



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated 16 March 2022 which reads as follows:*

“G.R. No. 211189 (*Fernando A. Quiambao, Jr. v. People of the Philippines*). — This petition for review on *certiorari*<sup>1</sup> under Rule 45 of the Rules of Court seeks to reverse and set aside the Resolutions of the Court of Appeals (CA) dated August 29, 2013<sup>2</sup> and February 4, 2014<sup>3</sup> in CA G.R. SP No. 13000, which upheld the Order<sup>4</sup> dated February 8, 2013 of the Regional Trial Court (RTC) of Quezon City, Branch 223 in Criminal Case No. GL-Q-12-179504. The said RTC Order denied the motion to quash information filed by herein petitioner Fernando A. Quiambao, Jr. (Quiambao).

**The Factual Antecedents:**

On November 6, 2012, at around 5 a.m., the lifeless body of Julie Ann Rodelas (Rodelas), a freelance model and part-time ABS-CBN talent,<sup>5</sup> was found in 121-A 18<sup>th</sup> Avenue, Barangay San Roque, Murphy, Quezon City.<sup>6</sup> She appeared to have been shot in her head and trunk.<sup>7</sup> Upon the conduct of investigation, and after a series of interviews with eyewitnesses, the police authorities were able to link Rodelas’ death to Quiambao, and two other persons named Althea Altamirano (Altamirano), and Jaymar Waradji (Waradji).<sup>8</sup>

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<sup>1</sup> *Rollo*, pp. 17-52.

<sup>2</sup> *Id.* at 53-61. Penned by Associate Justice Rodil V. Zalameda (now a Member of this Court) and concurred in by Presiding Justice Andres B. Reyes, Jr. (a former Member of this Court) and Associate Justice Ramon M. Bato, Jr.

<sup>3</sup> *Id.* at 88-89.

<sup>4</sup> *Id.* at 120-124. Penned by Presiding Judge Caridad M. Walse-Lutero.

<sup>5</sup> *Id.* at 21.

<sup>6</sup> *Id.* at 120.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 122.

On November 10, 2012, or four days after Rodelas' body was found, the police officers conducted a stake-out operation where they were able to arrest Quiambao and his co-assailants.<sup>9</sup>

In an Information<sup>10</sup> dated November 12, 2012, Quiambao, Altamirano, and Waradji were charged for the crime of Murder. The accusatory portion of the Information reads:

That on or about the 6<sup>th</sup> day of November, 2012, in Quezon City, Philippines, the above-mentioned accused, conspiring, confederating with other person whose true name, identity and whereabouts has not as yet been ascertained and mutually helping one another, with intent to kill and with qualifying / aggravating circumstances of treachery, cruelty and taking advantage of superior strength, did, then and there, wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one JULIE ANN RODELAS y POLIDARIO, by then and there shooting her with a gun, hitting her on her head and trunk, thereby inflicting upon her fatal and mortal gunshot wounds which were the direct and immediate cause of her untimely death, to the damage and prejudice of the heirs of said Julie Ann Rodelas y Polidario.

The above attendant circumstances were committed by the accused by employing means, methods or form in the execution thereof which tended directly and specially to insure the commission without risk to themselves by deliberately and inhumanly augmenting the suffering of the victim and by taking advantage of their superior strength and treachery.

CONTRARY TO LAW.<sup>11</sup>

Subsequently, the case was scheduled for arraignment and pre-trial conference on November 19, 2012.<sup>12</sup>

When the case was called for arraignment, Quiambao and Altamirano, through their respective counsels, objected to being arraigned and insisted that there was no probable cause since they had been illegally arrested. However, they manifested that they were not able to file a motion to quash because "the period provided in the Guidelines for Litigation in Quezon City Courts is very prohibitive."<sup>13</sup> The RTC then informed them that it had already made a finding of probable cause; consequently, it proceeded with the arraignment. Still, Quiambao and Altamirano refused to enter their respective pleas. Thus, the RTC entered pleas of "not guilty" on their behalf.<sup>14</sup> Thereafter, the pre-trial conference was conducted, where the parties agreed on the stipulations, issues, exhibits and witnesses to be presented, and the schedule of hearing dates of the case.<sup>15</sup>

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<sup>9</sup> Id.

<sup>10</sup> Id. at 146-147.

<sup>11</sup> Id. at 146-147.

<sup>12</sup> Id. at 23.

<sup>13</sup> Id. at 193.

<sup>14</sup> Id.

<sup>15</sup> Id. at 194-198.

On November 20, 2012, Quiambao filed an “Urgent Omnibus Motion: (I) to Quash Information; (II) Conduct Preliminary Investigation; and (III) Motion to Defer Arraignment” dated November 17, 2012.<sup>16</sup> Quiambao moved to quash the Information on the ground that the RTC had no jurisdiction over his person. He alleged that his warrantless arrest was illegal because the arresting officers did not have personal knowledge of the facts as they merely relied on the information given by third persons.<sup>17</sup> Meanwhile, during the hearing of the omnibus motion, Quiambao withdrew his motions to conduct preliminary investigation and defer arraignment, following the prior declaration of the presiding judge that she had already found probable cause to hold Quiambao for trial and that Quiambao was arraigned just the same despite his vehement objection.<sup>18</sup>

### **Ruling of the Regional Trial Court:**

In an Order<sup>19</sup> dated February 8, 2013, the RTC denied Quiambao’s motion to quash the Information. It held that his warrantless arrest was lawful; thus, it acquired jurisdiction over his person. The RTC ruled in the following manner:

In *People vs. Tonog, Jr., et al.*, the Supreme Court held that there was personal knowledge on the part of the arresting officer where the arrest was based on facts gathered by him in the course of his investigation, hence the warrantless arrest of the accused based on paragraph (b), Section 5 of Rule 113 was justified.

In that case, in effecting the warrantless arrest of the accused, the arresting officer based his conclusion that the accused was responsible for the killing of the victim primarily on information given by third persons acquired during the conduct of an investigation.

As in this case thus, the information obtained by the arresting officers, albeit obtained from third persons, are nevertheless, considered to be within their personal knowledge. It has been held that personal knowledge of facts must be based on probable cause, which means an actual belief or reasonable grounds of suspicion. The grounds of suspicion are reasonable when, in the absence of actual belief of the arresting officers, the suspicion that the person to be arrested is probably guilty of committing the offense is based on actual facts, i.e., supported by circumstances sufficiently strong in themselves to create the probable cause of guilt of the person to be arrested.

In this case, the Court finds that the following facts, coupled with the information obtained by the arresting officers in the course of their investigation have created reasonable grounds of suspicion that the persons to be arrested are probably guilty of committing the crime, hence justifying the warrantless arrest effected upon the persons of the accused, to wit: Fernando Quiambao, Jr. or Jay-Ar purchased the food from McDonald’s; that the food he purchased ended up in

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<sup>16</sup> Id. at 200-219.

<sup>17</sup> Id.

<sup>18</sup> Id. at 24.

<sup>19</sup> Id. at 120-125.

the victim's hands; that the black Montero SUV with plate number TWO 505, which two of the witnesses claim to have seen at the place where the victim was shot is registered in the name of the mother of the accused Fernando Quiambao, Jr. alias Jay-Ar; that the same witnesses saw the aforesaid vehicle in the place where the body of the victim was found, one of them having actually witnessed the victim being shot from the said vehicle and the statement of Luz Rodelas that her daughter was with Althea Altamirano the day her daughter was abducted, Altamirano being the girlfriend of Jay-Ar Quiambao.

The warrantless arrest made upon the person of the accused being in accordance with paragraph (b), Section 5 of Rule 113, the same is therefore lawful. Accordingly, the Court rightfully acquired jurisdiction over the person of the said accused.

WHEREFORE, premises considered, the Motion to Quash Information filed by the accused Fernando Quiambao is hereby DENIED.

SO ORDERED.<sup>20</sup>

Dissatisfied, Quiambao filed a motion for reconsideration but the same was subsequently denied by the RTC through its Order<sup>21</sup> dated March 12, 2013.

Thus, Quiambao filed a petition for *certiorari* under Rule 65 of the Rules of Court before the CA, ascribing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC for affirming the legality of his arrest despite the evident lack of probable cause to apprehend and hold him under preventive detention.<sup>22</sup>

### **Ruling of the Court of Appeals:**

In a Resolution<sup>23</sup> dated August 29, 2013, the CA denied Quiambao's petition and ruled that it was prematurely filed considering that the RTC had not yet disposed of his motion for reconsideration.<sup>24</sup> The CA based its ruling on the RTC Order dated March 12, 2013 attached to the petition, which merely reset the dates for the prosecution's presentation of evidence.<sup>25</sup> According to the CA, the same did not constitute as a denial of Quiambao's motion for reconsideration.<sup>26</sup>

Moreover, the CA ruled that even if it were to ignore Quiambao's procedural *faux pas*, the petition should still be denied because an order denying a motion to quash is interlocutory and therefore not appealable, and neither can it be the subject of a petition for *certiorari*.<sup>27</sup> Additionally, it held that the

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<sup>20</sup> Id. at 123-124.

<sup>21</sup> Id. at 76-79.

<sup>22</sup> CA *rollo*, p. 3.

<sup>23</sup> *Rollo*, pp. 53-61.

<sup>24</sup> Id. at 57.

<sup>25</sup> Id. at 57 and 145.

<sup>26</sup> Id.

<sup>27</sup> Id. at 58.

exceptional instances when the Court had allowed the extraordinary writ of *certiorari* to prosper as an appropriate remedy to assail an interlocutory order were not present in the case.<sup>28</sup>

With regard to Quiambao's argument that the RTC did not acquire jurisdiction over his person, the CA held that Quiambao only raised the issue on the illegality of his arrest after a plea of "not guilty" was entered for him, when it should have been raised before a plea. Since Quiambao did not question the propriety or impropriety of the plea, the CA concluded that Quiambao was duly arraigned in the absence of contrary evidence, and in view of the presumption of regularity in the performance of duties.<sup>29</sup> The CA stated that, in any event, the circumstances surrounding Quiambao's arrest, being evidentiary in nature, were matters of defense which may be raised and threshed out during trial.<sup>30</sup>

From the foregoing, the CA held that the RTC did not commit grave abuse of discretion amounting to lack of or in excess of jurisdiction when it issued its Order dated February 8, 2013.<sup>31</sup> The dispositive portion of the CA Resolution reads:

**WHEREFORE**, premises considered, the instant Petition is DISMISSED.

**SO ORDERED.**<sup>32</sup>

Quiambao then filed a motion for reconsideration where he averred that his petition was not prematurely filed because the RTC had already resolved his motion for reconsideration. He explained that he inadvertently attached the RTC Order dated March 12, 2013 which reset the presentation of evidence for the prosecution instead of the Order of even date which disposed of his motion for reconsideration.<sup>33</sup> Quiambao further insisted that the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction.<sup>34</sup>

In its Resolution<sup>35</sup> dated February 4, 2014, the CA denied Quiambao's motion for reconsideration on the ground that the same was a mere rehash of the arguments which it had already judiciously considered and passed upon.

Hence, the present petition.

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<sup>28</sup> Id. at 58-59.

<sup>29</sup> Id. at 60.

<sup>30</sup> Id.

<sup>31</sup> Id. at 61.

<sup>32</sup> Id.

<sup>33</sup> Id. at 62-63.

<sup>34</sup> Id. at 63.

<sup>35</sup> Id. at 88.

### Issue

The principal issues to be resolved in this case are: (1) whether Quiambao's motion to quash was properly denied; and (2) whether the RTC acquired jurisdiction over his person.

### Our Ruling

The petition is unmeritorious.

At the outset, it must be emphasized that an order denying a motion to quash is interlocutory, and therefore, not appealable. This is based on Section 1(c), Rule 41 of the Rules of Court, which specifically states that no appeal may be taken from an interlocutory order. Neither may the order denying the motion to quash be the proper subject of a petition for *certiorari*. Under Section 1, Rule 65 of the Rules of Court, a petition for *certiorari* may only be availed of when there is no appeal or any plain, speedy, or adequate remedy in the ordinary course of law.

What then is the plain and speedy remedy of an accused whose motion to quash information has been denied? It is to enter his plea and proceed to trial.<sup>36</sup>

In the normal course of procedure, a denial of a motion to quash filed by an accused results in the continuation of the trial and the subsequent determination of his guilt or innocence. Should a judgment of conviction be rendered, the accused may appeal from the decision and raise the denial of his motion to quash, not only as an error committed by the trial court, but as an added ground to overturn the latter's ruling.<sup>37</sup>

Nevertheless, there have been certain instances in which this Court has allowed a writ of *certiorari* as an appropriate remedy to assail an interlocutory order, such as:

- (1) when the court issued the order without or in excess of jurisdiction or with grave abuse of discretion;
- (2) when the interlocutory order is patently erroneous and the remedy of appeal would not afford adequate and expeditious relief;
- (3) in the interest of a more enlightened and substantial justice;
- (4) to promote public welfare and public policy; and

<sup>36</sup> *Non v. Office of the Ombudsman*, G.R. No. 251177, September 8, 2020, citing *Galzote v. Briones*, 673 Phil. 165, 172 (2011).

<sup>37</sup> *Id.*, citing *Maximo v. Villapando, Jr.*, 809 Phil. 843, 870 (2017).

- (5) when the cases have attracted nationwide attention, making it essential to proceed with dispatch in the consideration thereof.<sup>38</sup>

Here, Quiambao opted to immediately question the denial of his motion to quash by filing a petition for *certiorari* before the CA. After a careful review of the records, however, this Court finds that none of the aforementioned special circumstances are present in the case at bar.

This Court is not persuaded with Quiambao's claim that the RTC committed grave abuse of discretion when it denied his motion to quash and ruled that his warrantless arrest was lawful, thereby allowing the trial court to obtain jurisdiction over his person.

Section 9, Rule 117 of the Rules of Court states:

*Sec. 9. Failure to Move to Quash or to Allege Any Ground Therefor.* - The failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of any objections except those based on the grounds provided for in paragraphs (a),(b), (g), and (i) of Section 3 of this Rule.

It is well-settled that the "lack of jurisdiction over the person of an accused as a result of an invalid arrest must be raised through a motion to quash before an accused enters his or her plea. Otherwise, the objection is deemed waived and an accused is 'estopped from questioning the legality of his [or her] arrest.' The voluntary submission of an accused to the jurisdiction of the court and his or her active participation during trial cures any defect or irregularity that may have attended an arrest."<sup>39</sup> In *Lapi v. People*,<sup>40</sup> this Court held:

The Court has consistently ruled that any objection involving a warrant of arrest or the procedure for the acquisition by the court of jurisdiction over the person of the accused must be made before he enters his plea; otherwise, the objection is deemed waived. We have also ruled that an accused may be estopped from assailing the illegality of his arrest if he fails to move for the quashing of the information against him before his arraignment. And since the legality of an arrest affects only the jurisdiction of the court over the person of the accused, any defect in the arrest of the accused may be deemed cured when he voluntarily submits to the jurisdiction of the trial court. We have also held in a number of cases that the illegal arrest of an accused is not a sufficient cause for setting aside a valid judgment rendered upon a sufficient complaint after a trial free from error; such arrest does not negate the validity of the conviction of the accused.

Herein, accused-appellant went into arraignment and entered a plea of not guilty. Thereafter, he actively participated in his trial. He raised the additional

<sup>38</sup> *Querijero v. Palmes-Limitar*, 695 Phil. 106-1141(2012), citing *Zamoranos v. People*, 665 Phil. 447-470 (2011).

<sup>39</sup> *Veridiano v. People*, 810 Phil. 642-654 (2017). Citations omitted.

<sup>40</sup> G.R. No. 210731, February 13, 2019.

issue of irregularity of his arrest only during his appeal to this Court. He is, therefore, deemed to have waived such alleged defect by submitting himself to the jurisdiction of the court by his counsel-assisted plea during his arraignment; by his actively participating in the trial and by not raising the objection before his arraignment.<sup>41</sup>

As culled from the records of the case, Quiambao, assisted by counsel, admitted that he did not question the validity of his arrest before arraignment. He failed to move for the quashal of the Information before entering his plea supposedly because the period provided in the Guidelines for Litigation in Quezon City Courts is prohibitive. Additionally, when Quiambao refused to plead, a plea of “not guilty” was entered for him. Pre-trial conference subsequently ensued, wherein Quiambao voluntarily participated.<sup>42</sup>

Given such facts, Quiambao is deemed to have waived his right to question the validity of his arrest and is deemed to have submitted to the jurisdiction of the trial court. Any alleged irregularity or defect in the arrest of Quiambao has been cured by his failure to raise an objection before his arraignment, by his counsel-assisted plea during his arraignment, and by his active participation in the proceedings thereafter.

It bears noting that when the RTC entered a plea of “not guilty” on behalf of Quiambao, it simply acted in accordance with Section 1(c), Rule 116 of the Rules of Court, which provides that, “when the accused refuses to plead or makes a conditional plea, a plea of not guilty shall be entered for him.” Thus, there was nothing improper about the RTC’s actions and it can be said that Quiambao was duly arraigned.

Lastly, anent Quiambao’s contention that the Guidelines for Litigation in Quezon City Trial Courts is prohibitive, a perusal of the same would show that nothing therein unduly restricts the accused when it comes to the filing of a motion to quash. Such Guidelines, or A.M. No. 11-6-10-SC, provides the following instruction:

Motions. – (a) Motions that do not conform with the requirements of Rule 15 of the Rules of Court are scraps of paper that do not merit the court’s consideration. The branch clerk of court shall inform the judge of non-compliant motions. The court shall then immediately issue a final order declaring the motion a mere scrap of paper unworthy of any further court action, without necessity of a hearing or comment from the adverse party.

(b) Courts shall require only a comment or opposition to any motion, which shall be filed within an inextendible period of 5 days. Thereafter, the motion shall be submitted for resolution by the court. Unless allowed, the filing of a reply, rejoinder, or sur-rejoinder is hereby prohibited.<sup>43</sup>

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<sup>41</sup> Id., citing *People v. Alunday*, 586 Phil. 120, 133-134 (2008).

<sup>42</sup> *Rollo*, p. 193.

<sup>43</sup> A.M. No. 11-6-10-SC (Re: Guidelines for Litigation in Quezon City Trial Courts).



It is worthy to point out that A.M. No. 11-6-10-SC was issued by this Court in line with its mandate of ensuring the speedy disposition of cases under Republic Act No. 8493 (The Speedy Trial Act of 1998).<sup>44</sup>

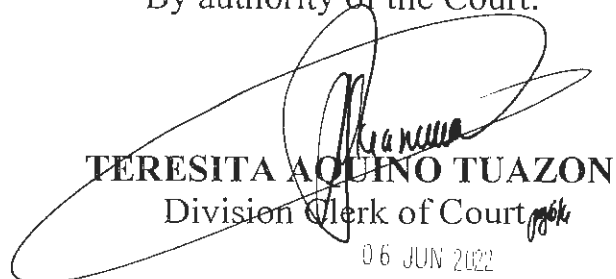
In view of the foregoing circumstances, this Court finds that Quiambao's motion to quash was properly denied and that the RTC validly acquired jurisdiction over his person.

**WHEREFORE**, We hereby **DENY** the petition for lack of merit, and accordingly **AFFIRM** the challenged Resolutions of the Court of Appeals dated August 29, 2013 and February 4, 2014 in CA G.R. SP No. 13000.

The Court **NOTES** and **DEEMS AS SERVED** by substituted service pursuant to Section 8, Rule 13 of the 2019 Amended Rules of Court, the returned and unserved copy of the Resolution dated November 18, 2020 (which directed the Clerk of Court of the Court of Appeals, Manila, to elevate the complete records of this case) sent to Pete S. Principe & Associates Law Firm, private prosecutor, at its address on record with notation, "RTS, Moved."

**SO ORDERED.**" (*Lopez, M.V. J., designated additional Member per Raffle dated February 28, 2022 vice Zalameda, J., who recused due to prior participation in the CA*)

By authority of the Court:

  
**TERESITA AQUINO TUAZON**  
Division Clerk of Court  
06 JUN 2022

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<sup>44</sup> *Bondoc v. Rayo*, G.R. No. 226436, July 15, 2020, citing *Re: Letter of Secretary Vitaliano N. Aguirre II, Department of Justice Relative to the Request of the Prosecutors League of the Philippines (PLP) and the Chief Prosecutors Association of the Philippines (CIPROSA)*, A.M. NO. 18-03-09-SC, June 26, 2018.

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THE DIRECTOR (reg)  
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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 223  
Quezon City  
(Crim. Case No. GL-Q-12-179504)

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*file*