

## FIRST DIVISION

[ G.R. No. 140688, January 26, 2001 ]

**EDUARDO E. GATDULA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**PARDO, J.:**

The case is an appeal via certiorari from the decision of the Court of Appeals<sup>[1]</sup> that denied a petition for certiorari to nullify the orders of the trial court admitting certain evidence of the prosecution and holding in abeyance resolution on the demurrer to evidence filed by petitioner until after he has presented evidence.

We unwind the facts as narrated in the petition, as follows:

On August 24, 1994, the City Prosecutor of Pasay City filed with the Regional Trial Court, Pasay City an information charging petitioner with violation of Presidential Decree No. 1612 (Anti-Fencing Law), alleging that:

"That on or about and sometime during the period January 9, 1994 to March 10, 1994, in Pasay City, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, Eduardo Gatdula, with intent to gain for himself, did then and there willfully, unlawfully and feloniously buy a motor vehicle, an Isuzu Gemini Sonic Taxi with engine no. 235358 and with Serial Chassis no. 5F69DOF203249 valued at P140,000.00 which he knows to have been derived from the proceeds of carnapping."<sup>[2]</sup>

After presenting their case in chief, on September 29, 1995, the prosecution rested its case and filed its offer of exhibits.<sup>[3]</sup>

On October 9, 1995, petitioner filed his comment/opposition specifically objecting to the offer of exhibits on the ground that they were taken from him without the presence and assistance of counsel and that they were obtained during his unlawful arrest and for being hearsay.<sup>[4]</sup>

On October 11, 1995, the trial court ordered the admission of all the exhibits of the prosecution and granted petitioner permission to file a demurrer to evidence.<sup>[5]</sup>

On October 17, 1995, petitioner filed with the trial court a demurrer to evidence.<sup>[6]</sup>

On October 19, 1995, the trial court issued orders admitting all the evidence of the prosecution and holding the resolution on the demurrer in abeyance until petitioner has presented evidence.<sup>[7]</sup>

On November 15, 1995, petitioner filed with the Court of Appeals a petition for certiorari questioning the trial court's orders admitting all evidence of the prosecution and holding in abeyance the resolution on petitioner's demurrer to evidence until he has presented evidence.<sup>[8]</sup>

On February 17, 1999, the Court of Appeals promulgated its decision that denied the petition and affirmed the two orders of the trial court.<sup>[9]</sup>

On May 4, 1999, petitioner filed a motion for reconsideration of the decision.<sup>[10]</sup>

On September 8, 1999, the Court of Appeals denied petitioner's motion for reconsideration.<sup>[11]</sup>

Hence, this appeal.<sup>[12]</sup>

Petitioner assails the two orders of the trial court on the ground that they were issued with grave abuse of discretion amounting to excess or lack of jurisdiction.

The petition is without merit.

"The established principle is that rulings of the trial court on procedural questions and on admissibility of evidence during the course of a trial are interlocutory in nature and may not be the subject of separate appeal or review on certiorari, but are to be assigned as errors and reviewed in the appeal properly taken from the decision rendered by the trial court on the merits of the case."<sup>[13]</sup> "If the rule were otherwise, there simply would be no end to the trial of cases, for any litigant, not satisfied with the trial court's ruling admitting or excluding any proffered oral or documentary evidence, would then indefinitely tie up the trial while elevating the ruling for review by the appellate court."<sup>[14]</sup>

It has been held that the question of "[W]hether or not the evidence presented by the prosecuting attorney, at the time he rests his cause, is sufficient to convince the court that the defendant is guilty, beyond a reasonable doubt, of the crime charged, rests entirely within the sound discretion and judgment of the lower court."<sup>[15]</sup>

In *Joseph v. Villaluz*,<sup>[16]</sup> we held that the court cannot, in a special civil action for certiorari and prohibition, decide whether the evidence adduced by the prosecution has established beyond reasonable doubt the guilt of the accused.

On the other hand, the trial court must rule either to grant or deny the demurrer to evidence filed by petitioner. The trial court has a specific duty under the Rules to act on petitioner's demurrer to evidence, either by granting or denying the same.<sup>[17]</sup> The denial of the demurrer may be the proper subject of a petition for certiorari if there was grave abuse of discretion.

Perhaps, the trial court really wanted to deny the demurrer to evidence that is why it deferred resolution thereon until petitioner has adduced evidence. In such case, the court must expressly deny the demurrer. Nevertheless, the error is not jurisdictional, and certiorari is not available to correct errors in judgment or