

## SECOND DIVISION

[ G.R. No. 209195, September 17, 2014 ]

**MANUEL J. JIMENEZ, JR., PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

**[G.R. NO. 209215]**

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. MANUEL J.  
JIMENEZ, JR., RESPONDENT.**

### D E C I S I O N

**BRION, J.:**

Before the Court are two consolidated petitions for review on certiorari filed under Rule 45 of the Rules of Court, assailing the amended decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 121167 entitled *Manuel J. Jimenez, Jr. v. Hon. Zaldy B. Docena et al.*

The CA did not find any grave abuse of discretion on the part of the Regional Trial Court (RTC Branch 170, Malabon) Judge Zaldy B. Docena (*Judge Docena*) in issuing the order which granted the People of the Philippines' motion to discharge Manuel A. Montero (*Montero*) as a state witness in Criminal Case No. 39225-MN.

The G.R. No. 209195 petition was filed by Manuel J. Jimenez, Jr. (*Jimenez*). He prays in this petition for the reversal of the CA's amended decision insofar as it ruled that Judge Docena did not gravely abuse his discretion in issuing the assailed order.

The *People* likewise filed its petition, docketed as *G.R. No. 209215*. This petition seeks to reverse the amended decision of the CA insofar as it ordered the re-raffle of the criminal case to another RTC judge for trial on the merits.

#### **The Factual Antecedents**

On May 18, 2009 and June 11, 2009, Montero (a former employee of the BSJ Company owned by the Jimenezes) executed sworn statements confessing his participation in the killing of Ruby Rose Barrameda (*Ruby Rose*), and naming petitioner Jimenez, Lope Jimenez (*Lope*, the petitioner Jimenez's younger brother), Lennard A. Descalso (*Lennard*) alias "Spyke," Robert Ponce (Robert) alias "Obet," and Eric Fernandez (*Eric*), as his co-conspirators.<sup>[2]</sup>

The statements of Montero which provided the details on where the alleged steel casing containing the body of Ruby Rose was dumped, led to the recovery of a cadaver, encased in a drum and steel casing, near or practically at the place that Montero pointed to.<sup>[3]</sup>

On August 20, 2009, the People, through the state prosecutors, filed an Information before the RTC, charging Jimenez, Lope, Lennard, Robert, Eric and Montero of murder for the killing of Ruby Rose.<sup>[4]</sup>

Montero thereafter filed a motion for his discharge entitled "*Motion for the Discharge of the Witness as Accused Pursuant to the Witness Protection Program*" pursuant to Republic Act No. 6981. The People also filed a motion to discharge Montero as a state witness for the prosecution. Jimenez opposed both motions.<sup>[5]</sup>

### **The RTC's ruling**

On March 19, 2010, the RTC's Acting Presiding Judge Hector B. Almeyda (*Judge Almeyda*) denied the motion to discharge Montero as a state witness.<sup>[6]</sup>

Judge Almeyda ruled that the prosecution failed to comply with the requirements of Section 17, Rule 119 of the Revised Rules of Criminal Procedure for the discharge of an accused as a state witness; it failed to clearly show that Montero was not the most guilty or, at best, the least guilty among the accused. The judge further ruled that Montero's statements were not corroborated by the other evidence on record. The prosecution, too, failed to present evidence to sustain the possibility of conviction against Jimenez.<sup>[7]</sup>

Montero and the People filed separate motions for reconsideration.

### ***The July 30, 2010 order***

On July 30, 2010, Judge Docena, the newly-appointed regular judge, reconsidered and reversed Judge Almeyda's order and ruled that the prosecution had presented clear, satisfactory and convincing evidence showing compliance with the requisites of Section 17, Rule 119 of the Revised Rules of Criminal Procedure.

According to Judge Docena, the crime would have remained undiscovered and unsolved had it not been for Montero's extrajudicial confession that narrated in detail the ***manner of the abduction*** and ***subsequent murder*** of Ruby Rose. As the crime was committed in secret, only one of the co-conspirators, such as Montero, could give direct evidence identifying the other coconspirators.

Judge Docena further ruled that Montero is qualified to be discharged as a state witness as he does not appear to be the most guilty although he is a principal by direct participation. The principals by inducement are more guilty because, without their orders, the crime would not have been committed. Finally, Montero has not been convicted of any crime involving moral turpitude.

Jimenez moved for the reconsideration of Judge Docena's ruling.<sup>[8]</sup>

### ***The December 29, 2010 order***

During the pendency of the motion for reconsideration, Jimenez filed a motion for inhibition, praying that Judge Docena inhibit himself from hearing the case on the ground of bias and prejudice. Judge Docena denied the motion in his order of December 29, 2010.<sup>[9]</sup>

### ***The June 29, 2011 order***

On June 29, 2011, Judge Docena issued an omnibus order: 1) denying the petitioner's motion for reconsideration of the July 30, 2010 order; 2) denying the petitioner's motion for reconsideration of the December 29, 2010 order; and 3) granting Manuel Jimenez III's alternative motion to suspend the proceedings, as his inclusion in the Information was still pending final determination by the Office of the President.

Jimenez responded to these adverse rulings by filing with the CA a petition for *certiorari* under Rule 65 of the Rules of Court. The petition sought the annulment of Judge Docena's orders dated July 30, 2010, December 29, 2010, and June 29, 2011. The petition also prayed for the issuance of a temporary restraining order and a writ of preliminary injunction that the CA both granted in its resolutions of December 8, 2011 and February 6, 2012, respectively.<sup>[10]</sup>

### **The CA's Decision**

On May 22, 2012, the CA's then Tenth Division, through the *ponencia* of Associate Justice Agnes Reyes-Carpio (concurring in by Associate Justice Jose C. Reyes, Jr. and Associate Justice Priscilla J. Baltazar-Padilla) rendered a decision granting Jimenez' petition.<sup>[11]</sup>

However, on motion for reconsideration filed by the People, the CA **reversed** its earlier ruling and issued an Amended Decision penned by Associate Justice Jose Reyes.

### **The CA's Amended Decision**

The CA held that Judge Docena did not gravely abuse his discretion in ordering Montero's discharge to become a state witness because the prosecution had complied with the requirements of Section 17, Rule 119 of the Revised Rules of Criminal Procedure.<sup>[12]</sup>

*First*, Judge Docena acted in accordance with settled jurisprudence when he ruled that there was absolute necessity for the testimony of Montero as no other direct evidence other than his testimony was available. Additionally, since the determination of the requirements under Section 17, Rule 119 of the Revised Rules of Criminal Procedure is highly factual in nature, Judge Docena did not commit grave abuse of discretion in largely relying on the recommendation of the prosecution to discharge Montero as a state witness.<sup>[13]</sup>

Furthermore, the CA agreed with Judge Docena that Montero is not the most guilty among the accused because the principals by inducement are more guilty than the principals by direct participation. To the CA, this finding is highly factual in nature and it would not interfere with the trial court's exercise of discretion on factual issues in the absence of showing that the court had acted with grave abuse of discretion.<sup>[14]</sup>

On Judge Docena's 'no inhibition' order, the CA held that while the case does not call

for mandatory inhibition, it should still be raffled to another sala for trial on the merits to avoid any claim of bias and prejudice.<sup>[15]</sup>

The CA likewise dismissed the motion for the issuance of a show cause order which Jimenez filed against Judge Docena.<sup>[16]</sup>

Both Jimenez and the People moved for partial reconsideration of the CA's order but these motions were all denied.<sup>[17]</sup> The denials prompted both parties to file with this Court the present consolidated petitions for review on *certiorari*.

### **The Present Petitions**

#### **I. G.R. No. 209195 (The Jimenez Petition)**

Jimenez raises the following errors:

*First*, there is no necessity to discharge Montero as a state witness because: 1) the voluntary sworn extrajudicial confessions of Montero are all in the possession of the prosecution which they could readily present in court without discharging Montero; and 2) there was unjust favoritism in the discharge of Montero because all the other conspirators are equally knowledgeable of the crime.<sup>[18]</sup>

*Second*, contrary to the CA's ruling, the judge, and not the prosecution, has the ultimate discretion in ensuring that the requirements under Section 17, Rule 119 are complied with.<sup>[19]</sup>

*Third*, the cases the CA cited are factually different from the present case. *Chua v. CA*<sup>[20]</sup> should not apply as it deals with two accused, one of whom was ordered discharged.<sup>[21]</sup>

*Fourth*, Montero's testimony cannot be substantially corroborated in its material points as the prosecution's own evidence contradicts his declarations.

These inconsistencies include: Montero's statement that a "*busal*" was placed inside the mouth of Ruby Rose; this statement is belied by the other prosecution witness; Montero also never mentioned the presence of a packaging tape wrapped around the head and neck of the recovered cadaver; in Montero's *sinumpaang salaysay*, he stated that Ruby Rose was killed by strangulation using a "*lubid*" but the death certificate stated asphyxia by suffocation and not by strangulation; the identification of the cadaver as Ruby Rose is likewise questionable as there are differences in the height, and the dental and odontological reports of Ruby Rose and the recovered cadaver.

Jimenez argued that these inconsistencies would require a thorough scrutiny; hence, the immediate discharge of Montero as a state witness is suspicious. <sup>[22]</sup>

*Fifth*, Montero appears to be the most guilty. He was the architect who designed and actively participated in all phases of the alleged crime.<sup>[23]</sup>

Jimenez further argued that there is no authority supporting the ruling that the

principals by inducement are more guilty than the principal by direct participation. On the contrary, the Revised Penal Code imputes on the principal by direct participation the heavier guilt; without the latter's execution of the crime, the principal by inducement cannot be made liable. Even if the principal by inducement is acquitted, the principal by direct participation can still be held liable and not *vice-versa*.<sup>[24]</sup>

*Sixth*, the discharge of Montero was irregular because Judge Docena failed to conduct a prior hearing.<sup>[25]</sup>

*Finally*, Montero already executed a notice of withdrawal of consent and testimony which was submitted to the CA.<sup>[26]</sup>

### ***Comment of the People***

The People argued that Jimenez is now estopped from raising the lack of hearing as an issue since he raised this issue only after Judge Docena granted the motion to discharge and not after Judge Almeyda denied the motion – an action that was favorable to him.<sup>[27]</sup>

It also argued that Jimenez actively participated in the proceedings for Montero's discharge as the trial court received evidence for and against the discharge. In this light, Judge Docena's order granting or denying the motion for discharge is in order, notwithstanding the lack of actual hearing.<sup>[28]</sup>

The People also agreed with the CA's amended ruling that the requirements for the discharge of an accused as a state witness were complied with.<sup>[29]</sup> It added that the availability of the extrajudicial statements in the prosecution's possession is not a ground to disqualify an accused from being a state witness.<sup>[30]</sup>

It further maintained that the alleged contradictions between Montero's statements and other prosecution's evidence are better resolved during trial and are irrelevant to the issues in the present case.<sup>[31]</sup>

For purposes of the present case, the material allegations of Montero on the identity of the victim and the manner of her killing were substantially corroborated by the presence of the recovered original steel casing, the drum containing a cadaver, the place where it was found, and the cadaver's apparel.<sup>[32]</sup>

The People observed that Montero had already testified on direct examination on June 28, 2011 and October 25, 2011. He attested and affirmed his statements in his affidavits dated May 18 and June 11, 2009; he narrated in his statements the murder of Ruby Rose and Jimenez' participation.<sup>[33]</sup>

### ***Reply of Jimenez***

Jimenez reiterated his allegations in the comment. He added that Montero did not identify or authenticate his sworn statements in support of the motion for his discharge.<sup>[34]</sup>