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[G.R. No. L-46329-30. April 10, 1979]

JAMES JOSEPH, MIGUEL ROMULO, ANTONIO SANTAMARIA, RAMON IGNACIO MORAN, EUGENIO LOPEZ III, and JAIME CLAPAROLS, JR., *petitioners, vs.* **HON. ONOFRE VILLALUZ, as Judge presiding over the Circuit Criminal Court, Seventh Judicial District, Pasig, Metro Manila, HON. EMMANUEL G. PEÑA, as Acting District State Prosecutor and the PEOPLE OF THE PHILIPPINES,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; CRIMINAL PROCEDURE; RIGHTS OF THE ACCUSED; PRESUMPTION OF INNOCENCE; RIGHT NOT *VIOLATED BY DENIAL OF MOTION TO DISMISS.*** — Where it appears that the trial judge made a thorough perusal of the records of the cases and considered the exhaustive arguments of the parties which lasted for almost eight (8) hours before denying the motions to dismiss/acquit; and he denied the motion for reconsideration on the ground that said motion contained the same grounds adduced in the motion to dismiss/acquit, the contention of petitioners that they were deprived of their constitutional right to be presumed innocent and of the right against self-incrimination by the denial of their motion to dismiss/acquit has no merit.

2. **ID.; ID.; ID.; ID.; YIELDS TO *PROSECUTION'S EVIDENCE* PROVING ACCUSED'S GUILT.** — It is true that an accused is presumed innocent until his guilt is shown beyond reasonable doubt. However, after the prosecution has adduced evidence, the constitutional presumption of innocence must yield to what has been amply and persuasively demonstrated.

3. **ID.; SPECIAL CIVIL ACTIONS; COURT MAY NOT DETERMINE SUFFICIENCY OF PROOF IN SPECIAL CIVIL ACTION.** — The Supreme Court cannot decide in a *special civil action* whether or not the evidence adduced by the prosecution has established beyond reasonable doubt the guilt of the petitioners.

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It is the petitioners' duty to neutralize the evidence of the State in order to maintain the presumption of their innocence of the crime of which they are charged.

4. ID.; CRIMINAL PROCEDURE; APPEAL; PROPER REMEDY TO REVIEW THE FINDINGS OF FACT OF THE TRIAL JUDGE. — In the absence of a clear showing that the trial judge committed a grave abuse of discretion or acted in excess of jurisdiction, the Supreme Court will not annul an interlocutory order denying a motion to dismiss a criminal case. Appeal is the proper remedy of the petitioners in order to have the findings of fact of the trial judge reviewed by a superior court.

5. ID.; ID.; TRIAL; SEPARATE TRIAL SUBJECT TO THE DISCRETION OF TRIAL COURT. — Section 8, Rule 119 of the Revised Rules of Court provides for trial of joint defendants. It does not state when the application for separate trial may be made. As a matter of law, the granting of a separate trial when two or more defendants are jointly charged with an offense is discretionary with the trial court. Where the petitioners are charged with capital offenses and it appears that they have different defenses which may be antagonistic to each other, a separate trial may be granted even after the prosecution has finished presenting its evidence in chief provided that the evidence in chief of the prosecution shall remain in the record as evidence against the former and without necessity for the prosecution to adduce all over again its evidence in chief in each separate trial of the accused although in the later case, only the accused presenting evidence has to be present.

TEEHANKEE, *J., concurring*:

REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *MANDAMUS*; DENIAL OF PETITION, MEANING OF. — I concur in the result. This is a special civil action for prohibition, *certiorari* and *mandamus* and/or petition for *habeas corpus* seeking *inter alia* the setting aside of respondent judge's orders denying petitioners' demurrers to the evidence presented by the prosecution and asking this Court to issue a writ of *mandamus* to respondent judge for a directed verdict of acquittal. Hence, the denial or dismissal of the petition simply means that the Court has found petitioners not to be entitled to the relief prayed for. (cf. Rule 65, Section 8). It does not mean an affirmance of

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the correctness of the questioned orders denying petitioners' demurrer and motion to dismiss the case for insufficiency of the prosecution's evidence, for to cite one case, that of the accused Lopez, it does appear that even the complainant admits that he did not participate at all in any alleged act of rape and he would be entitled to a dismissal of the case upon submittal of the prosecution's case. The denial or dismissal of the petition simply means as stated in the main opinion of Mr. Justice Fernandez that the Court adheres to the settled rule that it will not overrule in a special civil action the trial court's interlocutory order denying a motion to dismiss for failure or insufficiency of the prosecution's evidence since it *cannot* review in such special civil action the prosecution's evidence and decide here and now in advance that it has or has not established beyond reasonable doubt the guilt of the petitioners-accused. The orderly procedure prescribed by the Rules of Court is for the accused to present their evidence after which the trial court will on the basis of the evidence presented before it by *both* the prosecution and the defense render its judgment of conviction or acquittal. If the verdict be one of acquittal, the case ends there. If it be a verdict of conviction, then appeal is the proper remedy — and such appeal in order to have a review of the trial court's findings of *fact* lies within the exclusive appellate jurisdiction of the Court of Appeals.

APPEARANCES OF COUNSEL

Estanislao A. Fernandez for petitioners James Joseph and Antonio Santamaria.

Francis Moran and *Angel A. Sison* for petitioner Ramon Ignacio Moran.

Norberto J. Quisumbing for petitioner Jaime Claparols, Jr.

Jose W. Diokno for petitioner Eugenio Lopez III.

Office of the Solicitor General for respondents.

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DECISION

FERNANDEZ, *J.*:

This is a petition for prohibition, *certiorari* and *mandamus* with preliminary injunction and/or petition for *habeas corpus* seeking the following relief:

"WHEREFORE, petitioners respectfully pray that writs of prohibition issue commanding respondents to desist from further prosecution of Criminal Cases Nos. CCC-VII-1750-51 of the Circuit Criminal Court of Pasig, Metro Manila, of *certiorari* annulling the orders of February 7 and 28, 1977 and June 10, 1977 of respondent judge in said criminal cases denying petitioners' demurrers to the evidence and motion for separate trial of each accused, and of *mandamus* commanding respondents to render a judgment of acquittal of petitioners from the said criminal charges. Or, at the very least, they respectfully pray that the lower court be ordered to grant each petitioner separate trials. In the alternative, they also pray for the issue of a writ of *habeas corpus* which extends to the continued restraint on petitioner's liberty when petitioners are entitled to acquittal from the criminal charges by force of their constitutional rights.

Immediately, they respectfully apply for the issue *ex-parte* of a temporary restraining order enjoining respondents judge and fiscal to desist from continuing with the trial and proceedings of the aforesaid criminal cases, followed by such writ of preliminary injunction to the same tenor and effect, petitioners offering a bond executed to the parties enjoined in an amount, to be fixed by the Court, to the effect that petitioners will pay to such parties all damages which they may sustain by reason of the injunction if the Court should finally decide that petitioners were not entitled thereto.

They pray for such other remedy as the Court may deem just and equitable in the premises.

Manila, June 14, 1977."[1]

As prayed for, the respondents were "RESTRAINED from continuing with the trial of Criminal Cases Nos. CCC-VII-1750-51

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[1] Petition, *Rollo*, pp. 43-45.

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which are pending before the Circuit Criminal Court, Seventh Judicial District at Pasig, Metro Manila, and from further proceeding with the case until further orders from this Court."[2]

The petitioners, James Joseph, Miguel Romulo, Antonio Santamaria, Ramon Ignacio Moran, Eugenio Lopez III, and Jaime Claparols Jr., were charged by Noemi L. Garcia with the crime of multiple rape in the Court of First Instance of Rizal. The complaint was docketed as Criminal Case No. 20380 but upon transfer to the Circuit Criminal Court at Pasig, the same was docketed as Criminal Case No. CCC-VII-1750-Rizal.[3]

The petitioners Jaime Claparols, Jr. and Ramon Ignacio Moran were also charged with another offense of multiple rape by the same complainant before the Court of First Instance of Rizal. The complaint was docketed as Criminal Case No. 20381 but upon transfer to the Circuit Criminal Court, the same was docketed as Criminal Case No. CCC-VII-1751-Rizal.[4]

Upon arraignment, the accused-petitioners entered a plea of not guilty in both cases. A joint trial on the merits of both cases of all the accused was commenced and the prosecution presented its evidence.

After the prosecution had completed the presentation of its evidence in chief, the petitioner Claparols, Jr. filed a motion to dismiss dated November 19, 1976; the petitioner Lopez filed a motion to acquit dated November 19, 1976; the petitioners Romulo, Santamaria and Joseph filed a motion to dismiss dated November 22, 1976; and the petitioner Moran filed a motion to dismiss dated November 22, 1976.

The respondent judge, Hon. Onofre Villaluz, then heard the oral arguments of the movants in amplification of their formal motions to dismiss/acquit and the oral arguments of the prosecution in support of their opposition thereto.

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[2] Resolution of June 21, 1977 and Temporary Restraining Order.

[3] *Rollo*, pp. 47-48.

[4] *Rollo*, pp. 49-50.

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The respondent judge denied the motions in an order dated February 7, 1977 which reads:

"After a thorough perusal of the records and considering the allegations of the issues raised and arguments adduced in the Motion to Acquit and/or Dismiss filed by the respective counsels of the accused, together with the opposition thereto; and considering further the exhaustive oral argument of the parties which lasted for almost eight (8) hours, the Motion to Dismiss and/or Acquit is hereby Denied.

WHEREFORE, let the hearing on the presentation of evidence for the defense be set on February 9, 1977 at 9:00 o'clock in the morning.

SO ORDERED.

Pasig, Metro Manila, February 7, 1977.

(Sgd.) ONOFRE A. VILLALUZ
Judge"[5]

The motion for reconsideration of the petitioners of the order denying the Motions to Dismiss/Acquit was likewise denied by the respondent Judge in an order dated February 28, 1977 on the ground that "the issues raised and arguments adduced in the Motion for Reconsideration together with the opposition thereto were the same grounds adduced in the Motion to Dismiss and/or Acquit were virtually covered by the extensive arguments of both parties x x x."[6]

Thereafter, the petitioners, Antonio Santamaria, Ramon Ignacio Moran, Eugenio Lopez III and Jaime Claparols, Jr. filed a motion dated June 7, 1977 asking for separate trial for each accused on the ground that:

"x x x The defenses of the accused are individual and separate from each other, because —

(a) Technically, none of the accused need defend himself against charges which allegedly occurred before they respectively arrived at the Romulo house.

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[5] *Rollo*, p. 67.

[6] *Rollo*, p. 72.

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(b) At the Romulo home, no evidence in fact was presented that any of the accused participated in the rape committed by any one of them.

(c) They should not therefore be prejudiced by any evidence presented by such of the other accused on those charges allegedly committed before their respective arrivals at the Romulo home and in which they are not even said to have participated."[7]

This motion was denied by the respondent judge on June 10, 1977. The said petitioners' verbal motion for reconsideration of the order of denial was denied.

The respondent Judge then reset the joint trial of the two cases for reception of the evidence for the defense on September 22, 24, 27 and 29, 1977. The trial did not proceed in view of the restraining order issued by this Court pursuant to its resolution of June 21, 1977.

The petitioners assail the order of the respondent judge denying their Motions to Dismiss/Acquit on the following grounds:

"Respondent judge had consistently and invariably denied in all criminal cases heard by him demurrers to the evidence (motions to dismiss after close of the evidence of the prosecution on the ground that it did not amount to proof beyond reasonable doubt) on the opinion that the Rules of Court in omitting provisions for a demurrer to evidence in criminal cases prohibited it. This opinion denies petitioners their following rights under the Constitution *i.e.*, 'In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved x x x' and 'no person shall be compelled to be a witness against himself.' Therefore, the continued prosecution of petitioners without a just resolution of their demurrers to evidence should be prohibited. The denial of constitutional rights is reviewable on *habeas corpus* proceedings at the very least."[8]

The submission that the petitioners were deprived of their constitutional right to be presumed innocent and the right against self-incrimination by the denial of their Motions to Dismiss/

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[7] *Rollo*, pp. 69-70.

[8] *Rollo*, p. 7.

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Acquit by the respondent Judge has no merit. The respondent Judge made a thorough perusal of the records of the cases and considered the exhaustive arguments of the parties which lasted for almost eight (8) hours before resolving the Motions to Dismiss/Acquit. The motion for reconsideration of the order denying the Motion to Dismiss/Acquit was denied because said motion contained the same grounds adduced in petitioners' Motions to Dismiss/Acquit. There is no showing that the respondent Judge denied the Motions to Dismiss/Acquit allegedly because of his opinion that the Rules of Court in omitting provisions for a demurrer to evidence in criminal cases prohibited it.

The petitioners are not precluded from presenting their evidence. In fact, the continuation of the hearing of both cases was set on September 22, 24, 27 and 29,1977 for the reception of the evidence for the defense.

It is true that an accused is presumed innocent until his guilt is shown beyond reasonable doubt. However, after the prosecution has adduced evidence, the constitutional presumption of innocence must yield to what has been so amply and persuasively demonstrated.[9]

The respondent Judge did not disregard any constitutional right of the petitioners. Said respondent Judge is presumed to have considered the evidence adduced by the prosecution when he denied the Motion to Dismiss/Acquit of the petitioners.

The Court cannot decide in this special civil action whether or not the evidence adduced by the prosecution has established beyond reasonable doubt the guilt of the petitioners. It is now petitioners' duty to neutralize the evidence of the State in order to maintain the presumption of their innocence of the crime of which they are charged.

In the absence of a clear showing that the respondent Judge has committed a grave abuse of discretion or acted in excess of jurisdiction, this Court will not annul an interlocutory order

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[9] *People vs. Andal*, G. R. No. L-39763, March 8, 1976, 70 SCRA 30.

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denying a motion to dismiss a criminal case. Appeal is the proper remedy of the petitioners in order to have the findings of fact of the respondent judge reviewed by a superior court.[10]

The petitioners' application for separate trial is meritorious. Section 8, Rule 119, Revised Rules of Court provides:

"SEC. 8. Trial of joint defendants. — When two or more defendants are jointly charged with any offense, they shall be tried jointly, unless the court in its discretion upon motion of the fiscal or any defendant orders separate trials. In ordering separate trials, the court may order that one or more defendants be each separately tried and the others jointly tried, or may order that several defendants be jointly tried in one trial and the others jointly tried in another trial or trials, or may order that each defendant be separately tried."

The foregoing provision does not state when the application for separate trial may be made. As a matter of law, the granting of a separate trial when two or more defendants are jointly charged with an offense is discretionary with the trial court.[11]

Considering the established circumstances, the cause of the State would not be jeopardized by the granting of separate trials to the accused. Inasmuch as the petitioners are charged with capital offenses, great care should be taken that the evidence of one should not prejudice the others. It appears that they have different defenses which may be antagonistic to each other. In the interest of justice, this Court holds that a separate trial may be granted even after the prosecution has finished presenting its evidence in chief. It is understood, however, that the evidence in chief of the prosecution shall remain in the record as evidence against all the petitioners. It is not necessary for the prosecution to adduce all over again its evidence in chief in each separate trial of the accused. In the separate trial of the accused, only the accused presenting evidence has to be present.

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[10] *Manalo vs. Mariano, et al.*, G.R. No. L-33850, January 22, 1976, 69 SCRA 80.

[11] *People vs. Go*, 88 Phil. 203, 211.

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WHEREFORE, the orders of the respondent judge denying the Motion to Dismiss/Acquit of the petitioners are hereby affirmed and the petition to prohibit the continuation of the trial of Criminal Case No. CCC-VII-1750-Rizal and Criminal Case No. CCC-VII-1751-Rizal and to compel the respondent judge to acquit the petitioners is denied. The petition for *habeas corpus* is also denied.

However, the order dated June 10, 1977 denying petitioners' motion for lifting of consolidation of trial and/or separate trial is set aside and the petition for separate trial for each accused is hereby granted. The evidence to be adduced by each accused-petitioner should not be considered as evidence against the other accused-petitioners. Only the accused presenting evidence is obliged to attend the trial. The prosecution does not have adduce all over again its evidence in chief which shall be considered against all the petitioners, without prejudice to the right of the prosecution to present rebuttal evidence in each separate trial.

SO ORDERED.

Makasiar, Antonio, Concepcion Jr., Guerrero, Abad Santos, and *De Castro, JJ.*, concur.

Teehankee, J., concurs in a separate opinion.

Fernando, J., took no part, one of the counsel, Attorney Norberto J. Quisumbing, being his brother in law.

Aquino and *Santos, J.*, took no part.

Barredo, J., reserves his vote.

Melencio Herrera, J., inhibiting herself for personal reasons.

TEEHANKEE, *J., concurring:*

I concur in the result. This is a special civil action for prohibition, *certiorari* and *mandamus* and/or petition for *habeas corpus* seeking *inter alia* the setting aside of respondent judge's orders denying petitioners' demurrers to the evidence presented by the prosecution and asking this Court to issue a writ of

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mandamus to respondent judge for a directed verdict of acquittal. Hence, the denial or dismissal of the petition simply means that the Court has found petitioners not to be entitled to the relief prayed for. (cf. Rule 65, section 8). It does not mean an affirmance of the correctness of the questioned orders denying petitioners' demurrer and motion to dismiss the case for insufficiency of the prosecution's evidence, for to cite one case, that of the accused Lopez, it does appear that even the complainant admits that he did not participate at all in any alleged act of rape and he would be entitled to a dismissal of the case upon submittal of the prosecution's case.

The denial or dismissal of the petition simply means as stated in the main opinion of Mr. Justice Fernandez that the Court adheres to the settled rule that it will not overrule in a special civil action the trial court's interlocutory order denying a motion to dismiss for failure or insufficiency of the prosecution's evidence since it *cannot* review in such special civil action the prosecution's evidence and decide here and now in advance that it has or has not established beyond reasonable doubt the guilt of the petitioners-accused. The orderly procedure prescribed by the Rules of Court is for the accused to present their evidence after which the trial court will on the basis of the evidence presented before it by *both* the prosecution and the defense render its judgment of conviction or acquittal. If the verdict be one of acquittal, the case ends there. If it be a verdict of conviction, then appeal is the proper remedy — and such appeal in order to have a review of the trial court's findings of *fact* lies within the exclusive appellate jurisdiction of the Court of Appeals.

I concur in the granting of separate trials for the petitioners-accused, as alternatively prayed for in the petition, for the reasons stated in the main opinion.