

THIRD DIVISION

[A.M. NO. RTJ-06-2020 (Formerly A.M. OCA IPI 05-2230-RTJ), September 20, 2006]

ALEGRIA P. BELTRAN, PETITIONER, VS. JUDGE OSCAR E. DINOPOL, EXECUTIVE JUDGE, REGIONAL TRIAL COURT, BRANCH 24, KORONADAL CITY, SOUTH COTABATO. RESPONDENT.

D E C I S I O N

CARPIO MORALES, J.:

On the basis of two criminal complaints against Manuel Beltran, a retired Assistant Provincial Assessor of South Cotabato, one for Falsification of Public Documents (Criminal Case No. 5876), and the other for Attempted Murder (Criminal Case No. 5877), filed by the local police before the Regional Trial Court (RTC) of Koronadal City, South Cotabato, Executive Judge Oscar E. Dinopol (respondent) issued two (2) similarly worded Orders^[1] finding probable cause to hale the accused into court and consequently ordering the issuance of warrants for his arrest. Thus each order read:

After reading the Criminal Complaint including the Affidavit of the complainant, the Court is satisfied and finds probable cause. There being a need, however, to place the accused in custody of the law in order not to frustrate justice, let a warrant be issued for the arrest of the accused.

On motion of the accused, Judge Laureano T. Alzate of Branch 25 of the Koronadal City RTC to which the cases were raffled, quashed the criminal complaints on the ground of, *inter alia*, absence of preliminary investigation.^[2]

Hence, spawned the filing of a November 10, 2004 letter-complaint of Alegria P. Beltran (complainant),^[3] wife of the accused, charging respondent with Gross Ignorance of the Law and Abuse of Authority, which letter-complaint was received by the Office of the Chief Justice on November 17, 2004. A verified complaint essentially reiterating the charges in the said letter-complaint was subsequently filed by complainant on June 14, 2005.^[4]

Complainant charges that with respondent's acceptance of the criminal complaints lodged by the police, despite the absence of a preliminary investigation, he "us[ed] his position to sow terror and injustice, . . . violat[ed] men's constitutional rights and distorted [the] interpretation of the law and/[or] the rules."^[5]

To the complaint, complainant attached photocopies of respondent's orders and other documents material to her complaint.

In his Comment^[6] of January 26, 2005, respondent proffers the following explanation:

When he assumed his duties as Executive Judge, the Office of the City Prosecutor had only one prosecutor, Prosecutor Alfredo Sales, who had no assistant. Prosecutor Sales suffered a stroke, however, and had not fully recovered.

While Prosecutor Ringcar Pinote was designated as Acting City Prosecutor on May 18, 2004, he too suffers from a heart ailment and often fails to attend court hearings and rarely conducts preliminary investigations. Assistant Provincial Prosecutor Rene Barrion was designated to assist Prosecutor Pinote, but cases were not assigned or indorsed to him. After several communications with the Department of Justice and the Regional State Prosecutor requesting the designation of an active Acting City Prosecutor, Memo Order No. 2004-18 was issued directing Prosecutor Pinote to attend to all cases, but the latter did not heed the same.^[7]

Respondent further proffers that given the length of time that there was no prosecutor in the Koronadal City RTC, he and Judge Alzate, Presiding Judge of another branch of the court, agreed, on the basis of the Philippine National Police's written request, to accept cases directly filed by the police on condition that after the arrest of the accused but before arraignment, the cases would be remanded to the Prosecutor's Office for "further" preliminary investigation.^[8]

Respondent furthermore explains that the Acting Presiding Judge of the Municipal Trial Court in Cities (MTCC), Koronadal City holds sessions only once a week and has instructions to his Clerk of Court not to accept cases for preliminary investigation, there being a designated City/Acting City Prosecutor to conduct the same;^[9] and that "he exercised good faith with the principal motive of filling a gap to make the flow and services of the enforcement and prosecution agencies continuous, for the promotion of an orderly administration of justice."^[10]

Acting on the complaint, the Office of the Court Administrator (OCA) has come up with the following:

EVALUATION: Pars. (a), Sec. 6, Rule 112 of the Revised Rules of Criminal Procedure provides:

"Sec. 6. When warrant of arrest may issue. - (a) By the Regional Trial Court. - Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused has already been arrested pursuant to a warrant of arrest issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to section 7 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint or information."