

THIRD DIVISION

[A.M. No. MTJ-97-1114, April 04, 1997]

**MARIANO DEL ROSARIO, JR., PETITIONER, VS. JUDGE NICASIO
BARTOLOME, MTC, STA. MARIA, BULACAN, RESPONDENT.
D E C I S I O N**

MELO, J.:

Municipal Trial Court (Sta. Maria, Bulacan) Judge Nicasio Bartolome is once again named respondent in the instant administrative case for gross ignorance of the law and for knowingly rendering an unjust judgment.

It appears that on July 1, 1996, complainant Mariano del Rosario filed on behalf of his minor daughter Jennifer, a complaint for acts of lasciviousness against Roderick Lazaro, which was thereafter docketed as Criminal Case No. 10273 of the Municipal Trial Court of Sta. Maria, Bulacan. Later that same day, a motion was filed to amend the charge to attempted rape. After additional statements were taken from complainants, an amended complaint for attempted rape was filed before the same court (p.1, Office of the Court Administrator Report).

On July 5, 1996, respondent judge issued the following Order, from which the charges against him stemmed:

ORDER

Upon conclusion of the preliminary examination by conducting searching questions and answers of the witnesses for the prosecution Rosalia del Rosario, mother and the daughter Jennifer del Rosario respectively, this Court finds prima facie evidence to admit the complaint as charged that is, Acts of Lasciviousness as there was no evidence found to support a case of Attempted Rape as the testimonies could not show that there was even an attempt on the part of the accused to lie with the offended party or to have sexual intercourse it being the second occasion already according to the testimony of the mother. Thereafter, the complainant thru counsel filed a motion to amend complaint to attempted rape and supporting the amended complaint with additional statement. On the other hand there is a motion on the part of the accused to reduce bail previously fixed for Acts of Lasciviousness. The afterthought of the complainant for Attempted Rape operates as an abandonment of the previous case and therefore, appears to have lost interest to further prosecute the same.

WHEREFORE, this case is hereby dismissed and the matter of having the same amended is referred to the Office of the Provincial Fiscal, Malolos, Bulacan for further action.

The Station Commander or any of his authorized representative is hereby