



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **January 23, 2023**, which reads as follows:*

“G.R. No. 202760 – GIRLIE S. MERDEGIA, Petitioner, v. GERARD DANIEL K. SIO, Respondent.

G.R. No. 201703 – GIRLIE S. MERDEGIA, Petitioner, v. COURT OF APPEALS and GERARD DANIELLE K. SIO, Respondents.

These are the consolidated Petitions filed by the petitioner Girlie S. Merdegia (**Merdegia**), assailing the Decision¹ and Resolution² of the Court of Appeals (CA) in CA-G.R. SP No. 119461, dated December 23, 2011 and March 19, 2012, respectively, which granted bail to the private respondent Gerard Danielle K. Sio (**Sio**) and ordered his immediate release.

The Facts

On October 18, 2009, private respondent Sio called petitioner Merdegia to offer her a free vaccine for the AH1N1 virus, during a time when the said vaccine was not yet available in the Philippines.³ Aside from the AH1N1 vaccine, Sio also offered Merdegia a dose of Glutathione and Vitamin C.⁴ Despite Merdegia’s hesitations, she ultimately agreed as she has known Sio, a medical doctor, since she was a medical intern at the University of the Philippines College of Medicine.⁵

The following day, or on October 19, 2009, Merdegia met with Sio at the Robinson’s Manila Padre Faura entrance at around 3:00 p.m.⁶ Merdegia and Sio then headed to the latter’s condominium at the Pacific Palisades

¹ *Rollo*, pp. 45-70. Penned by Associate Justice Vicente S.E. Veloso, concurred in by Associate Justices Jane Aurora C. Lantion and Danton Q. Bueser.

² *Id.* at 19-21.

³ *Id.* at 27.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 29.

Condominium.⁷ When Merdegia arrived at Sio's unit, she was surprised to see that it did not look like a clinic, but rather, it looked like Sio's residence.⁸ However, Sio assured Merdegia that he takes his patients to the said condominium unit.⁹ Shortly thereafter, Merdegia noticed that the syringes already contained a solution. Merdegia asked Sio if the solution in the syringe is sterile, and the latter assured her that it is, as it was prepared just before they met up.

Despite Merdegia's misgivings, she relented because Sio is a medical doctor, whom she had known since she was a medical intern. To prepare for the administration of the vaccine, Sio placed a tourniquet on Merdegia's left arm and cleansed her antecubital area and placed the cannula. Thereafter, Merdegia's vein started to bulge, and the latter pointed out that it did not hit a vein. Sio then inserted the cannula in Merdegia's wrist, where it finally hit the vein. Sio then administered the Glutathione and Vitamin C.

Subsequently, Sio administered the AH1N1 vaccine, which appeared to be a milky white substance. Merdegia asked why the substance was milky white, because the only substance she knew to be milky white was propofol. Sio assured Merdegia that the substance is the AH1N1 vaccine. Merdegia asked why the vaccine was being administered intravenously when it should be intramuscular. However, Sio insisted that the same could be administered intravenously.¹⁰

After the drugs were administered, Merdegia felt dizzy and a strong headache started. Blackout episodes ensued and Merdegia passed out for one (1) hour and ten (10) minutes.¹¹ Upon regaining consciousness, Merdegia found her blouse and pants unbuttoned, but her pants remained zipped. Merdegia then started to cry and panic. Sio told Merdegia that she had an adverse reaction to the drugs which caused her to pass out. Merdegia could not move her legs, her stomach hurt, and felt the urge to vomit.¹² Merdegia tried to rest for an hour before she left Sio's condominium unit.

On the same day, Merdegia went to Makati Medical Center to be examined, where it was found that she has a laceration in her posterior fourchette.¹³ On the other hand, the Medico-Legal Officer of the PNP Crime

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 29.

¹¹ *Id.* at 31.

¹² *Id.* at 30.

¹³ *Id.* at 32.

Laboratory found evidence of recent application of blunt trauma to the vestibule and posterior fourchette of the vagina.¹⁴

The Ruling of the Regional Trial Court

In an Information¹⁵ dated October 23, 2009, Sio was charged with Rape, as defined and penalized under Article 266-A of the Revised Penal Code, as amended. The accusatory portion of the Information reads:

That on or about October 19, 2009, in the City of Manila, Philippines, the said accused, with lewd design and by means of violence, did then and there willfully, unlawfully and feloniously commit sexual assault upon GIRLIE MERDEGIA y SINGIAN, by then and there injecting in her right arm a clear substance which made her dizzy and unconscious, thus depriving her of reason, and succeeded in having carnal knowledge of her against her will and without her consent.¹⁶

To secure his temporary liberty, Sio filed a Petition for Bail¹⁷ on November 3, 2009. The Petition was set for hearing and on May 18, 2010, then Judge Theresa Dolores Gomez-Estoesta (**Judge Gomez-Estoesta**) of Branch 7 of the Regional Trial Court of Manila (**RTC**) granted Sio's petition on the ground that there is no moral certainty to sustain the prosecution's claim that its evidence is strong,¹⁸ the dispositive portion of which reads:

WHEREFORE, where *evidence of guilt is not strong*, accused's *Petition for Bail* is **GRANTED**. For his provisional liberty, accused Dr. Gerard Danielle Sio y Kwei a.k.a. "Gerry" is allowed to **POST BAIL** in the amount of One Hundred Thousand Pesos (P100,000.00).¹⁹

Aggrieved, Merdegia filed a Motion for Reconsideration dated June 10, 2010, and moved to inhibit Judge Gomez-Estoesta.²⁰ After Judge Gomez-Estoesta inhibited, the case was re-raffled to Judge Noli C. Diaz (**Judge Diaz**) of Branch 39 of the RTC. On January 8, 2011, Judge Diaz resolved Merdegia's Motion for Reconsideration in her favor, cancelled Sio's bail bond and ordered his arrest.²¹

In Judge Diaz's Order, the latter relied on the positive evidence of the prosecution rather than the negative evidence of the defense.²²

¹⁴ *Id.* at 33.

¹⁵ *Id.* at 46.

¹⁶ *Id.* at 46-47.

¹⁷ *Id.* at 47.

¹⁸ *Id.* at 53.

¹⁹ *Id.* at 53.

²⁰ *Id.* at 54.

²¹ *Id.* at 90-96.

²² *Id.* at 54.

The Ruling of the Court of Appeals

On 10 January 2012, Sio filed a Petition for *Certiorari*²³ before the CA, ascribing grave abuse of discretion on the part of Judge Diaz when the latter ordered the cancellation of his bail bond and ordered his arrest. In its Decision, dated December 23, 2011,²⁴ the CA held that the prosecution failed to discharge its burden that the evidence of Sio's guilt is strong.²⁵

The CA held that the prosecution failed to prove the presence of carnal knowledge because Merdegia had no recollection of the alleged forced sexual intercourse because she was unconscious, and that she only deduced that she was raped because her blouse was unbuttoned. To bolster her claim that she was raped, Merdegia relied on the medical findings of Dr. Porciuncula that there was a "laceration" in her vagina.²⁶

Thus, the CA found that the public respondent gravely abused his discretion when it set aside the prior Order of Judge Gomez-Estoesta, dated May 18, 2010, which granted Sio's petition for bail.²⁷

Merdegia and the Office of the Solicitor General (OSG) filed separate Motions for Reconsideration,²⁸ dated January 11, 2012 and January 19, 2012, respectively, assailing the CA Decision dated 23, December 2011. The CA, in its Resolution dated July 11, 2012, resolved to deny the Motion for Reconsideration on the ground that they contained no new issues and arguments and are merely a rehash of the earlier arguments presented, which have been passed upon in the assailed Decision.²⁹

With the following factual and procedural antecedents, Merdegia filed the present Petitions.

In G.R. No. 202760, the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court dated September 7, 2012,³⁰ Merdegia questions the Resolution of the CA, dated July 11, 2012, which denied Merdegia's and the OSG's Motions for Reconsideration assailing the CA's Decision, dated December 23, 2011.

²³ *Id.* at 1.

²⁴ *Id.*

²⁵ *Id.* at 69.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 27.

²⁹ *Id.* at 29.

³⁰ *Id.* at 8-24.

On the other hand, in G.R. No. 201703, the Special Civil Action for *Certiorari* under Rule 65 of the Rules of Court assails the CA's Resolution, dated March 19, 2012 which ordered the immediate release of Sio from his confinement.³¹ According to Merdegia, the CA committed grave abuse of discretion amounting to lack or excess of jurisdiction in ordering Sio's immediate release despite the two (2) pending Motions for Reconsideration of the CA Decision, dated December 23, 2011.

The Issues

In G.R. No. 202760:

Did the Court of Appeals err in finding that Sio's evidence of guilt is not strong?

In G.R. No. 201703:

Did the Court of Appeals commit grave abuse of discretion when it ordered the immediate release of Sio despite the fact that there were still two pending motions for reconsideration of the Decision, dated December 23, 2011?

The Ruling of the Court

The Rule 45 Petition (G.R. No. 202760)

Merdegia assails the Resolution of the CA which held that the evidence of the prosecution was not strong due to its finding that although there were three doctors who found that there was a laceration on the exterior fourchette of Merdegia, there was no sufficient proof that showed the slightest penetration of the *labia* of the pudendum by the penis.³²

The Petition must fail.

It is settled that only questions of law may be raised in a petition for review on *certiorari* under Rule 45. A question of fact exists when the doubt arises as to the truth or falsehood of the alleged facts.³³ On the other

³¹ *Id.* at 21.

³² *Id.* at 30.

³³ *Miro v. Vda. De Erederos*, 721 Phil. 772, 785 (2013).

hand, a question of law exists when the doubt arises as to what the law is on a certain state of facts.³⁴

A petition essentially assailing the court's finding of degree of evidence of the guilt or innocence of the accused calls for an examination of factual scenarios that may have led the accused to allegedly commit the crime. The determination of the guilt of an accused hinges on how the court appreciates evidentiary matters in relation to the requisites of an offense. Thus, the determination of guilt is a fundamentally factual issue.³⁵

This Court is not a trier of facts, and it is not duty-bound to re-examine the evidence on record. A recognized exception to the rule is when the RTC and the CA have conflicting findings of fact,³⁶ as in the present case.

Here, Merdegia asserts that the CA committed a misapprehension of facts when it found that Sio's evidence of guilt is not strong and, thus, entitled to bail. Clearly, this is a question of fact. However, the Court deems it proper to resolve the Petition as the factual findings of the lower courts are conflicting.

Bail is the security given by an accused who is in the custody of the law for his release to guarantee his appearance before any court as may be required.³⁷ The right to bail emanates from the accused's constitutional right to be presumed innocent.³⁸

The right to bail is recognized by the Bill of Rights, as provided under Section 13, Article III of the Constitution:

Section 13. All persons, except those charged with offenses punishable by *reclusion perpetua* when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of *habeas corpus* is suspended. Excessive bail shall not be required.

Rule 114 of the Rules of Criminal Procedure likewise states:

³⁴ *Alburo v. People*, 792 Phil. 876, 889 (2016).

³⁵ *Macayan v. People of the Philippines*, 756 Phil. 202, 214 (2015).

³⁶ *Canadian Opportunities Unlimited, Inc. v. Bart Q. Dalangin, Jr.*, 681 Phil. 21, 33 (2012).

³⁷ *Leviste v. Court of Appeals*, 629 Phil. 587, 593 (2010).

³⁸ *People v. Fitzgerald*, 536 Phil. 413 (2006).

Section 7. *Capital offense or an offense punishable by reclusion perpetua or life imprisonment, not bailable.* - No person charged with a capital offense, or an offense punishable by *reclusion perpetua* or life imprisonment, shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal prosecution.

The clear import of the abovementioned provisions, therefore, is that before conviction, bail is a matter of right when the offense charged is punishable by any penalty lower than *reclusion perpetua*. Bail becomes a matter of discretion if the offense charged is punishable by death, *reclusion perpetua*, or life imprisonment that is, bail will be denied when evidence of guilt is strong.³⁹ By judicial discretion, the law mandates the determination of whether proof is evident or the presumption of guilt is strong.⁴⁰ “Evident proof” in this connection means clear, strong evidence which leads a dispassionate judgment to the conclusion that the offense has been committed as charged.⁴¹

Thus, the test is not whether the evidence establishes guilt beyond reasonable doubt, but rather whether it shows a great presumption of guilt.⁴²

In this case, Sio was charged with rape, which is punishable by *reclusion perpetua*. Hence, Sio’s entitlement to bail thus becomes a matter of judicial discretion if the evidence of his guilt is not strong. As the grant of bail becomes a matter of judicial discretion on the part of the court under the exceptions to the rule, a hearing, mandatory in nature,⁴³ and which should be summary or otherwise in the discretion of the court, is required to ascertain whether the evidence of guilt is strong for the provisional liberty of the applicant.⁴⁴

Applying the abovementioned standards to the present case, the Court finds that the CA correctly ruled that the evidence of Sio’s guilt is not strong.

It must be emphasized that to sustain a conviction for rape, the following elements must be established: (1) the offender had carnal knowledge of the victim; and (2) the offender accomplished the act through force, threat, or intimidation.⁴⁵

³⁹ *Tanog v. Balindong*, 773 Phil. 542, 555 (2015).

⁴⁰ *People v. Hon. Cabral*, 362 Phil. 697, 709 (1999).

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Go vs. Court of Appeals*, 221 Phil. 397, 414 (1993)

⁴⁴ *Borinaga v. Tamin*, 226 Phil. 207, 213 (1993).

⁴⁵ *People v. Ejercito*, 834 Phil. 837, 853 (2018).

In this case, Merdegia anchors her claim that she was raped and it was Sio who committed the same based on the allegation that she was unconscious for an hour, and when she regained consciousness, her blouse was unbuttoned, though her pants remained zipped. In addition, Merdegia insists that the commission of rape was established when three (3) doctors who examined her found that there exists a laceration in her posterior fourchette.⁴⁶

The Court is not persuaded.

From the evidence presented by the prosecution Merdegia's identification of Sio as the perpetrator of the crime of rape against her person does not rest on strong evidence.

Noteworthy is the fact that Merdegia has no personal recollection of the alleged rape because she was admittedly unconscious.⁴⁷

Merdegia thus merely deduced that she had been raped but on what did she base this assumption? She said: because her blouse was unbuttoned, and yet she admitted that her pants remained zipped.⁴⁸

When Merdegia regained consciousness, she was vomiting, was feeling very weak, had a backache and a headache, and she could not move her legs – but she did not hurt “where it should be hurting,” in the words of the CA.⁴⁹ Curiously, with these symptoms, why did Merdegia conclude that she was raped rather than the more obvious alternative, that she had an adverse reaction to the drugs administered to her? And on this basis, Merdegia admitted herself to a medical evaluation and she cited Dr. Porciuncula's findings.

It is of course settled that laceration is not an element of the crime of rape,⁵⁰ and the presence of lacerations in the victim's vagina is not necessary to prove the same.⁵¹ Moreover, the Court has repeatedly held that a medical report is merely corroborative,⁵² and it is neither necessary nor controlling. Thus, it follows that a medical examination of the victim is not indispensable in the prosecution for rape.⁵³ The presentation of a medical certificate is likewise not essential to prove the commission of rape.⁵⁴

⁴⁶ *Rollo*, p. 18.

⁴⁷ *Id.* at 61.

⁴⁸ *Id.*

⁴⁹ *Id.* at 65.

⁵⁰ *People v. Garcia*, 351 Phil. 624, 640 (1998).

⁵¹ *People v. Macosta*, 378 Phil. 425, 435 (1999).

⁵² *People v. Guillen*, 722 Phil. 28, 36 (2013).

⁵³ *People v. Lacaba*, 376 Phil. 409, 421 (1999).

⁵⁴ *People v. Ferrer*, 415 Phil. 188, 199 (2001).

But even reviewing the physical evidence, there is nothing in the medical findings to exhibit that it was Sio who had committed the rape. Merdegia admittedly failed to connect Sio with the act of carnal knowledge. In fact, Merdegia admitted that Sio was present when she woke up. If Sio had committed the crime charged, based on common human experience, it would have impelled him to escape or flee.

Lastly, Merdegia cannot claim to have been completely led on or deceived by Sio because although Sio is a medical doctor, Merdegia is also a medical intern who is not ignorant of the possible effects of the medical injections she consented to.

To stress, the assessment of evidence presented during a bail hearing is intended only for the purpose of granting or denying the provisional release of the accused.⁵⁵ In this case, the evidence presented by the prosecution failed to convince the RTC and the CA initially that Sio's guilt is strong. The Court finds no error in these findings.

Discussion on the Rule 65 Petition
(G.R. No. 201703)

The principal office of a Petition for *Certiorari* under Rule 65 of the Rules of Court is only to keep the inferior court within the parameters of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to lack or excess of jurisdiction.⁵⁶

Certiorari is a special civil action that can only be availed of if there is a concurrence of the following requisites: (1) the tribunal, board or officer exercising judicial functions has acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (2) there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law for the purpose of annulling or modifying the proceeding.⁵⁷

Thus, a writ of *certiorari* will only issue for the correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction. It cannot be used for any other purpose, as its function is limited to keeping the lower court within the bounds of its jurisdiction.⁵⁸

⁵⁵ *Rollo*, p. 68.

⁵⁶ *People of the Philippines v. Court of Appeals*, 468 Phil. 1, 10 (2004).

⁵⁷ *Dr. Domalanta v. COMELEC*, 390 Phil. 46, 65 (2000).

⁵⁸ *Landbank of the Philippines v. Court of Appeals*, 456 Phil. 755, 784 (2003).

In the present case, Merdegia claims that the CA committed grave abuse of discretion amounting to lack or excess of jurisdiction when it issued the Resolution, dated March 19, 2012, which ordered the immediate release of Sio despite of the pendency of a Motion for Reconsideration questioning its Decision, dated December 23, 2012.⁵⁹

The CA at that point had already made a definitive finding concerning the absence of a strong evidence of guilt on the part of Sio. That the CA ordered the immediate release of Sio anchored on this definitive finding is well within the bounds of judicial discretion, especially the primacy the Constitution places on the right to liberty.

While in any other case, a motion for reconsideration should have been resolved first, the liberty of the accused, whose guilt does not appear to be strong, must take primacy at that crucial point.

Even assuming *arguendo* that the RTC inadvertently granted the release of Sio, the mistake does not amount to grave abuse of discretion because it is a mere error in judgment. Only errors of jurisdiction are correctible by Rule 65.

WHEREFORE, the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, docketed as CA-G.R. No. 202760 is **DENIED**, and the Petition for *Certiorari* under Rule 65 of the Rules of Court, docketed as CA-G.R. No. 201703 is **DISMISSED**.

SO ORDERED.”

By authority of the Court:

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court *JB 3/10/23*

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⁵⁹ *Rollo*, pp. 13-14.

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The Presiding Judge
REGIONAL TRIAL COURT
Branch 39, Manila
(Crim. Case No. 09-271779)

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ju/s

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