

## SECOND DIVISION

**[ G.R. No. 129670, February 01, 2000 ]**

**MANOLET O. LAVIDES, PETITIONER, VS. HONORABLE COURT OF APPEALS; HON. ROSALINA L. LUNA PISON, JUDGE PRESIDING OVER BRANCH 107, RTC, QUEZON CITY; AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

### DECISION

**MENDOZA, J.:**

Petitioner Manolet Lavidès was arrested on April 3, 1997 for child abuse under R.A. No. 7610 (an act providing for stronger deterrence and special protection against child abuse, exploitation and discrimination, providing penalties for its violation, and other purposes). His arrest was made without a warrant as a result of an entrapment conducted by the police. It appears that on April 3, 1997, the parents of complainant Lorelie San Miguel reported to the police that their daughter, then 16 years old, had been contacted by petitioner for an assignation that night at petitioner's room at the Metropolitan Hotel in Diliman, Quezon City. Apparently, this was not the first time the police received reports of petitioner's activities. An entrapment operation was therefore set in motion. At around 8:20 in the evening of April 3, 1997, the police knocked at the door of Room 308 of the Metropolitan Hotel where petitioner was staying. When petitioner opened the door, the police saw him with Lorelie, who was wearing only a t-shirt and an underwear, whereupon they arrested him. Based on the sworn statement of complainant and the affidavits of the arresting officers, which were submitted at the inquest, an information for violation of Art. III, §5(b) of R.A. No. 7610 was filed on April 7, 1997 against petitioner in the Regional Trial Court, Quezon City, where it was docketed as Criminal Case No. Q-97-70550.

On April 10, 1997, petitioner filed an "Omnibus Motion (1) For Judicial Determination of Probable Cause; (2) For the Immediate Release of the Accused Unlawfully Detained on an Unlawful Warrantless Arrest; and (3) In the Event of Adverse Resolution of the Above Incident, Herein Accused be Allowed to Bail as a Matter of Right under the Law on Which He is Charged."<sup>[1]</sup>

On April 29, 1997, nine more informations for child abuse were filed against petitioner by the same complainant, Lorelie San Miguel, and by three other minor children, Mary Ann Tardesilla, Jennifer Catarman, and Annalyn Talingting. The cases were docketed as Criminal Case Nos. Q-97-70866 to Q-97-70874. In all the cases, it was alleged that, on various dates mentioned in the informations, petitioner had sexual intercourse with complainants who had been "exploited in prostitution and . . . given money [by petitioner] as payment for the said [acts of] sexual intercourse."

No bail was recommended. Nonetheless, petitioner filed separate applications for bail in the nine cases.

On May 16, 1997, the trial court issued an order resolving petitioner's Omnibus Motion, as follows:

WHEREFORE, IN VIEW OF THE FOREGOING, this Court finds that:

1. In Crim. Case No. Q-97-70550, there is probable cause to hold the accused under detention, his arrest having been made in accordance with the Rules. He must therefore remain under detention until further order of this Court;
2. The accused is entitled to bail in all the above-entitled case. He is hereby granted the right to post bail in the amount of P80,000.00 for each case or a total of P800,000.00 for all the cases under the following conditions:
  - a) The accused shall not be entitled to a waiver of appearance during the trial of these cases. He shall and must always be present at the hearings of these cases;
  - b) In the event that he shall not be able to do so, his bail bonds shall be automatically cancelled and forfeited, warrants for his arrest shall be immediately issued and the cases shall proceed to trial in absentia;
  - c) The hold-departure Order of this Court dated April 10, 1997 stands; and
  - d) Approval of the bail bonds shall be made only after the arraignment to enable this Court to immediately acquire jurisdiction over the accused;
3. Let these cases be set for arraignment on May 23, 1997 at 8:30 o'clock in the morning.<sup>[2]</sup>

On May 20, 1997, petitioner filed a motion to quash the informations against him, except those filed in Criminal Case No. Q-97-70550 or Q-97-70866. Pending resolution of his motion, he asked the trial court to suspend the arraignment scheduled on May 23, 1997.<sup>[3]</sup> Then on May 22, 1997, he filed a motion in which he prayed that the amounts of bail bonds be reduced to P40,000.00 for each case and that the same be done prior to his arraignment.<sup>[4]</sup>

On May 23, 1997, the trial court, in separate orders, denied petitioner's motions to reduce bail bonds, to quash the informations, and to suspend arraignment. Accordingly, petitioner was arraigned during which he pleaded not guilty to the charges against him and then ordered him released upon posting bail bonds in the total amount of P800,000.00, subject to the conditions in the May 16, 1997 order and the "hold-departure" order of April 10, 1997. The pre-trial conference was set on June 7, 1997.

On June 2, 1997, petitioner filed a petition for certiorari (CA-G.R. SP No. 44316) in the Court of Appeals, assailing the trial court's order, dated May 16, 1997, and its two orders, dated May 23, 1997, denying his motion to quash and maintaining the

conditions set forth in its order of May 16, 1997, respectively.

While the case was pending in the Court of Appeals, two more informations were filed against petitioner, bringing the total number of cases against him to 12, which were all consolidated.

On June 30, 1997, the Court of Appeals rendered its decision, the dispositive portion of which reads:

WHEREFORE, considering that the conditions imposed under Nos. 2-a) and 2-b),<sup>[5]</sup> of the May 23 (should be May 16), 1997 Order, are separable, and would not affect the cash bond which petitioner posted for his provisional liberty, with the sole modification that those aforesaid conditions are hereby ANNULLED and SET ASIDE, the May 16, May 23 and May 23, 1997 Orders are MAINTAINED in all other respects.<sup>[6]</sup>

The appellate court invalidated the first two conditions imposed in the May 16, 1997 order for the grant of bail to petitioner but ruled that the issue concerning the validity of the condition making arraignment a prerequisite for the approval of petitioner's bail bonds to be moot and academic. It noted "that petitioner has posted the cash bonds; that when arraigned, represented by lawyers, he pleaded not guilty to each offense; and that he has already been released from detention." The Court of Appeals thought that the aforesaid conditions in the May 16, 1997 order were contrary to Art. III, §14(2) of the Constitution which provides that "[a]fter arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable."

With respect to the denial of petitioner's motion to quash the informations against him, the appellate court held that petitioner could not question the same in a petition for certiorari before it, but what he must do was to go to trial and to reiterate the grounds of his motion to quash on appeal should the decision be adverse to him.

Hence this petition. Petitioner contends that the Court of Appeals erred<sup>[7]</sup> \_\_\_\_

1. In ruling that the condition imposed by respondent Judge that the approval of petitioner's bail bonds "shall be made only after his arraignment" is of no moment and has been rendered moot and academic by the fact that he had already posted the bail bonds and had pleaded not guilty to all the offenses;
2. In not resolving the submission that the arraignment was void not only because it was made under compelling circumstance which left petitioner no option to question the respondent Judge's arbitrary action but also because it emanated from a void Order;
3. In ruling that the denial of petitioner's motion to quash may not be impugned in a petition for certiorari; and
4. In not resolving the legal issue of whether or not petitioner may be validly charged for violation of Section 5(b) of RA No. 7610 under several informations corresponding to the number of alleged acts of

child abuse allegedly committed against each private complainant by the petitioner.

We will deal with each of these contentions although not in the order in which they are stated by petitioner.

**First.** As already stated, the trial court's order, dated May 16, 1997, imposed four conditions for the grant of bail to petitioner:

- a) The accused shall not be entitled to a waiver of appearance during the trial of these cases. He shall and must always be present at the hearings of these cases;
- b) In the event that he shall not be able to do so, his bail bonds shall be automatically cancelled and forfeited, warrants for his arrest shall be immediately issued and the cases shall proceed to trial in absentia;
- c) The hold-departure Order of this Court dated April 10, 1997 stands; and
- d) Approval of the bail bonds shall be made only after the arraignment to enable this Court to immediately acquire jurisdiction over the accused;

The Court of Appeals declared conditions (a) and (b) invalid but declined to pass upon the validity of condition (d) on the ground that the issue had become moot and academic. Petitioner takes issue with the Court of Appeals with respect to its treatment of condition (d) of the May 16, 1997 order of the trial court which makes petitioner's arraignment a prerequisite to the approval of his bail bonds. His contention is that this condition is void and that his arraignment was also invalid because it was held pursuant to such invalid condition.

We agree with petitioner that the appellate court should have determined the validity of the conditions imposed in the trial court's order of May 16, 1997 for the grant of bail because petitioner's contention is that his arraignment was held in pursuance of these conditions for bail.

In requiring that petitioner be first arraigned before he could be granted bail, the trial court apprehended that if petitioner were released on bail he could, by being absent, prevent his early arraignment and thereby delay his trial until the complainants got tired and lost interest in their cases. Hence, to ensure his presence at the arraignment, approval of petitioner's bail bonds should be deferred until he could be arraigned. After that, even if petitioner does not appear, trial can proceed as long as he is notified of the date of hearing and his failure to appear is unjustified, since under Art. III, §14(2) of the Constitution, trial *in absentia* is authorized. This seems to be the theory of the trial court in its May 16, 1997 order conditioning the grant of bail to petitioner on his arraignment.

This theory is mistaken. In the first place, as the trial court itself acknowledged, in cases where it is authorized, bail should be granted before arraignment, otherwise the accused may be precluded from filing a motion to quash. For if the information is quashed and the case is dismissed, there would then be no need for the