

THIRD DIVISION

[A.M. No. RTJ-01-1663, November 15, 2002]

MAIMONA MANONGGIRING, COMPLAINANT, VS. JUDGE AMER R. IBRAHIM, RESPONDENT.

R E S O L U T I O N

CARPIO MORALES, J.:

For granting bail to an accused charged with a crime punishable by *reclusion perpetua* to death in a case pending before another sala, this Court finds respondent Judge Amer R. Ibrahim guilty of gross ignorance of the law and imposes upon him a fine of P20,000.00.

On January 17, 1995, Provincial Prosecutor Paca-ambung C. Macabando filed before the RTC of Lanao del Sur an information charging six (6) persons with "violation of Article 321 (1) of the Revised Penal Code, as amended by Sec. 3 (2) of Presidential Decree No. 1613" (the criminal case) as follows:

The undersigned Provincial Prosecutor accuses, PO3 Aragasi Badron, Macloling Mustapha, Solaiman Mangorsi, Gandawali Ampatua, Lininding Pangadapun and Pangalian Hadji Azis, of the crime of ARSON, committed as follows:

That on or about December 18, 1994 at around 4:30 O'clock in the afternoon at the Barangay Cormatan Municipality of Mulondo, Province of Lanao Del Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with assorted high powered firearms, conspiring, confederating and mutually helping each other, and motivated by spite, anger, and hatred, did then and there willfully, unlawfully, feloniously and deliberately burn and set to fire the inhabited house owned and used as dwelling house of Ex-mayor Manongiring Lumano, said accused knowing the house or building to be occupied at the time by then and there pouring and spreading gasoline over the said house and setting it to fire and to the damage and prejudice of the said owner Manongiring Lumano.

Contrary to and in violation of Article 321 (1) of the Revised Penal Code as amended by Sec. 3 (2) of Presidential Decree No. 1613.^[1] (Underscoring supplied.)

Typewritten beneath Prosecutor Macabando's signature in the information were the words "Bail Recommended: No Bail." The "No Bail" entry was, however, crossed out and above it was handwritten by Prosecutor Macabando the amount "P120,000.00."

The criminal case, docketed as Criminal Case No. 2052-95, was raffled to Branch 10 of the RTC of Lanao del Sur.

On September 4, 1996, the prosecution filed an amended information against the same accused, for "violation of Section 10 of Republic Act No. 7659," reading as follows:

The undersigned Provincial Prosecutor accuses PO3 ARAGASI BADRON, MACALOLING MUSTAPHA, SOLAIMAN MANGORSI, GANDAWALI AMPATUA, LININDING PANGADAPUN and PANGALIAN HADJI AZIS, of the crime of ARSON, committed as follows:

That on or about December 18, 1994 at around 4:30 o'clock in the afternoon at Barangay Cormatan, Municipality of Mulondo, Province of Lanao Del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused armed with assorted high powered firearms conspiring, confederating and mutually helping each other, and motivated by spite, anger, and hatred did then and there willfully, unlawfully, feloniously and deliberately burn and set to fire the inhabited house owned and used as dwelling house of Ex-Mayor Manongiring Lumano, said accused knowing the house or building to be occupied at the time by then and there pouring and spreading gasoline over the said house and setting it to fire and to the damage and prejudice of the said owner Manongiring Lumano.

CONTRARY TO and in violation of Section 10 of Republic Act No. 7659.^[2]
(Underscoring supplied.)

Prosecutor Macabando recommended "NO BAIL."

In view of the amendment of the information, the prosecution, on September 17, 1996, filed a motion for the cancellation of the bail bond earlier posted by accused PO3 Aragasi Badron under the original information. The RTC, Branch 10 granted the prosecution's motion by Order of November 14, 1996.

A warrant for the arrest of, among other accused, Macaloling Mustapha was issued in November 1996 by the RTC, Branch 10.

Sometime in February 1999, accused Mustapha applied for bail, which herein respondent Presiding Judge of the RTC, Branch 9, by Order of February 15, 1999, granted.

Alleging that respondent had no authority to grant Mustapha bail since the criminal case is pending before another branch of the court and for an offense punishable by *reclusion perpetua* to death, the private complainant, Maimona Manonggiring, filed the present administrative complaint against respondent for Gross Misconduct and Gross Ignorance of the Law.

Required to comment, respondent, denying that there was any irregularity attendant to his questioned act, contends that under Section 17, Rule 114 of the 1985 Revised Rules on Criminal Procedure, as amended, bail may be allowed by a judge in a branch different from that where the case is pending; that he was guided by the warrant of arrest issued against the accused in 1995 recommending bail of P120,000.00 as well as by the original information stating that the act complained of was "contrary to and in violation of Act. 321 (1) of the Revised Penal Code as Amended by Sec. 3 (2) of Presidential Decree No. 1613;" and that on his instruction, the sheriff who is assigned to his sala went to verify from Branch 10 of the RTC and found out that the offense for which Mustapha was charged was bailable and no amended information was on file.

Respondent draws attention to the allegation of the prosecution in its motion to cancel the bail bond of accused PO3 Aragasi Badron, who was, as earlier stated, previously allowed to post bail under the original information, "that said information

must have been filed in haste, without careful or complete investigation.” The lack of coordination on the part of the prosecution, adds respondent, “misled the parties and the bench.”^[3]

By Resolution of October 22, 2001, this Court referred the administrative complaint to the Presiding Justice of the Court of Appeals (CA) to be raffled among the associate justices thereof for investigation, report and recommendation.

By his report, CA Associate Justice Candido V. Rivera, to whom the administrative case was raffled, finds merit in the complaint and recommends that this Court fine respondent the amount of “P10,000.00 with a warning that a repetition of the same or similar acts shall be dealt with more severely.”

Respondent maintains that Judge Yusoph K. Pangadapun, Presiding Judge of Branch 10 of the RTC where the criminal case is lodged, was on leave when Mustapha’s motion for bail was filed on February 15, 1999 in his sala – Branch 9, in support of which he presented a certified true photocopy of New Judicial Form No. 86 showing that Judge Pangadapun was on vacation/sick leave on February 15-17, 1999;^[4] and that as bail in the criminal case was a matter of right, he acted in accordance with Section 17 (a), Rule 114 of the Revised Rules on Criminal Procedure which provides:

SEC. 17. *Bail, where filed.* – (a) Bail in the amount fixed may be filed with the court where the case is pending, or, in the absence or unavailability of the judge thereof, with another branch of the same court within the province or city. x x x. (Underscoring supplied.)

Complainant argues, however, that Mustapha and his co-accused were charged with an offense punishable by *reclusion perpetua* to death, hence, grant of bail is discretionary and only the court where the case is pending may act on the application for bail pursuant to Section 17 (b) of the Rule 114.

Complainant’s argument is well taken.

Why respondent did not himself verify the records of the criminal case and instead just sent his sheriff for the purpose, he has not proffered any explanation. And why the sheriff verified the records of the criminal case not from Branch 10, but from the Office of the Clerk of Court, neither has respondent proffered any explanation. Had respondent himself done the verification, he could have known that the original information was amended whereon no bail was recommended.

But even if there was failure to discover the existence of the amended information, he could have gathered from the recital of facts in the body of the original information, which determines the real nature of the criminal charge,^[5] that the accused are liable under Article 320 of the Revised Penal Code, as amended by R.A. No. 7656^[6] which took effect on December 31, 1993.^[7] Thus, as amended by R.A. No. 7659, Article 320 of the Revised Penal Code reads:

Article 320. *Destructive Arson.* – The penalty of *reclusion perpetua* to death shall be imposed upon any person who shall burn:

1. One (1) or more buildings or edifices consequent to one single act of burning, or as a result of simultaneous burning, or committed on several or different occasions.