



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated April 5, 2022 which reads as follows:

“G.R. No. 257605 (Luisito R. Melicio, Sr. v. Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices, SPO2 Antonio Geron Dorado, PO3 Elbert Marasigan Santos, PO3 Rustan Agustin, and PO2 Ernie Bunagan Gannaban). — Petitioner Luisito R. Melicio, Sr. inveighs against two (2) issuances of the Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices (OMB-MOLEO), viz.: 1) *Resolution*¹ dated 22 July 2020, which dismissed petitioner's complaint for *Incriminating Innocent Person, Planting of Evidence, Perjury, Falsification, Arbitrary Detention, and Maltreatment of Prisoner*, against Senior Police Officer 2 Antonio Geron Dorado, Police Officer 3 Elbert Marasigan Santos, Police Officer 3 Rustan Agustin, and Police Officer 2 Ernie Bunagan Gannaban (collectively, private respondents) for lack of sufficient basis; and 2) *Order*² dated 7 December 2020, which denied petitioner's *Motion for Reconsideration*³ thereof, respectively, in OMB-P-C-18-0070.

The precursor facts unfurl as follows:

Petitioner averred that as he was having dinner at home around 6:30 in the evening of 4 May 2013, private respondents arrived and forcibly brought him to the police station in handcuffs. Petitioner was avowedly arrested in light of a complaint lodged by one Ferdinand Abad (Abad) against him over a commotion which the former initiated at the latter's fruit stand. Petitioner initially refused arrest, asserting that no one was hurt in the incident and that the matter

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¹ *Rollo*, pp. 25-31.

² *Id.* at 32-35.

³ *Id.* at 51-55.

should have been brought first for settlement at the *barangay* level. The following day, he learned that several cases were filed against him— (a) Malicious Mischief; (b) Slight Physical Injuries in relation to *Republic Act No. 7610*; (c) Slight Physical Injuries; (d) Violation of *Section 11, Article II of Republic Act No. 9165* and Resistance and Disobedience upon Agent of Person in Authority; and (e) Direct Assault.

Asserting the illegality of his arrest and the baseless imputations hurled against him which tainted his reputation, petitioner lodged before the Office of the Ombudsman a complaint for Incriminating Innocent Person, Planting of Evidence, Perjury, Falsification, Arbitrary Detention, and Maltreatment of Prisoner against the private respondents. Petitioner maintained that all charges against him were a sham and baseless.

Meanwhile, the private respondents espoused a divergent version of the facts.⁴ Upon receipt of the complaint that petitioner, who was drunk at the time, was causing a commotion, inflicting harm and shouting invectives to Abad's 17-year old daughter, they immediately went to stop the petitioner. According to the private respondents, when they arrived at the fruit stand, petitioner was holding a watermelon and still having a violent outburst.

Private respondents introduced themselves as police officers and tried to pacify the petitioner. The latter, however, vehemently resisted and hurled at them, "*Wala akong pakialam kahit mga pulis kayo, wala naman kayong warrant of arrest mga putang ina nyo!*" PO3 Santos was able to get hold of the petitioner but his two sons, Luisito, Jr. and Jericho, arrived, punched private respondents, and threw things at them to prevent the arrest of their father.

Despite the efforts of petitioner and his two sons, private respondents were able to arrest him and bring him straight away to the police station. Before petitioner went inside the detention cell, as part of the police standard operating procedure, he was asked to empty the contents of his pocket and to the private respondents' surprise, he threw at them a small heat-sealed transparent plastic sachet that presumably contained *shabu*.

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⁴ *Id.* at 46-47.

In due course, the OMB-MOLEO dismissed petitioner's complaint via its *Resolution*⁵ dated 22 July 2020. It held that petitioner failed to adduce sufficient evidence to substantiate his allegations. Moreover, the Office of the Provincial Prosecutor of Sta. Cruz, Laguna upheld the propriety of petitioner's arrest and detention. Whence, his subsequent acquittal or the dismissal of the criminal complaints against him will not make private respondents liable for the warrantless arrest in the absence of proof that they acted with ill motives.

Petitioner sought reconsideration⁶ of the OMB-MOLEO's *Resolution*, but the same was given short shrift in the *Order*⁷ dated 7 December 2020.

Unflinching, petitioner elevated the matter before this Court through the instant *Petition for Certiorari*, ascribing grave abuse of discretion to the OMB-MOLEO in dismissing the criminal complaint against the private respondent. Petitioner avouches that there was probable cause to indict the private respondents for the crimes of Incriminating Innocent Person, Planting of Evidence, Perjury, Falsification, Arbitrary Detention, and Maltreatment of Prisoner.

Petitioner's avouchment does not pass judicial muster.

After a perspicacious study of the averments, issues, and arguments adduced in the *Petition for Certiorari*,⁸ this Court resolves to dismiss the petition for failure to sufficiently demonstrate grave abuse of discretion on the part of the OMB-MOLEO in dismissing all the charges against the private respondents. Ineludibly, the finding of OMB-MOLEO that there was no probable cause to indict the private respondents was anchored on prevailing laws and jurisprudence.

The averments in the complaint-affidavit⁹ filed by petitioner do not make out a clear probable cause of Incriminating Innocent Person, Planting of Evidence, Perjury, Falsification, Arbitrary Detention, and Maltreatment of Prisoner under the *Revised Penal Code*. As unerringly adjudged by the OMB-MOLEO, other than petitioner's self-serving narration that private respondents arrested and detained him without lawful cause, maltreated him while under custody and

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⁵ *Id.* at 25-31.

⁶ *Id.* at 51-55.

⁷ *Id.* at 32-35.

⁸ *Id.* at 3-17.

⁹ *Id.* at 36-39.

planted the *shabu* in his possession, no other evidence was adduced to support his claim. In actual fact, petitioner failed to present the testimony of his two sons who were allegedly with him during such incident.

With regard to the issue of invalid warrantless arrest, petitioner's challenge likewise fails. Petitioner was caught *in flagrante delicto*. Records show that the police officers, herein private respondents, responded to a reported public disturbance being caused by petitioner. There, they saw petitioner in the act of throwing fruits and shouting at Abad's minor daughter. They introduced themselves as police officers but petitioner retaliated. Petitioner was, however, eventually arrested and brought to the police station, where a search upon his person purportedly yielded the drug seized from him. **These circumstances justify the conduct of an *in flagrante delicto* arrest.**

A final note. It cannot be stressed enough that this Court does not interfere in the Ombudsman's exercise of discretion in determining probable cause, **unless there are compelling reasons**. To insulate the Ombudsman from outside pressure and improper influence, the *Constitution* and *Republic Act No. 6770*, otherwise known as the *Ombudsman Act of 1989*, grant it a wide latitude of investigatory and prosecutorial powers virtually free from executive, legislative or judicial intervention. Such initiative and independence must be inherent in the Ombudsman who, beholden to no one, acts as champion of the people and preserver of the integrity of public service. Otherwise, the courts would be grievously hampered by innumerable petitions assailing the dismissal of investigatory proceedings conducted by the Ombudsman with regard to complaints filed before it. This effect would be the same as the further clogging of already clogged dockets of courts, should they be compelled to review the exercise of discretion on the part of prosecuting attorneys each time an information is filed or a complaint dismissed.¹⁰

WHEREFORE, the *Petition* is **DISMISSED**. The *Resolution* dated 22 July 2020 and the *Order* dated 7 December 2020 of the Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices in OMB-P-C-18-0070 are hereby **AFFIRMED**.

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¹⁰ See *Villanueva v. Ople*, 512 Phil. 187-206 (2005).

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *Agustin*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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