

## AI Summary

A court need not acquire custody of the law over the person of the accused before acting on motions to quash a warrant of arrest or other pleadings seeking affirmative relief, except in applications for bail or pleadings that specifically challenge the court's jurisdiction over the person. However, the quashal of a warrant of arrest or dismissal of a criminal case based on grounds such as a pending petition for review with the DOJ or a prior acquittal of different accused in a related case constitutes grave abuse of discretion.

520 Phil. 907

### FIRST DIVISION

[ G.R. NO. 158763. March 31, 2006 ]

JOSE C. MIRANDA, ALBERTO P. DALMACIO, AND ROMEO B. OCON, PETITIONERS, VS. VIRGILIO M. TULIAO, RESPONDENT.

### DECISION

CHICO-NAZARIO, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court, assailing the 18 December 2002 Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. SP No. 67770 and its 12 June 2003 Resolution denying petitioners' Motion for Reconsideration. The dispositive portion of the assailed decision reads as follows:

WHEREFORE, finding public respondent Judge Anastacio D. Anghad to have acted with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed Orders, the instant petition for certiorari, mandamus and prohibition is hereby GRANTED and GIVEN DUE COURSE, and it is hereby ordered:

1. The assailed Joint Order dated ~~August 17, 2001~~, Order dated ~~September 21, 2001~~, Joint Order dated ~~October 16, 2001~~ and Joint Order dated ~~November 14, 2001~~ dismissing the two (2) Informations for Murder, all issued by public respondent Judge Anastacio D. Anghad in Criminal Cases Nos. 36-3523 and 36-3524 are hereby REVERSED and SET ASIDE for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction, and another entered UPHOLDING, AFFIRMING[,] and REINSTATING the Order dated June 25, 2001 and Joint Order dated July 6, 2001 issued by the then acting Presiding Judge Wilfredo Tumaliuan;
2. Criminal Cases Nos. 36-3523 and 36-3524 are hereby ordered REINSTATED in the docket of active criminal cases of Branch 36 of the Regional Trial Court of Santiago City, Isabela; and
3. Public respondent Judge Anastacio D. Anghad is DIRECTED to ISSUE forthwith Warrants of Arrest for the apprehension of private respondents Jose "Pempe" Miranda, SPO3 Alberto P. Dalmacio, PO3 Romeo B. Ocon and accused Rodel T. Maderal in said Criminal Cases Nos. 36-3523 and 36-3524.<sup>[2]</sup>

The factual and procedural antecedents of the case are as follows:

On 8 March 1996, two burnt cadavers were discovered in Purok Nibulan, Ramon, Isabela, which were later identified as the dead bodies of Vicente Bauzon and Elizer Tuliao, son of private respondent Virgilio Tuliao who is now under the witness protection program.

Two informations for murder were filed against SPO1 Wilfredo Leaño, SPO1 Ferdinand Marzan, SPO1 Ruben B. Agustin, SPO2 Alexander Micu, SPO2 Rodel Maderal, and SPO4 Emilio Ramirez in the Regional Trial Court (RTC) of Santiago City.

The venue was later transferred to Manila. On 22 April 1999, the RTC of Manila convicted all of the accused and sentenced them to two counts of reclusion perpetua except SPO2 Maderal who was yet to be arraigned at that time, being at large. The case was appealed to this Court on automatic review where we, on 9 October 2001, acquitted the accused therein on the ground of reasonable doubt.

Sometime in September 1999, SPO2 Maderal was arrested. On 27 April 2001, he executed a sworn confession and identified petitioners Jose C. Miranda, PO3 Romeo B. Ocon, and SPO3 Alberto P. Dalmacio, a certain Boyet dela Cruz and Amado Doe, as the persons responsible for the deaths of Vicente Bauzon and Elizer Tuliao.

Respondent Tuliao filed a criminal complaint for murder against petitioners, Boyet dela Cruz, and Amado Doe, and submitted the sworn confession of SPO2 Maderal. On 25 June 2001, Acting Presiding Judge Wilfredo Tumaliuan issued warrants of arrest against petitioners and SPO2 Maderal.

On 29 June 2001, petitioners filed an urgent motion to complete preliminary investigation, to reinvestigate, and to recall and/or quash the warrants of arrest.

In the hearing of the urgent motion on 6 July 2001, Judge Tumaliuan noted the absence of petitioners and issued a Joint Order denying said urgent motion on the ground that, since the court did not acquire jurisdiction over their persons, the motion cannot be properly heard by the court. In the meantime, petitioners appealed the resolution of State Prosecutor Leo T. Reyes to the Department of Justice.

On 17 August 2001, the new Presiding Judge Anastacio D. Anghad took over the case and issued a Joint Order reversing the Joint Order of Judge Tumaliuan. Consequently, he ordered the cancellation of the warrant of arrest issued against petitioner Miranda. He likewise applied this Order to petitioners Ocon and Dalmacio in an Order dated 21 September 2001. State Prosecutor Leo S. Reyes and respondent Tuliao moved for the reconsideration of the said Joint Order and prayed for the inhibition of Judge Anghad, but the motion for reconsideration was denied in a Joint Order dated 16 October 2001 and the prayer for inhibition was denied in a Joint Order dated 22 October 2001.

On 25 October 2001, respondent Tuliao filed a petition for certiorari, mandamus and prohibition with this Court, with prayer for a Temporary Restraining Order, seeking to enjoin Judge Anghad from further proceeding with the case, and seeking to nullify the Orders and Joint Orders of Judge Anghad dated 17 August 2001, 21 September 2001, 16 October 2001, and 22 October 2001.

On 12 November 2001, this Court issued a Resolution resolving to grant the prayer for a temporary restraining order against Judge Anghad from further proceeding with the criminal cases. Shortly after the aforesaid resolution, Judge Anghad issued a Joint Order dated 14 November 2001 dismissing the two Informations for murder against petitioners. On 19 November 2001, this Court took note of respondent's cash bond evidenced by O.R. No. 15924532 dated 15 November 2001, and issued the temporary restraining order while referring the petition to the Court of Appeals for adjudication on the merits.

Respondent Tuliao filed with this Court a Motion to Cite Public Respondent in Contempt, alleging that Judge Anghad "deliberately and willfully committed contempt of court when he issued on 15 November 2001 the Order dated 14 November 2001 dismissing the informations for murder." On 21 November 2001, we referred said motion to the Court of Appeals in view of the previous referral to it of respondent's petition for certiorari, prohibition and mandamus.

On 18 December 2002, the Court of Appeals rendered the assailed decision granting the petition and ordering the reinstatement of the criminal cases in the RTC of Santiago City, as well as the issuance of warrants of arrest against petitioners and SPO2 Maderal. Petitioners moved for a reconsideration of this Decision, but the same was denied in a Resolution dated 12 June 2003.

Hence, this petition.

The facts of the case being undisputed, petitioners bring forth to this Court the following assignments of error:

#### FIRST ASSIGNMENT OF ERROR

With all due respect, the Honorable Court of Appeals gravely erred in reversing and setting aside the Joint Order of Judge Anastacio D. Anghad dated August 17, 2001, September 21, 2001, October 16, 2001 and November 14, 2001 issued in criminal cases numbered 36-3523 and 36-3524; and, erred in upholding, affirming and reinstating the Order dated July 6, 2001 issued by then Acting Presiding Judge Wilfredo Tumaliuan, on the alleged rule that an accused cannot seek any judicial relief if he does not submit his person to the jurisdiction of the court.

#### SECOND ASSIGNMENT OF ERROR

With all due respect, the Honorable Court of Appeals gravely erred in directing the reinstatement of Criminal Cases No. 36-3523 and 36-3524 in the docket of Active Criminal Cases of Branch 36 of the Regional Trial Court of Santiago City, Philippines, and in ordering the public respondent to re-issue the warrants of arrest against herein petitioners.

#### THIRD ASSIGNMENT OF ERROR

With all due respect, the Honorable Court of Appeals committed a reversible error in ordering the reinstatement of Criminal Cases No. 36-3523 and No. 36-3524 in the docket of active criminal cases of Branch 36 of the regional trial court of Santiago City, Philippines, and in ordering the public respondent to issue warrants of arrest against herein petitioners, the order of dismissal issued therein having become final and executory.

Adjudication of a motion to quash a warrant of arrest requires neither jurisdiction over the person of the accused, nor custody of law over the body of the accused.

The first assignment of error brought forth by the petitioner deals with the Court of Appeals' ruling that:

[A]n accused cannot seek any judicial relief if he does not submit his person to the jurisdiction of the court. Jurisdiction over the person of the accused may be acquired either through compulsory process, such as warrant of arrest, or through his voluntary appearance, such as when he surrenders to the police or to the court. It is only when the court has already acquired jurisdiction over his person that an accused may invoke the processes of the court (Pete M. Pico vs. Alfonso V. Combing, Jr., A.M. No. RTJ-91-764, November 6, 1992). Thus, an accused must first be placed in the custody of the law before the court may validly act on his petition for judicial reliefs.<sup>[3]</sup>

Proceeding from this premise, the Court of Appeals ruled that petitioners Miranda, Ocon and Dalmacio cannot seek any judicial relief since they were not yet arrested or otherwise deprived of their liberty at the time they filed their "Urgent Motion to complete preliminary investigation; to reinvestigate; to recall and/or quash warrants of arrest."<sup>[4]</sup>

Petitioners counter the finding of the Court of Appeals by arguing that jurisdiction over the person of the accused is required only in applications for bail. Furthermore, petitioners argue, assuming that such jurisdiction over their person is required before the court can act on their motion to quash the warrant for their arrest, such jurisdiction over their person was already acquired by the court by their filing of the above Urgent Motion.

In arguing that jurisdiction over the person is required only in the adjudication of applications for bail, petitioners quote Retired Court of Appeals Justice Oscar Herrera:

Except in applications for bail, it is not necessary for the court to first acquire jurisdiction over the person of the accused to dismiss the case or grant other relief. The outright dismissal of the case even before the court acquires jurisdiction over the person of the accused is authorized under Section 6(a), Rule 112 of the Revised Rules of Criminal Procedure and the Revised Rules on Summary Procedure (Sec. 12a). In Allado vs. Diokno (232 SCRA 192), the case was dismissed on motion of the accused for lack of probable cause without the accused having been arrested. In Paul Roberts vs. Court of Appeals

(254 SCRA 307), the Court was ordered to hold the issuance of a warrant of arrest in abeyance pending review by the Secretary of Justice. And in *Lacson v. Executive Secretary* (301 SCRA 102<sup>[5]</sup>), the Court ordered the case transferred from the Sandiganbayan to the RTC which eventually ordered the dismissal of the case for lack of probable cause.<sup>[6]</sup>

In arguing, on the other hand, that jurisdiction over their person was already acquired by their filing of the above Urgent Motion, petitioners invoke our pronouncement, through Justice Florenz D. Regalado, in *Santiago v. Vasquez*:<sup>[7]</sup>

The voluntary appearance of the accused, whereby the court acquires jurisdiction over his person, is accomplished either by his pleading to the merits (such as by filing a motion to quash or other pleadings requiring the exercise of the court's jurisdiction thereover, appearing for arraignment, entering trial) or by filing bail. On the matter of bail, since the same is intended to obtain the provisional liberty of the accused, as a rule the same cannot be posted before custody of the accused has been acquired by the judicial authorities either by his arrest or voluntary surrender.

Our pronouncement in *Santiago* shows a distinction between custody of the law and jurisdiction over the person. Custody of the law is required before the court can act upon the application for bail, but is not required for the adjudication of other reliefs sought by the defendant where the mere application therefor constitutes a waiver of the defense of lack of jurisdiction over the person of the accused.<sup>[8]</sup> Custody of the law is accomplished either by arrest or voluntary surrender,<sup>[9]</sup> while jurisdiction over the person of the accused is acquired upon his arrest or voluntary appearance.<sup>[10]</sup> One can be under the custody of the law but not yet subject to the jurisdiction of the court over his person, such as when a person arrested by virtue of a warrant files a motion before arraignment to quash the warrant. On the other hand, one can be subject to the jurisdiction of the court over his person, and yet not be in the custody of the law, such as when an accused escapes custody after his trial has commenced.<sup>[11]</sup> Being in the custody of the law signifies restraint on the person, who is thereby deprived of his own will and liberty, binding him to become obedient to the will of the law.<sup>[12]</sup> Custody of the law is literally custody over the body of the accused. It includes, but is not limited to, detention.

The statement in *Pico v. Judge Combong, Jr.*,<sup>[13]</sup> cited by the Court of Appeals should not have been separated from the issue in that case, which is the application for admission to bail of someone not yet in the custody of the law. The entire paragraph of our pronouncement in *Pico* reads:

A person applying for admission to bail must be in the custody of the law or otherwise deprived of his liberty. A person who has not submitted himself to the jurisdiction of the court has no right to invoke the processes of that court. Respondent Judge should have diligently ascertained the whereabouts of the applicant and that he indeed had jurisdiction over the body of the accused before considering the application for bail.<sup>[14]</sup>

While we stand by our above pronouncement in *Pico* insofar as it concerns bail, we clarify that, as a general rule, one who seeks an affirmative relief is deemed to have submitted to the jurisdiction of the court.<sup>[14]</sup> As we held in the aforementioned case of *Santiago*, seeking an affirmative relief in court, whether in civil or criminal proceedings, constitutes voluntary appearance.

*Pico* deals with an application for bail, where there is the special requirement of the applicant being in the custody of the law. In *Feliciano v. Pasicolan*,<sup>[16]</sup> we held that "[t]he purpose of bail is to secure one's release and it would be incongruous to grant bail to one who is free. Thus, "bail is the security required and given for the release of a person who is in the custody of law." The rationale behind this special rule on bail is that it discourages and prevents resort to the former pernicious practice wherein the accused could just send another in his stead to post his bail, without recognizing the jurisdiction of the court by his personal appearance therein and compliance with the requirements therefor.<sup>[17]</sup>

There is, however, an exception to the rule that filing pleadings seeking affirmative relief constitutes voluntary appearance, and the consequent submission of one's person to the jurisdiction of the court. This is in the case of pleadings whose prayer is precisely for the avoidance of the jurisdiction of the court, which only leads to a special appearance. These pleadings are: (1) in civil cases, motions to dismiss on the ground of lack of jurisdiction over the person of the defendant, whether or not other grounds for dismissal are included;<sup>[17]</sup> (2) in criminal cases, motions to quash a complaint on the ground of lack of jurisdiction over the person of the accused; and (3) motions to quash a warrant of arrest. The first two are consequences of the fact that failure to file them would constitute a waiver of the defense of lack of jurisdiction over the person. The third is a consequence of the fact that it is the very legality of the court process forcing the submission of the person of the accused that is the very issue in a motion to quash a warrant of arrest.

To recapitulate what we have discussed so far, in criminal cases, jurisdiction over the person of the accused is deemed waived by the accused when he files any pleading seeking an affirmative relief, except in cases when he invokes the special jurisdiction of the court by impugning such jurisdiction over his person. Therefore, in narrow cases involving special appearances, an accused can invoke the processes of the court even though there is neither jurisdiction over the person nor custody of the law. However, if a person invoking the special jurisdiction of the court applies for bail, he must first submit himself to the custody of the law.

In cases not involving the so-called special appearance, the general rule applies, i.e., the accused is deemed to have submitted himself to the jurisdiction of the court upon seeking affirmative relief. Notwithstanding this, there is no requirement for him to be in the custody of the law. The following cases best illustrate this point, where we granted various reliefs to accused who were not in the custody of the law, but were deemed to have placed their persons under the jurisdiction of the court. Note that none of these cases involve the application for bail, nor a motion to quash an information due to lack of jurisdiction over the person, nor a motion to quash a warrant of arrest:

1. In *Allado v. Diokno*,<sup>[19]</sup> on the prayer of the accused in a petition for certiorari on the ground of lack of probable cause, we issued a temporary restraining order enjoining PACC from enforcing the warrant of arrest and the respondent judge therein from further proceeding with the case and, instead, to elevate the records to us.
2. In *Roberts, Jr. v. Court of Appeals*,<sup>[20]</sup> upon the accused's Motion to Suspend Proceedings and to Hold in Abeyance Issuance of Warrants of Arrest on the ground that they filed a Petition for Review with the Department of Justice, we directed respondent judge therein to cease and desist from further proceeding with the criminal case and to defer the issuance of warrants of arrests against the accused.
3. In *Lacson v. Executive Secretary*,<sup>[21]</sup> on the prayer of the accused in a petition for certiorari on the ground of lack of jurisdiction on the part of the Sandiganbayan, we directed the Sandiganbayan to transfer the criminal cases to the Regional Trial Court even before the issuance of the warrants of arrest.

We hold that the circumstances forcing us to require custody of the law in applications for bail are not present in motions to quash the warrant of arrest. If we allow the granting of bail to persons not in the custody of the law, it is foreseeable that many persons who can afford the bail will remain at large, and could elude being held to answer for the commission of the offense if ever he is proven guilty. On the other hand, if we allow the quashal of warrants of arrest to persons not in the custody of the law, it would be very rare that a person not genuinely entitled to liberty would remain scot-free. This is because it is the same judge who issued the warrant of arrest who will decide whether or not he followed the Constitution in his determination of probable cause, and he can easily deny the motion to quash if he really did find probable cause after personally examining the records of the case.

Moreover, pursuant to the presumption of regularity of official functions, the warrant continues in force and effect until it is quashed and therefore can still be enforced on any day and at any time of the day and night.<sup>[22]</sup> Furthermore, the continued absence of the accused can be taken against him in the determination of probable cause, since flight is indicative of guilt.

In fine, as much as it is incongruous to grant bail to one who is free, it is likewise incongruous to require one to surrender his freedom before asserting it. Human rights enjoy a higher preference in the hierarchy of rights than property rights,<sup>[23]</sup> demanding that due process in the deprivation of liberty must come before its taking and not after.

Quashing a warrant of arrest based on a subsequently filed petition for review with the Secretary of Justice and based on doubts engendered by the political climate constitutes grave abuse of discretion.

We nevertheless find grave abuse of discretion in the assailed actions of Judge Anghad. Judge Anghad seemed a little too eager of dismissing the criminal cases against the petitioners. First, he quashed the standing warrant of arrest issued by his predecessor because of a subsequently filed appeal to the Secretary of Justice, and because of his doubts on the existence of probable cause due to the political climate in the city. Second, after the Secretary of Justice affirmed the prosecutor's resolution, he dismissed the criminal cases on the basis of a decision of this Court in another case with different accused, doing so two days after this Court resolved to issue a temporary restraining order against further proceeding with the case.

After Judge Tumaliuan issued warrants for the arrest of petitioners, petitioner Miranda appealed the assistant prosecutor's resolution before the Secretary of Justice. Judge Anghad, shortly after assuming office, quashed the warrant of arrest on the basis of said appeal. According to Judge Anghad, "x x x prudence dictates (that) and because of comity, a deferment of the proceedings is but proper."<sup>[24]</sup>

Quashal on this basis is grave abuse of discretion. It is inconceivable to charge Judge Tumaliuan as lacking in prudence and oblivious to comity when he issued the warrants of arrest against petitioners just because the petitioners might, in the future, appeal the assistant prosecutor's resolution to the Secretary of Justice. But even if the petition for review was filed before the issuance of the warrants of arrest, the fact remains that the pendency of a petition for the review of the prosecutor's resolution is not a ground to quash the warrants of arrest.

In *Webb v. de Leon*,<sup>[25]</sup> we held that the petitioners therein cannot assail as premature the filing of the information in court against them on the ground that they still have the right to appeal the adverse resolution of the DOJ Panel to the Secretary of Justice. Similarly, the issuance of warrants of arrest against petitioners herein should not have been quashed as premature on the same ground.

The other ground invoked by Judge Anghad for the quashal of the warrant of arrest is in order if true: violation of the Constitution. Hence, Judge Anghad asked and resolved the question:

In these double murder cases, did this Court comply or adhere to the above-quoted constitutional proscription, which is Sec. 2, Article III Bill of Rights; to Sec. 6(a), Rule 112, Rules of Criminal Procedure and to the above-cited decisional cases? To this query or issue, after a deep perusal of the arguments raised, this Court, through [its] regular Presiding Judge, finds merit in the contention of herein accused-movant, Jose "Pempe" Miranda.<sup>[26]</sup>

Judge Anghad is referring to the following provision of the Constitution as having been violated by Judge Tumaliuan:

Sec. 2. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.<sup>[27]</sup>

However, after a careful scrutiny of the records of the case, including the supporting evidence to the resolution of the prosecutor in his determination of probable cause, we find that Judge Anghad gravely abused his discretion.

According to petitioners:

In this case, the nullity of the order of Judge Tumaliuan, for the arrest of the petitioners is apparent from the face of the order itself, which clearly stated that the determination of probable cause was based on the certification, under oath, of the fiscal and not on a separate determination personally made by the Judge. No presumption of regularity could be drawn from the order since it expressly and clearly showed that it was based only on the fiscal's certification.<sup>[28]</sup>

Petitioners' claim is untrue. Judge Tumaliuan's Joint Order contains no such indication that he relied solely on the prosecutor's certification. The Joint Order even indicated the contrary:

Upon receipt of the information and resolution of the prosecutor, the Court proceeded to determine the existence of a probable cause by personally evaluating the records x x x. [\[28\]](#)

The records of the case show that the prosecutor's certification was accompanied by supporting documents, following the requirement under *Lim, Sr. v. Felix* [\[30\]](#) and *People v. Inting*. [\[31\]](#) The supporting documents are the following:

1. Resolution dated 21 June 2001 of State Prosecutor Leo S. Reyes;
2. Affidavit dated 22 May 2001 of Modesto Gutierrez;
3. Affidavit dated 19 May 2001 of Romeo B. Ocon;
4. Joint Counter Affidavit dated 23 May 2001 of Mayor Jose C. Miranda and Reynaldo de la Cruz;
5. Affidavit dated 19 May 2001 of Alberto Dalmacio;
6. Decision dated 22 April 1999 of the Regional Trial Court of Manila, Branch 41 in Criminal Case No. 97-160355;
7. Sworn statement dated 27 April 2001 of Rodel Maderal;
8. Information dated 22 June 2001;
9. Affidavit-complaint of Virgilio Tuliao; and
10. Medico-legal Reports of the cadavers of Elezer Tuliao and Vicente Buazon.

Hence, procedurally, we can conclude that there was no violation on the part of Judge Tumaliuan of Article III, Section 2, of the Constitution. Judge Anghad, however, focused on the substantive part of said section, i.e., the existence of probable cause. In failing to find probable cause, Judge Anghad ruled that the confession of SPO2 Maderal is incredible for the following reasons: (1) it was given after almost two years in the custody of the National Bureau of Investigation; (2) it was given by someone who rendered himself untrustworthy for being a fugitive for five years; (3) it was given in exchange for an obvious reward of discharge from the information; and (4) it was given during the election period amidst a "politically charged scenario where "Santiago City voters were pitted against each other along the lines of the Miranda camp on one side and former City Mayor Amelita S. Navarro, and allegedly that of DENR Secretary Heherson Alvarez on the other." [\[32\]](#)

We painstakingly went through the records of the case and found no reason to disturb the findings of probable cause of Judge Tumaliuan.

It is important to note that an exhaustive debate on the credibility of a witness is not within the province of the determination of probable cause. As we held in *Webb* [\[33\]](#):

A finding of probable cause needs only to rest on evidence showing that more likely than not a crime has been committed and was committed by the suspects. Probable cause need not be based on clear and convincing evidence of guilt, neither on evidence establishing guilt beyond reasonable doubt and definitely, not on evidence establishing absolute certainty of guilt. As well put in *Brinegar v. United States*, while probable cause demands more than "bare suspicion," it requires "less than evidence which would justify x x x conviction." A finding of probable cause merely binds over the suspect to stand trial. It is not a pronouncement of guilt.

x x x Probable cause merely implies probability of guilt and should be determined in a summary manner. Preliminary investigation is not a part of trial x x x.

Dismissing a criminal case on the basis of a decision of this Court in another case with different accused constitutes grave abuse of discretion.

Judge Anghad had quashed the warrant of arrest on the ground, among other things, that there was a petition for review of the assistant prosecutor's resolution before the Secretary of Justice. However, after the Secretary of Justice affirmed the prosecutor's resolution, Judge Anghad summarily dismissed the two criminal cases against the petitioners on the basis of the following explanation:

Rodel Maderal was one of the accused in *People vs. Wilfredo Leano, et al.*, RTC, Branch 41, Manila, and based from his sworn statements, he pinpointed to Mr. Miranda — the mastermind and with him and the other police officers as the direct perpetrators, the October 9, 2001 Decision of the Supreme Court absolving the five cops of murder, certainly makes his sworn Statements a "narration of falsehood and lies" and that because of the decision acquitting said officers "who were likewise falsely linked by said Rodel Maderal in his April 27, 2001 statements, it is now beyond doubt that Rodel Maderal made untruthful, fabricated and perjured statements and therefore the same is without probable value." This Court agrees with the defense's views. Indeed, of what use is Maderal's statements when the Supreme Court rejected the prosecution's evidence presented and adduced in Criminal Case No. 97-160355. Rodel Maderal is supposed to turn state witness in these two (2) cases but with the Supreme Court decision adverted to, the probative value of his statements is practically nil.

x x x x

This Court finds merit to the manifestation of the accused Miranda dated October 18, 2001, praying for the summary dismissal of the two (2) murder charges in view of the latest decision of the Supreme Court in *People of the Philippines vs. Wilfredo Leño, et al.*, G.R. No. 13886, acquitting the accused therein and in effect disregarding all the evidence presented by the prosecution in that case. Accordingly, the two (2) informations [for] murder filed against Jose Miranda are ordered dismissed. [\[34\]](#)

This is a clear case of abuse of discretion. Judge Anghad had no right to twist our decision and interpret it to the discredit of SPO2 Maderal, who was still at large when the evidence of the prosecution in the Leaño case was presented. A decision, even of this Court, acquitting the accused therein of a crime cannot be the basis of the dismissal of criminal case against different accused for the same crime. The blunder of Judge Anghad is even more pronounced by the fact that our decision in Leaño was based on reasonable doubt. We never ruled in Leaño that the crime did not happen; we just found that there was reasonable doubt as to the guilt of the accused therein, since the prosecution in that case relied on circumstantial evidence, which interestingly is not even the situation in the criminal cases of the petitioners in the case at bar as there is here an eyewitness: Rodel Maderal. The accused in Leaño furthermore had no motive to kill respondent Tuliao's son, whereas petitioners herein had been implicated in the testimony of respondent Tuliao before the Senate Blue Ribbon Committee.

It is preposterous to conclude that because of our finding of reasonable doubt in Leaño, "it is now beyond doubt that Rodel Maderal made untruthful, fabricated and perjured statements and therefore the same is without probable value." <sup>[35]</sup> On the contrary, if we are to permit the use of our decision in Leaño, an acquittal on the ground of reasonable doubt actually points to the probability of the prosecution's version of the facts therein. Such probability of guilt certainly meets the criteria of probable cause.

We cannot let unnoticed, too, Judge Anghad's dismissal of the informations two days after we resolved to issue, upon the filing of a bond, a temporary restraining order prohibiting him from further proceeding with the case. The bond was filed the day after the informations were dismissed. While the dismissal of the case was able to beat the effectivity date of the temporary restraining order, such abrupt dismissal of the informations (days after this Court's resolve to issue a TRO against Judge Anghad) creates wild suspicions about the motives of Judge Anghad.

Nullification of a proceeding necessarily carries with it the reinstatement of the orders set aside by the nullified proceeding.

In their second assignment of error, petitioners claim that the Court of Appeals did not recall or reinstate the warrants of arrest issued by Judge Tumaliuan, but instead directed Judge Anghad to issue apparently new warrants of arrest. <sup>[36]</sup> According to the petitioners, it was an error for the Court of Appeals to have done so, without a personal determination of probable cause.

We disagree. Whether the Court of Appeals ordered the issuance of new warrants of arrest or merely ordered the reinstatement of the warrants of arrest issued by Judge Tumaliuan is merely a matter of scrupulous semantics, the slight inaccuracy whereof should not be allowed to affect the dispositions on the merits, especially in this case where the other dispositions of the Court of Appeals point to the other direction. Firstly, the Court of Appeals had reinstated the 25 June 2001 Order of Judge Tumaliuan, <sup>[37]</sup> which issued the warrants of arrest. Secondly, the Court of Appeals likewise declared the proceedings conducted by Judge Anghad void. Certainly, the declaration of nullity of proceedings should be deemed to carry with it the reinstatement of the orders set aside by the nullified proceedings. Judge Anghad's order quashing the warrants of arrest had been nullified; therefore those warrants of arrest are henceforth deemed unquashed.

Even if, however, the Court of Appeals had directed the issuance of new warrants of arrest based on a determination of probable cause, it would have been legally permissible for them to do so. The records of the preliminary investigation had been available to the Court of Appeals, and are also available to this Court, allowing both the Court of Appeals and this Court to personally examine the records of the case and not merely rely on the certification of the prosecutor. As we have ruled in *Allado v. Diokno* and *Roberts v. Court of Appeals*, the determination of probable cause does not rest on a subjective criteria. As we had resolved in those cases to overrule the finding of probable cause of the judges therein on the ground of grave abuse of discretion, in the same vein, we can also overrule the decision of a judge reversing a finding of probable cause, also on the ground of grave abuse of discretion.

There is no double jeopardy in the reinstatement of a criminal case dismissed before arraignment

In their third assignment of error, petitioners claim that the Court of Appeals committed a reversible error in ordering the reinstatement of Criminal Cases No. 36-3523 and No. 36-3524, alleging that the order of dismissal issued therein had become final and executory. According to petitioners:

It is also worthy to point out at this juncture that the Joint Order of Judge Anghad dated November 14, 2001 is NOT ONE of those Orders which were assailed in the private respondent Tuliao's Petition for Certiorari, Mandamus and Prohibition filed by the private respondent before the Court of Appeals. As carefully enumerated in the first page of the assailed Decision, only the following Orders issued by Judge Anghad were questioned by private respondent, to wit:

- 1.) Joint Order dated August 17, 2001;
- 2.) Order dated September 21, 2001;
- 3.) Joint Order dated October 16, 2001; and
- 4.) Joint Order dated October 22, 2001.

Obviously, the Joint Order dated November 14, 2001 of Judge Anghad, which ultimately dismissed Criminal Cases Nos. 36-3523 AND 36-3524 is NOT included in the list of the assailed Order/Joint Orders. Hence, the Court of Appeals should not have passed upon the validity or nullity of the Joint Order of November 14, 2001. <sup>[38]</sup>

Petitioners must have forgotten that respondent Tuliao's Petition for Certiorari, Prohibition and Mandamus was filed not with the Court of Appeals, but with this Court. The Court of Appeals decided the case because we referred the same to them in our 19 November 2001 Resolution. Such petition was filed on 25

October 2001, around three weeks before the 14 November 2001 Order. Upon receipt of the 14 November 2001 Order, however, respondent Tuliao lost no time in filing with this Court a Motion to Cite Public Respondent in Contempt, alleging that Judge Anghad "deliberately and willfully committed contempt of court when he issued on 15 November 2001 the Order dated 14 November 2001 dismissing the informations for murder." On 21 November 2001, we referred said motion to the Court of Appeals, in view of the previous referral of respondent Tuliao's petition for certiorari, prohibition and mandamus.

Our referral to the Court of Appeals of the Motion to Cite Public Respondent in Contempt places the 14 November 2001 Order within the issues of the case decided by the Court of Appeals. In claiming that Judge Anghad committed contempt of this Court in issuing the 14 November 2001 Order, respondent Tuliao had ascribed to Judge Anghad an act much more serious than grave abuse of discretion.

Respondent Tuliao claims that Judge Anghad issued the 14 November 2001 Order on 15 November 2001, antedating it so as to avoid the effects of our 12 November 2001 Resolution. In said 12 November 2001 Resolution, we resolved to issue a temporary restraining order enjoining Judge Anghad from further proceeding with the criminal cases upon the respondent Tuliao's filing of a bond in the amount of P20,000.00. Respondent Tuliao had filed the bond on 15 November 2005.

While we cannot immediately pronounce Judge Anghad in contempt, seeing as disobedience to lawful orders of a court and abuse of court processes are cases of indirect contempt which require the granting of opportunity to be heard on the part of respondent, <sup>[39]</sup> the prayer to cite public respondent in contempt and for other reliefs just and equitable under the premises should be construed to include a prayer for the nullification of said 14 November 2001 Order.

In any case, the reinstatement of a criminal case dismissed before arraignment does not constitute double jeopardy. Double jeopardy cannot be invoked where the accused has not been arraigned and it was upon his express motion that the case was dismissed. <sup>[40]</sup>

As to respondent Tuliao's prayer (in both the original petition for certiorari as well as in his motion to cite for contempt) to disqualify Judge Anghad from further proceeding with the case, we hold that the number of instances of abuse of discretion in this case are enough to convince us of an apparent bias on the part of Judge Anghad. We further resolve to follow the case of *People v. SPO1 Leaño*, <sup>[41]</sup> by transferring the venue of Criminal Cases No. 36-3523 and No. 36-3524 to the City of Manila, pursuant to Article VIII, Section 4, of the Constitution.

WHEREFORE, the petition is DENIED. The Decision dated 18 December 2002 and the Resolution dated 12 June 2003 of the Court of Appeals are hereby AFFIRMED, with the modification that Criminal Cases No. 36-3523 and No. 36-3524 be transferred to and raffled in the Regional Trial Court of the City of Manila. In this connection,

- 1) Let a copy of this decision be furnished the Executive Judge of the RTC of the City of Santiago, Isabela, who is directed to effect the transfer of the cases within ten (10) days after receipt hereof;
- 2) The Executive Judge of the RTC of the City of Santiago, Isabela, is likewise directed to report to this Court compliance hereto within ten (10) days from transfer of these cases;
- 3) The Executive Judge of the City of Manila shall proceed to raffle the criminal cases within ten (10) days from the transfer;
- 4) The Executive Judge of the City of Manila is likewise directed to report to this Court compliance with the order to raffle within ten (10) days from said compliance; and
- 5) The RTC Judge to whom the criminal cases are raffled is directed to act on said cases with reasonable dispatch.
- 6) Finally, Judge Anastacio D. Anghad is directed to issue forthwith warrants of arrest for the apprehension of petitioners Jose C. Miranda, Alberto P. Dalmacio, Romeo B. Ocon, and accused Rodel T. Maderal, conformably with the decision of the Court of Appeals dated 18 December 2002.

The Temporary Restraining Order issued by this Court dated 4 August 2003 is hereby LIFTED. Costs against Petitioners.

SO ORDERED.

Panganiban, C.J., Chairperson, Ynares-Santiago, Austria-Martinez, and Callejo, Sr., JJ., concur.

---

<sup>[1]</sup> Penned by Associate Justice Sergio L. Pestaño with Acting Presiding Justice (now Supreme Court Associate Justice) Cancio C. Garcia and Associate Justice Eloy R. Bello, Jr., concurring.

<sup>[2]</sup> Rollo, pp. 109-110.

<sup>[3]</sup> *Id.*, p. 103.

<sup>[4]</sup> *Id.*

<sup>[5]</sup> This should have been 301 SCRA 298.

<sup>[6]</sup> Oscar Herrera, *REMEDIAL LAW*, Vol. IV, pp. 38-39 (2001 ed.).

<sup>[7]</sup> G.R. Nos. 99289-90, 27 January 1993, 217 SCRA 633, 643.

<sup>[8]</sup> *Id.*

[9] Paderanga v. Court of Appeals, G.R. No. 115407, 28 August 1995, 247 SCRA 741, 750; Dinapol v. Baldado, A.M. No. RTJ-92-898, 5 August 1993, 225 SCRA 110, 116-117. In some jurisprudence, voluntary surrender is termed as "voluntary submission to the jurisdiction of the court by surrender to the proper authorities."

[10] Layosa v. Rodriguez, G.R. No. L-46080, 10 November 1978, 86 SCRA 300, 303; People v. Umbrero, G.R. No. 93021, 8 May 1991, 196 SCRA 821, 829.

[11] This is because of the rule that jurisdiction, once acquired, attaches until the final disposition of the case. In such a situation, the escapee's right to confrontation and cross-examination of witnesses are deemed waived by his failure to appear during the trial of which he has notice (Gimenez v. Nazareno, G.R. No. L-37933, 15 April 1988, 160 SCRA 1, 5).

[12] See Larranaga v. Court of Appeals, 351 Phil. 75, 88-89 (1998).

[13] A.M. No. RTJ-91-764, 6 November 1992, 215 SCRA 421.

[14] *Id.*, at 424.

[14] Sapugay v. Court of Appeals, G.R. No. 86792, 21 March 1990, 183 SCRA 464, 471.

[16] Feliciano v. Pasicolan, 112 Phil. 781, 783 (1961).

[17] Paderanga v. Court of Appeals, *supra* note 9, p. 749. This is what the Court of Appeals erroneously rephrased just before quoting Pico. Cf. note 1.

[17] RULES OF COURT, Rule 15, Section 20.

[19] G.R. No. 113630, 5 May 1994, 232 SCRA 192, 198.

[20] 324 Phil. 568, 590 (1996).

[21] 361 Phil. 251, 284 (1999).

[22] RULES OF COURT, Rule 113, Section 6.

[23] Phil. Blooming Mills Employees Orga. v. Phil. Blooming Mills Inc., 151-A Phil. 656, 676 (1973).

[24] Joint Order dated 17 August 2001, rollo, p. 204.

[25] 317 Phil. 758, 796 (1995).

[26] Joint Order dated 17 October 2001, rollo, p. 196.

[27] CONSTITUTION, Art. III, Sec. 2.

[28] Petitioner's Memorandum, rollo, pp. 477-478.

[28] Judge Tumuluan's Joint Order dated 6 July 2001, rollo, p. 193.

[30] G.R. Nos. 94054-57, 19 February 1991, 194 SCRA 292, 300.

[31] G.R. No. 88919, 25 July 1990, 187 SCRA 788, 792.

[32] Joint Order dated 17 August 2001, rollo pp. 197-201.

[33] Webb v. De Leon, *supra* note 25, pp. 675-676.

[34] Joint Order dated 14 November 2001, rollo, pp. 271-272.

[35] *Id.*

[36] Petitioners' Memorandum, rollo, p. 493.

[37] Rollo, pp. 150-151.

[38] *Id.*, pp. 498-499.

[39] RULES OF COURT, Rule 71, Section 3 (b) and (c).

[40] People v. Monteiro, G.R. No. 49454, 21 December 1990, 192 SCRA 548, 553.

