

SECOND DIVISION

[G.R. NO. 165751, April 12, 2005]

**DATU GUIMID P. MATALAM, PETITIONER, VS. THE SECOND
DIVISION OF THE SANDIGANBAYAN AND THE PEOPLE OF THE
PHILIPPINES, RESPONDENTS.**

RESOLUTION

CHICO-NAZARIO, J.:

Before Us is a Petition for *Certiorari* under Rule 65 of the 1997 Rules on Civil Procedure assailing the resolutions^[1] of the Sandiganbayan in Criminal Case No. 26381, admitting the Amended Information^[2] and denying petitioner's Motion for Reconsideration,^[3] dated 12 January 2004 and 03 November 2004, respectively.

An information dated 15 November 2004 was filed before the Sandiganbayan charging petitioner Datu Guimid Matalam, Habib A. Bajunaid, Ansari M. Lawi, Muslimin Unga and Naimah Unte with violation of Section 3(e) of Republic Act No. 3019, as amended, for their alleged illegal and unjustifiable refusal to pay the monetary claims of Kasan I. Ayunan, Abdul E. Zailon, Esmael A. Ebrahim, Annabelle Zailon, Pendatun Mambatawan, Hyria Mastura and Faizal I. Hadil. The accusatory portion of the information reads:

That from the period January 1998 to June 1999, in Cotobato City, and within the jurisdiction of this Honorable Court, the accused ARMM Vice-Governor and Regional Secretary, DAR, DATU GUIMID MATALAM, a high ranking public official, HABIB A. BAJUNAID, ANSARI M. LAWI, MUSLIMIN UNGA and NAIMAH UNTE, all low-ranking public officials, committing the offense while in the performance of their official duties and taking advantage of their public position, conspiring, confederating and mutually aiding one another, did there and then, willfully, unlawfully and criminally, cause undue injury to several employees of the Department of Agrarian Reform, Cotobato City, thru evident bad faith in the performance of their official duties to wit: by illegally and unjustifiably refusing to pay the monetary claims of the complaining DAR employees namely: KASAN I. AYUNAN, ABDUL E. ZAILON, ESMAEL A. EBRAHIM, ANNABELLE ZAILON, PENDATUN MAMBATAWAN, HYRIA MASTURA and FAIZAL I. HADIL, for the period of January 1998 to June 1999 amounting to P1,606,788.50 as contained in Civil Service Resolutions Nos. 982027 and 990415 in the nature of unpaid salaries during the period when they have been illegally terminated, including salary differentials and other benefits.^[4]

On 14 August 2002, petitioner filed a Motion for Reinvestigation.

Per order of the court, a reinvestigation of the case was conducted where petitioner filed his Counter-Affidavit.^[5]

After the reinvestigation, the public prosecutor filed a "Manifestation and Motion to Admit Amended Information Deleting the Names of Other Accused Except Datu Guimid Matalam"[6] to which petitioner filed a Motion to Dismiss and Opposition to the Motion to Admit the Alleged Amended Information Against the Accused Guimid P. Matalam.[7] Thereafter, the public prosecutor filed his Reply[8] to which petitioner filed a Rejoinder.

The Amended Information reads:

That on December 16, 1997 and for sometime prior or subsequent thereto, in Cotobato City, and within the jurisdiction of this Honorable Court, the above named accused a public officer being then the ARMM Vice-Governor and Regional Secretary DAR, committing the offense while in the performance of his official duties and thru evident bad faith and manifest partiality did there and then, willfully, unlawfully and criminally, cause undue injury by illegally dismissing from the service complaining DAR-Maguindanao employees, Cotobato City, namely: Kasan I. Ayunan, Abdul E. Zailon, Annabelle Zailon, Pendatum Mambatawan, Hyria Mastura and Faizal I. Hadil, to their damage and prejudice amounting to P1,606,788.50 by way of unpaid salaries during the period when they have been illegally terminated including salary differentials and other benefits.[9]

In his Motion to Dismiss, petitioner alleged that the amended information charges an entirely new cause of action. The *corpus delicti* of the amended information is no longer his alleged refusal to pay the backwages ordered by the Civil Service Commission, but the alleged willful, unlawful and illegal dismissal from the service of the complaining witnesses. He insists that the amended information charging a separate and entirely different offense cannot be admitted because there would be a serious violation of due process of law. He claims he is entitled to a preliminary investigation since he was not informed that he is being charged for the alleged dismissal of the complaining witnesses and that he was not given the opportunity to explain.

On 12 January 2004, the Sandiganbayan granted the Manifestation and Motion to Admit Amended Information Deleting the Names of Other Accused Except Datu Guimid P. Matalam. It admitted the Amended Information charging solely petitioner for Violation of Section 3(e) of Rep. Act No. 3019. The court *a quo* ruled:

What seems to be more crucial here is, whether the amendments made are not prejudicial to the rights of the accused and are considered as a matter of form only, so that, if the Amended Information is admitted, there would be no need to require the Public Prosecutor to conduct another preliminary investigation in the observance of the rights of the accused to due process. On the other hand, if the amendment would be substantial, necessarily, another preliminary investigation should be accorded to the accused. Distinction of the two is thus imperative.

. . .

The Amended Information charges essentially the same offense as that

charged in the original Information which is a Violation of Sec. 3(e) of R.A. 3019. Theoretically, therefore, the amendment is a matter of form only.

Interestingly, however, the change in the recital of cause of action in the Amended Information is very much noticeable. As correctly pointed out by accused Matalam, the *corpus delicti* in the original Information was the alleged willful and confederated refusal of the accused to pay the backwages of the complaining witnesses. The *corpus delicti* in the Amended Information is now altered into the alleged illegal dismissal of the complainants from their service by accused Matalam. Certainly, the two causes of action differ differently from each other.

Following the aforementioned principles laid down by the Supreme Court, the amendments seem to be substantial considering that the main defense of all the accused in the original information - the lack of a corresponding appropriation for the payment of the monetary claims of the complaining witnesses - would not, in itself alone, stands [sic] as a defense for accused Matalam in the Amended Information anymore. In the same manner, the evidence that accused Matalam would have to present in the original Information, had it not been found to be without prima facie evidence, will not be equally available to bail him out in the Amended Information anymore. And further, although the nature of the offense charged has not changed, the theory of the case as against accused Matalam is now deemed to have been changed because the cause of action now varies and therefore, he would have to formulate another defense again.

However, after making a meticulous and independent assessment on the evidence obtaining on record, this Court agrees with the findings and recommendation of the Public Prosecutor that the real and exact issue in this case is actually the alleged illegal dismissal of the complaining witnesses. The issue of non-payment of their backwages is merely incidental because had it not been for the alleged illegal dismissal, their demand for monetary claims should have not arisen. Put in another perspective, the surrounding circumstances that brought about the issue of the alleged illegal dismissal were actually the ones that spewed the issue of unpaid backwages.

Furthermore, as correctly observed by the Public Prosecutor, the change in the recital of the cause of action does not conceivably come as a surprise to the accused. In fact, in his counter-affidavit submitted before the Public Prosecutor, accused Matalam already took the occasion to elaborate his version on the surrounding circumstances that brought about the alleged illegal dismissal of the complaining witnesses. And these chain of circumstances, actually, were the very preceding circumstances as to why the complaining witnesses had suffered their alleged injury. The need for another preliminary investigation is therefore not necessary.

Given the foregoing factual milieu, the rights of accused Matalam are not, after all, in any way prejudiced because an inquiry to the allegations in

the original cause of action would certainly and necessarily elicit substantially the same facts to the inquiry of the allegations in the new cause of action contained in the Amended Information.

To remand this case again to the Public Prosecutor would certainly be a waste of time considering that accused, in his counter-affidavit, had already explained extensively his defense on the new allegations contained in the Amended Information sought to be admitted. And definitely, his projected defense would be the same assuming that another preliminary investigation be conducted and that he would be required to submit another counter-affidavit again.^[10]

On 11 February 2004, petitioner filed a Motion for Reconsideration^[11] which the prosecution opposed.^[12] On 03 November 2004, the Sandiganbayan denied the Motion.^[13] It explained:

While it is true that accused-movant's defense in the original information could not by itself stand alone as his defense to the amended one, however, the same would still be available for the latter because although the two questioned causes of action literally varied, they are nonetheless interrelated with each other. The essential ingredients of the amended information are actually identical with those constituting the original, such that, the inquiry into one would elicit substantially the same facts that an inquiry into the other would reveal. And since these two causes of action had emanated from the same set of factual settings, the evidence that accused-movant might have under the original information would still be available and applicable to the amended one.

Be it noted that the private complainants lodged their complaint due to the alleged injury they suffered as a consequence of the alleged refusal of the accused-movant to pay them of their backwages. And notably, based on the affidavit that the accused-movant had submitted, his defense to this was due to the lack of funds appropriated for the said purpose. But why was there no appropriation? Because, allegedly, the private complainants were illegally dismissed from their service and as a result thereof, their names were subsequently stricken off from the roster of employees in the government agency where they were connected.

Culled from these factual settings, the root cause of the alleged injury suffered by the private complainants would therefore be their alleged illegal dismissal from the service. Otherwise, their names would not have been stricken off from the roster of employees in the agency which they were connected with and the appropriation for the payment of their salaries would have been continuously made.

Thus, from the foregoing, although there was a change in the recital of the cause of action (from non-payment of backwages into illegal dismissal), the amendment of the information did not however affect or alter the nature of the offense that was originally charged. Neither did it change the basic theory of the prosecution since this remained to be a violation of Sec. 3(e) of R.A. 3019 on account of the alleged injury caused to the private complainants. And even if the prosecution's theory

would now be premised on the new cause of action (illegal dismissal), this would not however cause surprise to the accused-movant nor would require him to undergo a material change or modification in his defense because in presenting his defense, he still has to commence from the very same set of factual settings that preceded the original cause of action. And evidently, this is the reason why in the affidavit he submitted during the reinvestigation, his discussions therein consisted not only of his defense to the original information but also included an extensive discussion regarding his defense to the amended one.

This being so, the outright admission of the amended information even without affording the accused-movant a new preliminary investigation did not amount to a violation of his rights. To afford him another process of preliminary investigation would no longer serve him and this court any better considering that he had already explained in the said affidavit his defense to the amended information. Otherwise, if he is allowed to submit another one, he is likely to elaborate again the very same arguments that he had already invoked in his previous affidavit.

Hence, this petition.

Petitioner argues that the resolutions of the Sandiganbayan dated 12 January 2004 and 03 November 2004 admitting the Amended Information charging a new offense without conducting a preliminary investigation were issued without jurisdiction and/or with grave abuse of jurisdiction amounting to lack of jurisdiction.

From the arguments raised by petitioner, the issue boils down to whether or not petitioner was deprived of due process of law when the Sandiganbayan admitted the Amended Information without conducting another or new preliminary investigation. Firstly, petitioner maintains that a new preliminary investigation should have been ordered because the *corpus delicti* in the Amended Information is the termination of services of the complaining witnesses, while the *corpus delicti* in the Original Information is the alleged refusal to pay the backwages of the complaining witnesses. In other words, there being a new and distinct offense, he should be entitled to a new preliminary investigation. Secondly, he contends he was denied due process when the Sandiganbayan ruled that if "he were allowed to submit another counter-affidavit, he is likely to elaborate again the very same argument that he had invoked in his previous affidavit" considering that he would have pointed out certain facts not contained in his counter-affidavit. He added that despite the finding of the Sandiganbayan that "the theory of the case against him changed because the cause of action varies, and that he would have to formulate another defense," the Sandiganbayan did not remand the case to the public prosecutor for preliminary investigation because it was a waste of time since he had already explained extensively in his counter-affidavit his defense on the new allegations contained in the Amended Information. Thirdly, he asserts he was not given the opportunity to show that he did not act with manifest partiality and evident bad faith in the dismissal of the seven employees inasmuch as there are other factors and circumstances that would support his posture.

In its Comment, respondent People of the Philippines, thru the Office of the Special Prosecutor, stated that the admission of the Amended Information without another preliminary investigation would not violate petitioner's right to due process on the