



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 3, 2021** which reads as follows:*

“G.R. No. 240861 — BBB,¹ petitioner, versus XXX², respondent.

After a careful review of the records of the instant case, the Court finds no error committed in the Decision³ dated February 28, 2018 and Resolution⁴ dated June 29, 2018 of the Court of Appeals – Twentieth Division (CA) in CA-G.R. SP No. 09437, which dismissed the petition for certiorari filed against the Orders⁵ dated November 11, 2014 and May 19, 2014 of Branch 56, Regional Trial Court, Mandaue City (RTC), in Criminal Case No. DU-18895.

At the outset, it is well to emphasize that in petitions for review on *certiorari* under Rule 45 of the Rules of Court, like the present petition, the petitioner is required to attach “such material portions of the record as would support the petition.”⁶ In this connection, it is worth noting that no copies of the November 11, 2014 Order granting

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147-B

¹ The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used, in accordance with *People v. Cabalquinto*, 533 Phil. 703 (2006), and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

² Id.

³ *Rollo*, pp. 48-54. Penned by Associate Justice Geraldine C. Fiel-Macaraig, with Associate Justices Pamela Ann Abella Maxino and Louis P. Acosta concurring.

⁴ Id. at 63-65.

⁵ No copies of these Orders were provided in the petition. The Information on said Orders were culled only from the Petition and the CA Decision.

⁶ RULES OF COURT, Rule 45, Sec. 4.

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the petition for bail, and the May 18, 2014 Order denying the prosecution's motion for reconsideration, both issued by Judge Teresita A. Galanida, were attached to the petition filed in this case.

More importantly, the Court finds that the CA did not err in dismissing the case on the ground that petitioner BBB (BBB) did not have the requisite standing to file the petition for *certiorari*. Considering that the subject matter of the present controversy is the RTC's grant of the petition for bail of respondent XXX (XXX), then the petition for *certiorari* to the CA should have been filed by the Office of the Solicitor General. In *Bautista v. Cuneta-Pangilinan*,⁷ the Court explained:

At the onset, it should be noted that respondent took a procedural misstep, and the view she is advancing is erroneous. **The authority to represent the State in appeals of criminal cases before the Supreme Court and the CA is solely vested in the Office of the Solicitor General (OSG).** Section 35 (1), Chapter 12, Title III, Book IV of the 1987 Administrative Code explicitly provides that the OSG shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers. **It shall have specific powers and functions to represent the Government and its officers in the Supreme Court and the CA,** and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party. The OSG is the law office of the Government.

To be sure, in criminal cases, the acquittal of the accused or the dismissal of the case against him can only be appealed by the Solicitor General, acting on behalf of the State. **The private complainant or the offended party may question such acquittal or dismissal only insofar as the civil liability of the accused is concerned.** In a catena of cases, this view has been time and again espoused and maintained by the Court. In *Rodriguez v. Gadiane*, it was categorically stated that if the criminal case is dismissed by the trial court or if there is an acquittal, the appeal on the criminal aspect of the case must be instituted by the Solicitor General in behalf of the State. The capability of the private complainant to question such dismissal or acquittal is limited only to the civil aspect of the case.⁸ (Emphasis supplied)

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147-B

⁷ 698 Phil. 110 (2012).

⁸ *Id.* at 122-123.

In any event, even if the Court were to overlook the procedural defects, the result remains the same since the RTC's grant of bail cannot be reversed in the absence of grave abuse of discretion amounting to lack or excess of jurisdiction. In cases where bail is not a matter of right, the grant or denial of the same is necessarily addressed to the sound discretion of respondent judge.⁹ An order granting or denying an application for bail is an interlocutory order, for it "settles only a collateral matter — whether accused is entitled to provisional liberty — and is not a final judgment on accused's guilt or innocence."¹⁰ Hence, such order cannot be appealed, and can only be questioned through a petition for *certiorari* under Rule 65 of the Rules of Court, which is a remedy to correct errors of jurisdiction, not errors of judgment. The lens, therefore, is the existence of grave abuse of discretion amounting to lack or excess of jurisdiction in the issuance of the order.

"Grave abuse of discretion means capricious and [whimsical exercise] of judgment; it is the exercise of power in an arbitrary and despotic manner."¹¹ "By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, and **mere abuse of discretion is not enough — it must be grave.**"¹²

In particular with bail proceedings, the Court has held that "[j]udicial discretion must be exercised regularly, legally, and within the confines of procedural due process, [*i.e.*], after evaluation of the evidence submitted by the prosecution."¹³ To determine whether the evidence of guilt of accused — in this case XXX — is strong, the conduct of bail hearings is required where the prosecution has the burden of proof, subject to the right of the defense to cross-examine witnesses and introduce evidence in rebuttal. The court is to conduct only a summary hearing, consistent with the purpose of merely determining the weight of evidence for purposes of bail. The court's grant or denial of the bail application must contain a summary of the prosecution's evidence. On this basis, the judge formulates her own conclusion on whether such evidence is strong enough to indicate the guilt of XXX.¹⁴

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147-B

⁹ *Baylon v. Sison*, A.M. No. 92-7-360-0, April 6, 1995, 243 SCRA 284, 294.

¹⁰ *People v. Escobar*, 814 Phil. 840, 862 (2017).

¹¹ *Dimayacyac v. Court of Appeals*, G.R. No. L-50907, September 27, 1979, 93 SCRA 265, 268.

¹² *Gaston v. Court of Appeals*, 334 SCRA 546, 553. Emphasis supplied.

¹³ See *Cardines v. Rosete*, A.M. No. MTJ-94-1000, March 22, 1995, 242 SCRA 557, 563.

¹⁴ *People v. Tanes*, G.R. No. 240596, April 3, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65152>>.

It must be noted that the discretion here was exercised after hearings were conducted to determine whether the evidence of guilt was strong, in accordance with the above procedure, unlike in other cases¹⁵ where there were no hearings conducted which led the Court to rule that there was grave abuse of discretion.

The Court thus finds that there is no such grave abuse of discretion in this case. It may be argued that there was an error of judgment, but it did not amount to grave abuse of discretion that would necessitate the grant of a writ of *certiorari*. From the little that the Court could gather from the records at hand — again, since the Orders of the RTC were not attached to the petition — it appears that the RTC had *some* basis to say that the evidence of guilt was not strong. The petition itself states, for instance, that “nowhere did [AAA]¹⁶ describe the extent of penetration”¹⁷ and that the physician who examined AAA noted that “there was no evident injury upon the hymen of the child,”¹⁸ though concededly, it does not rule out the possibility that she was abused.

The Court is not definitively saying that the RTC did not err in its ruling. What the Court’s ruling in this case simply holds is that the CA’s lens, had it not dismissed the case on procedural grounds, would have been grave abuse of discretion. Considering this, BBB has failed to show the Court that (1) the CA erred in dismissing the petition on such grounds, and (2) that the CA would have found the Orders to have been issued with grave abuse of discretion had the case been decided on the merits.

WHEREFORE, in view of the foregoing, the appeal is hereby **DENIED**. The Decision dated February 28, 2018 and Resolution dated June 29, 2018 of the Court of Appeals in CA-G.R. SP No. 09437 are hereby **AFFIRMED**.

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147-B

¹⁵ See *Concerned Citizens v. Elma*, A.M. No. RTJ-94-1183 (Resolution), February 6, 1995, 241 SCRA 84, 89-90, where the Court said:

The importance of the Rule requiring the conduct of a hearing in an application for bail cannot be overemphasized. On its result depends the right of an accused to provisional liberty as opposed to the duty of the State to protect its people against dangerous elements. The resolution of the issue affects important norms in our society, liberty on one hand, and order on the other. To minimize, if not eliminate, error and arbitrariness in a judge’s decision, the Rules require the judge to hear the parties and then make an intelligent assessment of their evidence.

¹⁶ Supra note 1.

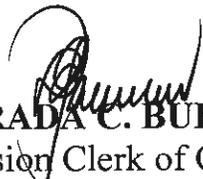
¹⁷ *Rollo*, p. 29.

¹⁸ *Id.* at 26.

The petitioner's compliance with the Show Cause Resolution dated June 17, 2020, with reply to the comment on the petition for review on *certiorari*, is **NOTED**.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
GRM4

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
147-B

Atty. Noemi B. Truya
Counsel for Petitioner
#10 Queen's Road, Camputhaw
6000 Cebu City

Court of Appeals
6000 Cebu City
(CA-G.R. SP No. 09437)

ALO & ALO LAW OFFICES
Counsel for Respondent
Room 304, Menchavez Building
Escario Street, 6000 Cebu City

Hon. Teresita A. Galanida
Presiding Judge
Regional Trial Court, Branch 56
Mandaue City, 6014 Cebu
(Crim. Case No. DU-18895)

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