na nais ko nang iurong ang aking apila dahilan po sa nais kong mag-file ng Habeas Corpus. May mga anak po akong lumalaki at kailangan ang pagsubaybay ng isang ina.*")^[1]

In its resolution, dated July 9, 1997, the Court required the Solicitor General to comment, even as it required accused-appellant's counsel, Atty. Teresita S. de Guzman, of the Public Attorney's Office (PAO), to confer with her and to determine whether in filing the motion accused-appellant acted of her own free will.

In his comment, dated September 22, 1997, the Solicitor General stated he had no objection to the motion. Per certification of Cecilia B. Veneracion, Clerk I and Documents Incharge of the Bureau of Corrections, the Solicitor General believed that accused-appellant fully understood the nature and purpose of her motion. He cited the statement in *People v. Mendoza*,^[2] that "withdrawal of an appeal before the filing of the appellee's brief is allowed and granted."

On the other hand, in a manifestation, dated September 3, 1997, Atty. de Guzman informed the Court that accused-appellant had been released from prison on July 25, 1997 by virtue of an order of the Regional Trial Court of Pasig City (Branch 71) issued in a habeas corpus case. Counsel therefore asked to be excused from making a report on the voluntariness of the motion to withdraw appeal. In another manifestation, dated November 10, 1997, Atty. de Guzman stated that she had no participation in the filing of the habeas corpus case.

In view of this information, the Court required the Solicitor General to comment, but the latter reiterated his position that he had no objection to the withdrawal of the appeal and expressed the view that "appellant filed the proper remedy of a petition for the issuance of the writ of *habeas corpus*. Said remedy appears to be duly supported by evidence presented in the hearing of said petition and by jurisprudence."

In its resolution of June 15, 1998, the Court required Judge Celso D. Laviña of the Regional Trial Court of Pasig City, Branch 71, to show cause why he should not be held in contempt of court for granting the petition for the issuance of a writ of habeas corpus and for ordering the release of accused-appellant from confinement, considering that the appeal in this case was still pending. In compliance, Judge Laviña submitted the following explanation, dated July 22, 1998:

1. On February 26, 1997, a verified and certified Petition for Issuance of a Writ of Habeas Corpus was filed by Atty. Editha C. Pio, PA III, Public Attorney's Office, Department of Justice, as counsel for petitioner Emma Maquilan versus Rachel D. Ruelo, respondent, in Sp. Proc. No. 10725, which was raffled to Branch 71, on February 27, 1997, a copy of which is hereto attached as Annex A.
2. On March 10, 1997, an Order was issued setting the case for hearing on March 18, 1997 and the Writ directing respondent Ruelo, as Superintendent IV of the Correctional Institution for Women, Mandaluyong City, to produce the petitioner-inmate Maquilan and to make a return of the writ, copies of which are hereto attached as Annexes B and C.
3. On March 18, 1997, respondent Ruelo through Concesa V. Mendoza, Superintendent I, filed a Comments, Exhibit C, stating "(T)hat she interposes no objection to the Petition and reliefs prayed for as she is entitled to the same pursuant to the rulings in the cases or jurisprudence mentioned in the Petition", a copy of which is hereto attached as Annex D.
4. Per Orders of April 8, 1997, April 21, 1997, May 26, 1997, June 9, 1997 and June 30, 1997, as Annexes "E" to "E-4", respectively, the case was reset for hearing and heard with Minutes of sessions held on April 8, 1997, April 21, 1997, May 26, 1997, Notice dated May 27, 1997, Minutes on June 9, 1997, Subpoena dated June 10, 1997, Minutes on June 30, 1997, Subpoena dated June 30, 1997, Minutes on July 7, 1997 and Certification dated December 15, 1995 as Annexes "F" to "F-8", respectively.
5. On July 7, 1997, an Order was issued granting the petition for habeas corpus and ordering the immediate release of petitioner unless "there is other lawful cause for her further detention", as Annex "G".

In *People v. De Lara* (236 SCRA 291, 299), it was held that "(I)f the marijuana involved is from 500 to 749 grams, the penalty to be imposed is *reclusion temporal*. If the marijuana involved is from 250 to 499 grams, the penalty to be imposed is *prision mayor* and if the weight of the marijuana involved is below 250 grams, the penalty to be imposed is *prision correccional*." In *People v. Simon* (234 SCRA 555), R.A. No. 6425, as amended, was further amended by R.A. No. 7659 which took effect on December 31, 1993 (On page 569). And, "it has long been settled that by force of Article 10 of said Code the beneficent provisions of Article 22 thereof applies to and shall be given retrospective effect to crimes punished by special laws" like R.A. No. 6425, as amended by R.A. No. 7659 (On page 570).