



Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION

**PROVINCIAL PROSECUTOR OF
 ALBAY,**

Petitioner,

G.R. No. 224803

Present:

CAGUIOA, J.,
Chairperson,
 INTING,
 GAERLAN,
 DIMAAMPAO, and
 SINGH, JJ.

- versus -

MARIVIC LOBIANO,

Respondent.

Promulgated:
January 25, 2023

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DECISION

GAERLAN, J.:

Before this Court is a Petition for Review on *Certiorari*¹ dated May 16, 2016 filed by Cesar V. Bonos, the Provincial Prosecutor of Albay (Provincial Prosecutor), assailing the Resolutions dated July 10, 2015² and April 15, 2016³ of the Court of Appeals (CA) in CA-G.R. SP No. 139320.

Factual Antecedents

Jelyn Galino (Jelyn), a minor, filed a criminal complaint against Angeline Morota (Angeline) and Marivic Lobiano (Marivic), (collectively, respondents) before the Office of the Provincial Prosecutor (OCP) of Albay for violation of Republic Act (R.A.) No. 9208, otherwise known as the Anti-Trafficking in Persons Act of 2003, as amended by R.A. No. 10364.⁴ In

¹ *Rollo*, pp. 6-22.

² *Id.* at 23-26; penned by Associate Justice Maria Elisa Sempio Diy, with Associate Justices Stephen C. Cruz and Manuel M. Barrios, concurring.

³ *Id.* at 27-29.

⁴ The Expanded Anti-Trafficking in Persons Act. Approved on February 6, 2013.

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support of the criminal complaint, Jelyn attached her *Sinumpaang Salaysay*⁵ dated September 4, 2013, where she alleged the following:

1. To find work, Jelyn willingly left with Angeline – also a minor and her fraternity sister – because of the belief that she will be working in a restaurant in Legazpi City;⁶
2. To her surprise, Angeline brought her to Sampaguita Bar in Sorsogon, where she was expected to work as a guest relations officer (GRO);⁷
3. Marivic, the owner of Sampaguita Bar, asked her for an identification card to know her age. However, it was Angeline who replied, and said that Jelyn is 19 years old;⁸
4. As a GRO, she was required to drink alcohol and entertain customers, which involved kissing and other lascivious conduct;⁹
5. Her salary depended on how many “ladies’ drinks,” bought for her by customers, she would be able to consume;¹⁰
6. For one month and eight days, she did not receive any salary because she had a debt of more than ₱3,000.00 for the clothes and other beauty products that Marivic provided;¹¹
7. She was only able to leave Sampaguita Bar when her mother, together with police officers, personnel from the Department of Social Welfare and Development, and the media, took her from Sampaguita Bar. Afterwards, they proceeded to the Municipal Police Station, and then she was able to go home.¹²

Affidavits of the police officers who rescued Jelyn were likewise attached to the criminal complaint. According to the affidavits of Police Officer (PO) 1 Frande G. Echaluze, PO2 Robelieh C. Atilano, PO2 Adrian A. Buenaobra and PO2 Dennis G. Nato, the mother of Jelyn sought their assistance because of information that Jelyn, who was then reported as missing, was seen in Sampaguita Bar. Upon investigation, the police officers

⁵ *Rollo*, pp. 57-59.

⁶ *Id.* at 57.

⁷ *Id.* at 57-58.

⁸ *Id.* at 57.

⁹ *Id.* at 58.

¹⁰ *Id.*

¹¹ *Id.* at 58-59.

¹² *Id.* at 59.

discovered that apart from Jelyn, another minor, Danny Armario (Danny) was also working in Sampaguita Bar. The police officers then brought them to the Camalig Municipal Police Station, where both Jelyn and Danny disclosed that it was Angeline who brought them to Sampaguita Bar.¹³

Of the two respondents, only Angeline submitted a counter-affidavit. Marivic, despite notice, failed to submit any countervailing evidence notwithstanding the gravity of the offense involved in the case.¹⁴

In Angeline's Counter-Affidavit¹⁵ dated October 16, 2013, she alleged that it was actually Jelyn and Danny who recruited her to work in Sampaguita Bar as a GRO, upon the representation that she will be working as a waitress in Legazpi City with a monthly salary of ₱2,500.00.¹⁶ Angeline also stated that upon arrival in Sampaguita Bar, Danny introduced her to the owner, Marivic, who immediately told her to entertain and drink with the old male customers in the bar.¹⁷

Angeline further narrated that she was only able to work in Sampaguita Bar for ten days because she could not bear the stress and the kind of work that she was doing. She convinced Jelyn to leave with her but Jelyn refused because she already liked the work there. Thus, on July 31, 2013, she made up an excuse that her grandmother was in the hospital so that Marivic will let her go.¹⁸

Upon reaching home, Angeline cried to her mother, who was worried about her. However, due to fear, she did not disclose to her mother that she worked as a GRO in Sampaguita Bar.¹⁹

After some time, Angeline was surprised as she received a copy of the criminal complaint. Angeline stressed that she was never in conspiracy with Marivic, and in fact, she was the one who was exploited and intentionally fooled by Jelyn and Danny.²⁰

To support her claims, Angeline submitted an Affidavit²¹ of Michelle Munda (Michelle), who corroborated that it was Jelyn and Danny who recruited Angeline.

¹³ Id. at 49.

¹⁴ Id. at 50.

¹⁵ Id. at 60-63.

¹⁶ Id. at 60.

¹⁷ Id. at 61-62.

¹⁸ Id. at 62.

¹⁹ Id.

²⁰ Id.

²¹ Id. at 65-66.

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The OCP Resolution

On October 3, 2014, the OCP issued a Resolution²² which found probable cause to indict Marivic for the crime of Qualified Trafficking under R.A. No. 9028, as amended by R.A. No. 10364, to wit:

WHEREFORE, premises considered, it appearing that there is probable cause to hold respondent Marivic Lobiano, for trial for the crime of qualified trafficking in persons defined under Section 6(a), in relation to Section 4(a), of Republic Act No. 9028, and penalized under Section 10(c) of the same law, let the corresponding Information for such crime be filed against her.

SO RESOLVED.²³

In the Resolution, the OCP gave more credence to Angeline and Michelle's version of events, and found that there is no probable cause to indict Angeline for the crime of Trafficking of Persons under R.A. No. 9208, as amended by R.A. No. 10364. However, as regards Marivic, the OCP found that her liability for the crime of Qualified Trafficking of Persons defined under Section 6(a), in relation to Section 4(a)²⁴ of R.A. No. 9208, as amended, is clear, considering that it is uncontroverted that: (1) Jelyn was a minor when Marivic received and hired her to work in Sampaguita Bar; (2) Marivic did not take steps to ensure that Jelyn was of legal age when she received and hired her; (3) while Jelyn appears to have "volunteered" to work in Sampaguita Bar, the means by which she was recruited is immaterial because she is a minor; and (4) Jelyn's work involved prostitution, or the use of a person by another for lascivious conduct in exchange for money, profit or any other consideration, which Marivic cannot feign ignorance of because of the very nature of the said work.²⁵

Proceedings before the Regional Trial Court

In view of the OCP Resolution, an Information²⁶ was filed against Marivic before the Regional Trial Court (RTC) of Legazpi City, Branch 9, for the crime Qualified Trafficking, docketed as Criminal Case No. FC-14-1646. The accusatory portion of the Information reads:

That between July 20, 2013 and August 28, 2013, in the Municipality of Camalig, Province of Albay, Philippines, and within the

²² Id. at 47-56.

²³ Id. at 55.

²⁴ Section 3(a) in some parts of the *rollo*.

²⁵ *Rollo*, pp. 54-55.

²⁶ Id. at 45-46.

jurisdiction of this Honorable Court, the above-named accused, did, then and there, willfully, unlawfully and feloniously cause to be recruited and obtained one Jelyn Galino, a 15-year old minor, for the purpose of receiving and hiring the latter during such period as a guest relations officer in Sampaguita Bar, an establishment owned and operated by her in Pilar, Marifosque, Sorsogon, where the very nature of said Jelyn Galino's work required entertaining customers by letting them kiss her and hold her in sensitive parts of her body in exchange for money, profit or any other consideration, to her damage and prejudice.

ACTS CONTRARY TO LAW, with the qualifying aggravating circumstance of minority of the offended party.²⁷

On November 13, 2014, the RTC issued an Order²⁸ which dismissed the case outright, "for lack of evidence to establish probable cause to justify the issuance of a warrant of arrest."²⁹

The RTC found that, upon review of the evidence and the findings of the OCP, Jelyn and Danny were in cahoots with each other in the recruitment and transport of Angeline from Albay to Sorsogon to work in Sampaguita Bar. However, as regards Marivic, the RTC stated that she does not fall within the purview of Section 4(a) of R.A. No. 9208, "there being a total absence of proof of conspiracy between Marivic as owner, Jelyn and Danny as recruiter."³⁰

The Provincial Prosecutor, representing the People of the Philippines, filed a Motion for Reconsideration,³¹ where it argued that under Section 4(a) of R.A. No. 9208, as amended by R.A. No. 10364, the act of hiring and receiving a person for the purpose of prostitution, pornography or sexual exploitation is clearly separate and distinct from the act of recruiting, and that there is no provision in the law which requires that the person receiving and hiring the trafficked person must act in concert with the person recruiting the same.³²

However, in its Order³³ dated December 11, 2014, the RTC denied the Motion for Reconsideration.

²⁷ Id. at 45.

²⁸ Id. at 37-39; penned by Presiding Judge Ruben B. Carretas.

²⁹ Id. at 39.

³⁰ Id. at 38.

³¹ Id. at 42-44.

³² Id. at 42.

³³ Id. at 40-41.

Petition before the CA

Aggrieved, the Provincial Prosecutor filed a Petition for *Certiorari*³⁴ before the CA, where it averred that the RTC committed grave abuse of discretion amounting to lack of jurisdiction when it dismissed the criminal case outright. As argued by the Provincial Prosecutor, the evidence on record sufficiently established that Marivic's act of receiving and hiring Jelyn for the purpose of prostitution and/or sexual exploitation is punishable under Section 4(a) of R.A. No. 9208, as amended by R.A. No. 10364, considering that the mere act of receiving a trafficked person is sufficient and there is no requirement that the receiver and the recruiter of such trafficked person acted in conspiracy with one another.³⁵

On July 10, 2015, the CA issued its Resolution,³⁶ which dismissed the Petition for *Certiorari* for its procedural defects. The CA stated that the same was filed out of time, considering that, as noted by the CA, the Provincial Prosecutor received a copy of the RTC's Order on December 16, 2014, and as such the deadline for filing a Rule 65 petitions fell on February 14, 2015. However, it was filed only on February 23, 2015 per the stamped receipt on the brown envelope containing the Petition for *Certiorari*.³⁷

Further, the CA ruled that the filing of the Petition for *Certiorari* was the improper remedy because the RTC's Order dismissing the criminal case for lack of probable cause was a final order, and thus, an appeal should have been filed instead of a Petition for *Certiorari*.³⁸

On August 12, 2015, the Provincial Prosecutor filed a Motion for Reconsideration,³⁹ where it stated that the Petition for *Certiorari* was filed on time. The Provincial Prosecutor explained that the Petition for *Certiorari* was filed *via* registered mail on February 16, 2015, Monday, because February 14, 2015, the deadline of filing, fell on a Saturday.⁴⁰ Further, the Provincial Prosecutor argued that filing a Petition for *Certiorari* was the proper remedy because jurisprudence instructs that a decision of a judge reversing a finding of probable cause by a prosecutor can be overruled when there is grave abuse of discretion.⁴¹

³⁴ Id. at 70-96.

³⁵ Id. at 81-89.

³⁶ Id. at 23-26.

³⁷ Id. at 24.

³⁸ Id. at 25.

³⁹ Id. at 30-36.

⁴⁰ Id. at 31.

⁴¹ Id. at 31-34.

The Instant Petition

Upon the denial of its Motion for Reconsideration, the Provincial Prosecutor filed the instant petition,⁴² arguing that the CA erred in dismissing the Petition for *Certiorari* and in not resolving the same on the merits thereof. Further, on May 18, 2016, the Provincial Prosecutor filed a Manifestation,⁴³ attaching thereto a Certification signed by Honorio A. Pecundo, Postmaster IV of the Philippine Post Office, which states that the Petition for *Certiorari* filed before the CA was posted on February 16, 2015, and forwarded to the CA on February 17, 2015.⁴⁴

Thereafter, the Court issued a Resolution,⁴⁵ which noted the manifestation filed by the Provincial Prosecutor, and directed Marivic to file a comment.

Up to this date, no comment has been filed.

Issue

The main issue the Court is tasked to resolve is whether the CA erred when it dismissed outright the Petition for *Certiorari* filed by the Provincial Prosecutor.

The Court's Ruling

The petition is impressed with merit.

Timely filing of the Petition for Certiorari

To recall, the CA dismissed the Petition for *Certiorari* because it was belatedly filed. Under Rule 65 of the 1997 Rules of Court, a party must file the petition not later than 60 days from notice of the judgment or order being assailed. In this case, the Provincial Prosecutor received a copy of the RTC's Order on December 16, 2014. This means that the Petition for *Certiorari* should be filed not later than February 14, 2015.⁴⁶

⁴² Id. at 6-22.

⁴³ Id. at 98-100.

⁴⁴ Id. at 101.

⁴⁵ Id. at 123-124.

⁴⁶ Id. at 24.

As explained by the Provincial Prosecutor, February 14, 2015 was a Saturday. As such, it had until February 16, 2015, the next working day, within which to file the Petition for *Certiorari*.⁴⁷

The Provincial Prosecutor alleged that it filed the Petition for *Certiorari* via registered mail on February 16, 2015. Such allegation is supported by the Certification⁴⁸ signed by the Postmaster IV of the Philippine Post Office, which states that Petition for *Certiorari* was indeed posted on February 16, 2015.

Under Section 3, Rule 13 of the 1997 Rules of Court, the date of mailing of a pleading, as shown by the post office stamp or the registry receipt, shall be considered as the date of its filing:

Sec. 3. *Manner of filing.* — The filing of pleadings, appearances, motions, notices, orders, judgments and all other papers shall be made by presenting the original copies thereof, plainly indicated as such, personally to the clerk of court or by sending them by registered mail. In the first case, the clerk of court shall endorse on the pleading the date and hour of filing. **In the second case, the date of the mailing of motions, pleadings, or any other papers or payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment, or deposit in court.** The envelope shall be attached to the record of the case. (Emphasis Supplied)

Further, in *Spouses Cordero v. Octaviano*,⁴⁹ the Court explicitly ruled that “the date of mailing shall be considered as the date of filing when a pleading is filed by registered mail. It does not matter when the court actually receives the mailed pleading.”⁵⁰

Thus, notwithstanding the CA’s receipt of the Petition for *Certiorari* only on February 23, 2015, the Petition for *Certiorari* was timely filed as it was mailed on February 16, 2015.

Propriety of the Petition for Certiorari

The CA likewise dismissed the Petition for *Certiorari* for being an improper remedy. According to the CA, citing *Santos v. Orda, Jr.*,⁵¹ the Provincial Prosecutor should have filed an ordinary appeal since the RTC’s Order dismissing the case for lack of probable cause is a final order.

⁴⁷ Id. at 31.

⁴⁸ Id. at 101.

⁴⁹ G.R. No. 241385, July 7, 2020.

⁵⁰ Id. Citation omitted.

⁵¹ 634 Phil. 452 (2010).

It is worthy to note that such ruling has been often reiterated by the Court. In *Cajipe v. People*,⁵² the Court pronounced that the CA should have dismissed the Petition for *Certiorari* for being the wrong remedy, considering that “an appeal may be taken in a criminal action from a judgment or final order like the RTC’s order dismissing the case x x x for lack of probable cause.”⁵³ Similarly, in *Domingo v. Macapagal*,⁵⁴ the Court declared that Petition for *Certiorari* is an improper remedy to question the dismissal of a criminal information based on lack of probable cause because the same is a final judgement, to wit:

The dismissal of the criminal Information for Libel in this case, was a final judgment because it finally disposed of the case. With the dismissal of the Information, the trial court’s task was ended as far as deciding the controversy was concerned. There was nothing left to be done by the trial court.⁵⁵

However, these rulings, notwithstanding, the Court finds that the CA erred when it dismissed the Petition for *Certiorari* outright. In *Santos v. Orda, Jr.*,⁵⁶ the Court enumerated instances when a Petition for *Certiorari* may be entertained despite being the wrong remedy:

To be sure, a petition for *certiorari* is dismissible for being the wrong remedy. Indeed, we have noted a number of exceptions to this general rule, to wit: 1) when public welfare and the advancement of public policy dictate; 2) when the broader interest of justice so requires; 3) when the writs issued are null and void; 4) when the questioned order amounts to an oppressive exercise of judicial authority; 5) when, for persuasive reasons, the rules may be relaxed to relieve a litigant of an injustice not commensurate with his failure to comply with the prescribed procedure; or 6) in other meritorious cases.⁵⁷ (Citation omitted)

In this case, the Court finds that several exceptions apply.

The instant case involves a charge of human trafficking, a crime that this Court has described as “so abhorrent and reprehensible that is characterized by sexual violence and slavery.”⁵⁸ Clearly, the case involves public interest, and public policy and welfare justify giving due course to the Petition for *Certiorari*. In fact, in *Young v. People*,⁵⁹ a case involving similar circumstances, resort to a Petition for *Certiorari* was allowed in the CA to question the RTC’s dismissal of a human trafficking case for lack of probable cause:

⁵² 734 Phil. 300 (2014).

⁵³ Id. at 306.

⁵⁴ G.R. No. 242577, February 26, 2020.

⁵⁵ Id.

⁵⁶ Supra.

⁵⁷ Id. at 460-461.

⁵⁸ *Young v. People*, 780 Phil. 439, 452 (2016).

⁵⁹ Id.

In this case, the assailed RTC Order was a patent nullity for being rendered with grave abuse of discretion amounting to lack or in excess of jurisdiction. Significantly, the present case involves public interest as it imputes violations of RA 9208, or the “Anti-Trafficking in Persons Act of 2003,” a crime so abhorrent and reprehensible that is characterized by sexual violence and slavery. Accordingly, direct resort to a *certiorari* petition x x x is clearly sanctioned in this case.⁶⁰ (Citations omitted)

Further, and as will be explained below, the Court finds that the RTC’s Order dismissing the case for lack of probable cause is a patent nullity and is an oppressive exercise of judicial authority. As such, the CA erred when it dismissed the petition for *certiorari* outright.

RTC’s grave abuse of discretion

Under Section 6(a), Rule 112 of the Revised Rules of Criminal Procedure, a judge is allowed to immediately dismiss a criminal case if the evidence on record clearly fails to establish probable cause. Section 6(a), Rule 112 of the Revised Rules of Criminal Procedure provides:

Section 6. *When warrant of arrest may issue.* — (a) *By the Regional Trial Court.* — Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. **He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause.** If he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused has already been arrested pursuant to a warrant issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to section 7 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint of information. (Emphasis supplied)

However, in *De Los Santos-Dio v. Court of Appeals*,⁶¹ the Court clarified that a judge may only dismiss the case for lack of probable cause in clear-cut cases when the evidence plainly fails to establish probable cause:

In this regard, so as not to transgress the public prosecutor’s authority, it must be stressed that the judge’s dismissal of a case must be done only in clear-cut cases when the evidence on record plainly fails to establish probable cause — that is when the records readily show uncontroverted, and thus, established facts which unmistakably negate the existence of the elements of the crime charged. On the contrary, if the evidence on record shows that, more likely than not, the crime charged has been committed and

⁶⁰ Id. at 452.

⁶¹ 712 Phil. 288 (2013).

that respondent is probably guilty of the same, the judge should not dismiss the case and thereon, order the parties to proceed to trial. In doubtful cases, however, the appropriate course of action would be to order the presentation of additional evidence.⁶² (Emphasis, underscoring, and italics in the original, citations omitted)

Applying this standard, the evidence in this case does not demonstrate an unmistakable and clear-cut absence of probable cause. On the contrary, a cursory examination of the evidence shows that a *prima facie* case for violation of R.A. No. 9208, as amended by R.A. No. 10364 exists against Marivic.

Section 4(a) and Section 6(a) of R.A. No. 9208, as amended, provide:

Section 4. *Acts of Trafficking in Persons.* - It shall be unlawful for any person, natural or juridical, to commit any of the following acts:

(a) To recruit, obtain, hire, provide, offer, transport, transfer, maintain, harbor, or **receive a person by any means**, including those done under the pretext of domestic or overseas employment or training or apprenticeship, **for the purpose of prostitution, pornography, or sexual exploitation;**

x x x x

Section 6. *Qualified Trafficking in Persons.* - The following are considered as qualified trafficking:

(a) When the trafficked person is a **child;**

x x x x. (Emphases supplied)

Here, it is uncontroverted that: (1) Jelyn was a minor when Marivic received and hired her to work in Sampaguita Bar; (2) Marivic did not take steps to ensure that Jelyn was of legal age when she received and hired her; (3) while Jelyn appears to have “volunteered” to work in Sampaguita Bar, the means by which she was recruited is immaterial because she is a minor; and (4) Jelyn’s work involved prostitution, or the use of a person by another for lascivious conduct in exchange for money, profit or any other consideration, which Marivic cannot feign ignorance of because of the very nature of the said work.⁶³

Undeniably, there is no showing of any clear lack of probable cause in this case. Thus, the RTC’s Order dismissing the case was committed with grave abuse of discretion, and is therefore, a patent nullity which must be set aside.

⁶² Id. at 307-308.

⁶³ *Rollo*, pp. 54-55.

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Time and again, this Court has reminded judges to act with caution and discernment in dismissing cases for lack of probable cause.⁶⁴ As explained in *De Los Santos-Dio v. Court of Appeals*:⁶⁵

x x x. Verily, a judge's discretion to dismiss a case immediately after the filing of the information in court is appropriate only when the failure to establish probable cause can be clearly inferred from the evidence presented and not when its existence is simply doubtful. After all, it cannot be expected that upon the filing of the information in court the prosecutor would have already presented all the evidence necessary to secure a conviction of the accused, the objective of a previously-conducted preliminary investigation being merely to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and that the respondent is probably guilty thereof and should be held for trial. In this light, given that the lack of probable cause had not been clearly established in this case, the CA erred, and the RTC gravely abused its discretion, by ruling to dismiss Criminal Case Nos. 515-2004 and 516-2004. Indeed, these cases must stand the muster of a full-blown trial where the parties could be given, as they should be given, the opportunity to ventilate their respective claims and defenses, on the basis of which the court *a quo* can properly resolve the factual disputes therein.⁶⁶ (Citation omitted)

To be sure, reversing the RTC's Order dismissing the case for lack or probable cause for being issued in grave abuse of discretion could not be deemed a prejudgment on the merits of the case, nor be considered as a violation of Marivic's right to due process. Instead, with the reinstatement of the criminal case, all parties would be given ample opportunity to defend their claims in a full-blown trial.

All things considered, the Court finds that the RTC committed grave abuse of discretion when it ordered the dismissal of the criminal case against Marivic for lack of probable cause. Accordingly, the Court likewise finds that the CA gravely erred when it dismissed the Petition for *Certiorari* filed by the Provincial Prosecutor.

WHEREFORE, the Petition for Review on *Certiorari* dated May 16, 2016 is **GRANTED**. The July 10, 2015 and April 15, 2016 Resolutions of the Court of Appeals in CA-G.R. SP No. 139320, as well as the Order dated November 13, 2014 issued by the Regional Trial Court of Legazpi City, Branch 9, dismissing Criminal Case No. FC-14-1646 are **SET ASIDE**. The Criminal Information for Qualified Trafficking filed against Marivic Lobiano is hereby **REINSTATED**. Accordingly, the trial court is directed to proceed with the arraignment of the accused and the trial of the case with dispatch.

⁶⁴ See *Personal Collection Direct Selling, Inc. v. Carandang*, 820 Phil. 706, 720 (2017); *Mendoza v. People*, 733 Phil. 603, 615 (2014).

⁶⁵ *Supra* note 61.

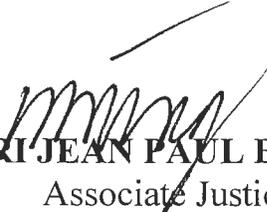
⁶⁶ *Id.* at 309-310.

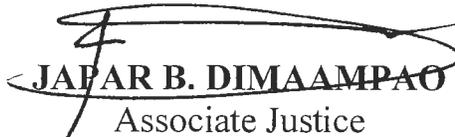
SO ORDERED.


SAMUEL H. GAERLAN
Associate Justice

WE CONCUR:


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

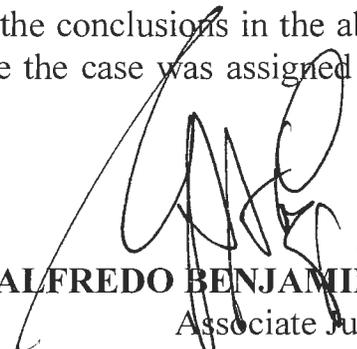

HENRI JEAN PAUL B. INTING
Associate Justice


JAFAR B. DIMAAMPAO
Associate Justice


MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice