

EN BANC

[A.M. No. MTJ-98-1164, February 04, 2000]

VICTORIA R. NABHAN, COMPLAINANT, VS. JUDGE ERIC CALDERON, MUNICIPAL TRIAL COURT, CALUMPIT, BULACAN, RESPONDENT.

RESOLUTION

PER CURIAM:

For resolution is the administrative complaint filed by Victoria R. Nabhan against respondent Judge Eric T. Calderon of the Municipal Trial Court of Calumpit, Bulacan, for acts of lasciviousness committed against her.^[1]

The facts in this case, as found by the Office of the Court Administrator, are simple.

Nabhan was private complainant in a case pending before respondent judge, involving a violation of the Bouncing Checks Law (B.P. 22) in the amount of P175,750.00. According to complainant, respondent asked her to go to his office on March 30, 1998 at 5:00 in the afternoon to discuss her case. While in his office, respondent allegedly told complainant bluntly to buy him and a certain Ernie Calderon some drinks if she wanted her case to prosper. Complainant reluctantly agreed.

Complainant left respondent's office to tell her siblings she would be coming home late. She then hired a jeepney to take her, respondent, and Ernie Calderon to Baliuag, Bulacan. The driver of the jeepney was her brother-in-law, Bernardino V. Pagaragan. On the way to Baliuag, respondent asked complainant to sit beside him at the back of the jeepney to tell him more about her case. Ernie Calderon sat beside the driver in front. Complainant obliged. However, respondent put his arms around her waist and asked personal questions. Respondent then touched complainant's breasts and told her not to resist or else nothing would come out of her case. Complainant could only shield her breasts with her bag as she was afraid that respondent would make good his threat.

In Baliuag, the group went inside a bar. Respondent ordered four bottles of beer for the group. He continued touching complainant's private parts while inside the bar. Complainant tried to leave but respondent would not let her, again threatening her that nothing would happen with her case. Respondent and Ernie Calderon continued drinking until, finally, complainant told them that she had only P1,500.00 with her. Respondent got the money from complainant and paid the bill.

Respondent asked to be brought to Pulilan, Bulacan. Along the way, he continued to touch and threaten complainant. Complainant refrained from making an outcry, afraid to lose her case. She was a single parent and she needed the money for her child's needs.

We referred to the Office of the Court Administrator the administrative complaint for its evaluation, report, and recommendation. In the meantime, respondent was placed under preventive suspension.

In his counter-affidavit, respondent vehemently denied complainant's accusations. He admitted that, indeed, complainant filed a criminal complaint for violation of B.P. 22 before the Municipal Trial Court of Angat, Bulacan, where he was temporarily assigned at the time of the alleged incident.

According to respondent, it was complainant who invited him and Ernie Calderon out for some drinks. He at first refused since he had to attend mass as it was the death anniversary of his father. While respondent was waiting for a ride to Pulilan, complainant arrived on board a jeepney with two male companions (including the driver). Respondent agreed to ride with them, as complainant was very persistent that he did. As complainant started talking about her case, respondent told her it was unethical for him to discuss with a litigant a case pending in his sala.

Respondent denied having asked complainant personal questions and having touched her. He said both of his hands were all the while clutching at the handle bars at the jeepney's entrance because the driver was driving very fast. Moreover, he could not have done the acts being imputed against him since complainant had another male companion beside her who kept glancing around. Besides, it was daytime and there were many houses on both sides of the road as well as vehicles travelling on the road.

Respondent admitted having gone to a restaurant, not a bar, that day upon the invitation of complainant, but denied having touched complainant in a lascivious manner once they were inside. It was complainant who ordered food and drinks and paid the bill, and rightly so since she was the one who invited the group, according to respondent. In his testimony before the OCA hearing officer, respondent stated that he stayed in that restaurant with complainant and the others for around two hours.

It was also complainant, according to respondent, who insisted on giving him a ride home to Pulilan. Respondent sat in front to give the driver directions.

After evaluating the pleadings filed and the testimonies of witnesses, the Office of the Court Administrator found complainant's version of the incident truthful. It disbelieved respondent's self-serving denials. Respondent admitted having gone to a restaurant with complainant, although he denied he did anything malicious to complainant. If it were true, however, that respondent was eager to go to Pulilan to attend the memorial mass for his father, he would not have stayed with complainant for two hours just eating and drinking. He could have, after a short while, asked to be brought to Pulilan in time for the mass. Apparently, respondent was more inclined to be with complainant than to attend the mass for his father.

The OCA further observed that complainant might have been compelled to tolerate respondent's sexual advances due to her desire to have the case she filed decided in her favor. It also noted that respondent had some degree of coercive power over complainant, who was party to a case he was supposed to decide.