Republic of the Philippines
COURT OF APPEALS
Manila

I, **TERESITA R. MARIGOMEN**, Clerk of Court of the Court of Appeals, do hereby certify that I have examined the herein document, to wit:

> ***A certified true copy of the Resolution of the Court of Appeals in case CA-G.R. SP No. 116057, Panfilo M. Lacson vs. Regional Trial Court of Manila, Branch 18, et al., promulgated on March 18, 2011, and consisting of Sixteen (16) pages only.***

NOTE: This certification is not valid without the signatures of the proofreaders, verifier and the certifying officer as well as the seal of the Court on each and every page of this document.

That the same has been compared with the original on file in this Office, and that the same is a true and correct copy thereof.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the seal of this Court, this 21st day of March, 2011.

TERESITA R. MARIGOMEN
Clerk of Court

By:
MANUEL U. CERVANTES
Assistant Clerk of Court

P15.00 Documentary
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O.R. Nos. 7305458 / 7312299

Date: 03-21-11

Verified with the Original in the custody of the Reporter's Division
By: MAR 21 2011

Proofread By:

MARLYN A. MONTINOLA

Issued upon the request of:

LANIBEL T. RODELAS

Joey Osit
120 Rada St., L.V. Makati City

Republic of the Philippines
COURT OF APPEALS
Manila

SPECIAL SIXTH DIVISION

PANFILO M. LACSON, *Petitioner,*	***CA-G.R. SP NO. 116057***
- versus -	***Members:*** ***ENRIQUEZ, JR.,*** *Chairperson,* ****DICDICAN, and*** ***BATO, JR.,*** *JJ.*
REGIONAL TRIAL COURT OF MANILA, BRANCH 18, PEOPLE OF THE PHILIPPINES, ET AL., *Respondents.*	***Promulgated:*** MAR 18 2011 3:45

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RESOLUTION

BATO, JR., J.:

Submitted for resolution are the following incidents:

A. Petitioner's Urgent Motion For Clarification dated February 7, 2011. Private respondents filed their Comment dated February 9, 2011 to which petitioner filed his Reply dated February 14, 2011. Public respondents filed their Comment dated February 25, 2011. Petitioner filed his Motion For Leave To File Attached Reply dated March 10, 2011;

B. Cezar O. Mancao's II Motion For Leave To Intervene dated February 15, 2011 (With Motion To Admit Attached Motion For Reconsideration-In-Intervention dated February 15, 2011). Petitioner filed his Opposition dated February 24, 2011. Also, petitioner filed his Motion to Admit Attached Opposition Ad Cautelam (To: Cezar Mancao's Motion for Reconsideration-in-Intervention) dated March 14, 2011; and

* New Third Member vice Justice Macalino who inhibited per Raffle dated February 1, 2011.

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COURT OF APPEALS
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C. Private respondents' Motion For Reconsideration dated February 11, 2011 and public respondents' Motion For Reconsideration dated February 21, 2011. Petitioner filed his Consolidated Opposition dated March 2, 2011.

The Court will resolve first Cezar O. Mancao's II Motion For Leave to Intervene, signed by his counsel, wherein he alleged among others, that: 1) he "is among the accused, along with the petitioner in this case ('Lacson'), in Criminal Cases Nos. 10272905 and 10272906, entitled People of the Philippines vs. Panfilo M. Lacson, pending before the Regional Trial Court of Manila, Branch 18 (the 'RTC'), for the murders of Salvador 'Bubby' Dacer and Emmanuel Corbito"; 2) he "testified against Lacson via his affidavits; and, upon judicial testimonies taken before the RTC in support for his motion to discharged as state witness"; 3) petitioner assailed the RTC's Orders dated February 4, 2010 and July 23, 2010 but he was not impleaded as a party; 4) he learned from the media that the Court nullified the February 4, 2010 and July 23, 2010 Orders of the RTC and dismissed Criminal Cases Nos. 10272905 and 10272906; 5) the principal reason for the "Decision was, in sum, an express verdict that Intervenor himself and his testimonies are neither credible nor trustworthy"; 6) it is his "right as an accused to be afforded due process, which necessarily includes the right to have the value of his testimonies determined in a full-blown trial"; 7) his "a) Intervenor's rights as an accused and a witness, and his interest in the treatment of his extra-judicial and judicial testimonies, have been transgressed without due process in the present proceedings, and such rights and interest may not be defended, protected or restored if he is not allowed to intervene; b) Intervenor's rights may not be fully protected in a separate proceeding"; 8) his "intervention will not unduly delay or prejudice the adjudication of the rights of the original parties"; 9) "(W)hile intervention is, as a rule, allowed only before rendition of judgment by the trial court, the Court has in many cases permitted intervention even after judgment"; and 10) in the higher interest of justice the intervention should be allowed.

Cezar Mancao's II Motion For Leave To Intervene is not impressed with merit.

To begin with, intervention is a remedy by which a third party, not originally impleaded in a proceeding, becomes a litigant therein to protect a right which may be affected by the proceeding.[1] Under Section 1, Rule 12 of the 1997 Rules of Civil Procedure, intervention is allowed in civil proceedings if the intervenor "has legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court." In criminal proceedings, pursuant to Section 16, Rule 110 of the Revised Rules of Criminal Procedure, "(W)here the civil action for recovery of civil liability is instituted in the criminal action pursuant to Rule 111, the offended party may intervene by counsel in the prosecution of the offense."

The instant case is an offshoot of a criminal proceeding. As correctly pointed out by the petitioner in his Opposition dated February 24, 2011, only petitioner Lacson is the accused in Criminal Cases Nos. 10272905 and 10272906, entitled People of the Philippines vs. Panfilo M. Lacson, which is the subject of the instant petition for certiorari and prohibition. Cezar Mancao II is one of the accused in another case docketed as Criminal Cases No. 01-1969 entitled People of the Philippines vs. Michael Ray Aquino, et al. Cezar Mancao II is not one of the accused but is only a witness for the prosecution in Criminal Cases Nos. 10272905 and 10272906. As such, being a mere witness for the state, Cezar Mancao II has no legal personality or standing to participate and/or file motions/pleadings in the instant case. Well settled is the rule that "only the Solicitor General may bring or defend actions on behalf of the Republic of the Philippines, or represent the People or the state in criminal proceedings pending in the Supreme Court and the Court of Appeals."[2] Even in criminal cases where the offended party is the state, the private complainant's role is that of a witness for the prosecution and his interest is limited to the civil aspect of the case.[3] This is because in criminal cases classified as public crimes the

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1 *First Philippine Holdings vs. Sandiganbayan*, G.R. No 88345, February 1, 1996.
2 *Republic vs. Partisala*, 118 SCRA 320, cited in *Joselito Narciso vs. Flor Marie Sta. Romana Cruz*, G.R. No. 134504, March 17, 2000.
3 *Ceferino Soriano vs. Hon. Adoracion Angeles*, G.R. No. 109920, August 31, 2000, *Rodriguez vs. Gatiane*, 495 SCRA 368.

"parties are the People of the Philippines as plaintiffs and the respondents as the accused."[4] Consequently, not being the proper party or real party in interest, Cezar Mancao II has no legal personality to intervene and to file a motion for reconsideration in the instant case. Hence, his Motion for Reconsideration-In-Intervention dated February 15, 2011 should be stricken or expunged from the records in the instant case.

As regards private respondents' Motion for Reconsideration dated February 18, 2011 and public respondents' Motion for Reconsideration dated February 21, 2011, taking into account petitioner's Consolidated Opposition dated March 2, 2011, after a painstaking evaluation of the arguments advanced by the parties, We find no cogent or compelling reason to reconsider Our Decision promulgated on February 3, 2011. Discussing again the *ratio decidendi* of Our Decision would be to belabor the issues *ad infinitum*. Hence, We need to discuss only the other incidental or procedural issues raised by the parties.

First. On the issue of forum-shopping. Private respondents assert that the instant petition for certiorari and prohibition should have been summarily dismissed on the ground of forum-shopping. For them, "when Petitioner filed his Petition for Certiorari and Prohibition with the Honorable Court, Petitioner had a pending motion for reconsideration with the trial court that raised the same issues and prayed for the same reliefs as those raised and prayed for in this Petition before the Honorable Court."

We are not persuaded.

The test in determining the presence of forum-shopping is whether in the two or more cases pending there is identity of (a) parties, (b) rights or causes of action and (c) reliefs sought.[5] In other words, forum-shopping exists where the elements of *litis pendentia* are present or where a final judgment in one will amount to *res*

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[4] *People of the Philippines and Ignacio Salmingo vs. Edwin D. Velez, et al.*, G.R. No. 138093, February 19, 2003.

[5] *Employees Compensation Commission vs. Court of Appeals*, G.R. No. 115858, June 28, 1996; *Valencia vs. Court of Appeals*, G.R. No. 111401, October 17, 1996.

judicata in the other.[6]

Here, there is no forum-shopping. As correctly argued by the petitioner, the subject matter, issues and reliefs sought in the instant petition for certiorari and prohibition and that of the (then) pending motion for reconsideration with the trial court are different and distinct from each other. In the instant petition, the subject matter deals with the trial court's findings of probable cause for the issuance of the warrants of arrest and the issue is whether or not the trial court committed grave abuse of discretion. Accordingly, the reliefs sought is the nullification of the warrants of arrest and the dismissal of the Information for lack of probable cause. On the other hand, in the motion for reconsideration the subject matter is the denial of petitioner's motion for reinvestigation dated May 20, 2010 and the issue is the propriety of allowing him to submit additional exculpatory evidence including the November 19, 2009 and January 28, 2010 testimony of Glenn Dumlao. As relief, petitioner prayed that the warrant of arrest be recalled and that the trial court direct the Department of Justice (DOJ) to conduct a reinvestigation. Clearly, the resolution of the motion for re-investigation would not constitute *res judicata* on the instant petition.

Second. On the issue of whether or not the respondent Court committed grave abuse of discretion in finding probable cause for the issuance of warrants of arrest. Public respondents argue that the trial court did not commit grave abuse of discretion because it made a "personal and circumspect evaluation of the evidence before issuing the Order of February 4, 2010." Also, both respondents argue that there is probable cause for the issuance of warrants of arrest and that the credibility of Cezar Mancao II should be determined during the trial.

We are not persuaded.

A cursory perusal of the assailed Order dated February 4, 2010 will show that the trial court failed to properly evaluate the evidence

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[6] *First Philippine International Bank vs. Court of Appeals*, G.R. No. 115849, January 24, 1996; *PAL Employees Savings and Loan Association vs. Philippine Airlines*, G.R. No. 161110, March 30, 2006.

on records. In fact, the trial court did not consider the witnesses for the petitioner and the Counter-Affidavit Ex Abudante Cautelam he submitted which were attached to the records. As held in the case of *Teresita Tanghal Okabe vs. Hon. Pedro De Leon Gutierrez*[7], in determining the existence of probable cause for the issuance of a warrant of arrest, the trial court is required to consider the "counter-affidavit of the accused and his witness." Clearly, in not applying the aforesaid ruling the trial court committed grave abuse of discretion.

Likewise, respondents' argument that the credibility of Cezar Mancao II should be determined during the trial deserves scant consideration. In several cases the Supreme Court considered and evaluated the credibility of witnesses in a petition for certiorari and prohibition. Thus, in *Allado vs. Diokno*[8] and *Salonga vs. Pano*[9], the Supreme Court considered and evaluated the credibility of the principal witness for the prosecution in order to determine the existence of probable cause for the issuance of a warrant of arrest before trial. Also, in *Okabe vs. Hon. Pedro De Leon Gutierrez*[10], the Supreme Court, in ruling that the "respondent judge committed grave abuse of discretion amounting to lack or excess of jurisdiction in finding probable cause for the petitioner's arrest" considered the credibility of the private complainant (Marumaya) and the reliability of her witnesses (Hermonega Santiago and Marilette Izuma) as well as the counter-affidavit of the accused.

Third. On the issue of whether or not the Court erred in dismissing Criminal Cases Nos. 10272905 and 10272906. Public respondents assert that the Court erred in dismissing the criminal cases because petitioner did not appeal the finding of probable cause by the DOJ panel so he cannot question the existence of probable cause for his indictment. Similarly, private respondents argue that the "Court stepped out of bounds when it overrode the Department of Justice's finding of probable cause to hold Petitioner for trial and dismissed the criminal cases on the ground of insufficient evidence to sustain the issuance of arrest warrants." For them, the Court should

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7 G.R. No. 150185, May 27, 2004.
8 232 SCRA 193.
9 134 SCRA 438.
10 *Supra.*

not dismiss an otherwise valid information for want of evidence.

We are not persuaded.

As borne by the records, petitioner filed on January 7, 2010 an Omnibus Motion for Consolidation and Judicial Determination of Probable Cause assailing the finding of probable cause made by the DOJ panel which resulted to the filing of the two Informations for murder against petitioner. At any rate, as correctly cited by the petitioner, Section 6 of Rule 112 of the Rules of Criminal Procedure explicitly allows the immediate dismissal of the case if the evidence on record clearly fails to establish probable cause for the issuance of a warrant of arrest. As held in the case of *People vs. Sandiganbayan*[11], "(T)he trial court is mandated to immediately dismiss the case upon finding that no probable cause exists to issue a warrant of arrest." Likewise, in the case of *Crispin B. Beltran vs. People of the Philippines*[12] consolidated with *Ladlad, et al. vs. Velasco, et al.*[13] and *Maza, et al. v. Gonzalez*[14], decided on June 1, 2007, despite the fact that Crispin Beltran did not elevate the DOJ findings of probable cause and the RTC judge sustained the findings of probable cause for Rebellion against Crispin Beltran, the Supreme Court in a petition for prohibition and certiorari ordered the dismissal of the Information for Rebellion for lack of probable cause. This is so because as held in the case of *Allado vs. Diokno*,[15] "(T)here is no reason to hold the accused for trial and further expose him to an open and public accusation of the crime when no probable cause exist."

The last incident to be resolved is petitioner's Urgent Motion For Clarification dated February 7, 2011, wherein he alleged inter alia, that despite the Court's Decision dated February 3, 2011, nullifying the trial court's Orders for the issuance of arrest warrants against him, Secretary of Justice Leila de Lima had issued statements[16] to the effect that he can still be arrested because the

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[11] G.R. No. 144159, September 29, 2004.
[12] G.R. No. 175013.
[13] G.R. No. 172070-72.
[14] G.R. No. 175013.
[15] *Supra.*
[16] Published in the February 5, 2011 issue of the Philippine Daily Inquirer, Annex "A" to the Urgent Motion For Clarification.

warrant of arrest is still valid and subsisting; that Secretary Leila de Lima was quoted in the newspaper saying that based on her 'stock knowledge' of the rules of court "the arrest warrant stood unless the CA specifically said that 'the nullification and setting aside of the warrant is immediately final and executory'"; that the nullification was supposedly not 'immediately executory' as the Decision does not expressly so state and respondents can file a motion for reconsideration or appeal to the Supreme Court; that also the PNP spokesperson (Annex "B" to the Urgent Motion for Clarification) declared that the PNP would "push on with the manhunt" against him and that it will 'wait for the court of origin to withdraw the arrest warrant'; that clarification is urgently needed because the position taken by the Secretary of Justice and the PNP is a continuing threat to his liberty and defeats the very essence of the Court's ruling that there is no probable cause against him and he should be spared of the pain and agony of trial and arrest; that it is of no moment that the dispositive portion of the February 3, 2011 Decision did not explicitly grant an injunction for it is obvious that from the nullification of the Orders issuing the arrest warrants and dismissal of the criminal cases the respondents are enjoined from causing the arrest and prosecution of petitioner; that the arrest warrants against petitioner are deemed automatically lifted when the criminal cases against him were dismissed; that the nullification of the arrest warrants, like judgments in actions for injunction under Section 4 of Rule 39, is immediately executory and cannot be stayed by an appeal; that when the Court granted his petition for certiorari and prohibition his prayer for the Court to permanently enjoin the respondents from enforcing the arrest warrants was likewise granted by the Court; that considering that the Court dismissed the informations there is no basis to arrest him or put him in custody because under Section 5 of Rule 117 (Rules of Criminal Procedure) if the information is dismissed or quashed the accused in custody "shall be discharged"; that there is no basis to deprive him of his liberty pending an appeal or motion for reconsideration because the Court has nullified the trial court's Orders for the issuance of arrest warrants; that the position taken by the Secretary of Justice (that the nullification of arrest warrant should be held in abeyance pending respondents' motion for reconsideration or appeal) is totally inconsistent with the urgency of the need for relief

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from the orders of arrest; that although the respondents may still file a petition for review under Rule 45 with the Supreme Court the pendency of such petition cannot stay the execution of the judgment unless a preliminary injunction is issued by the Supreme Court. By way of relief, petitioner prayed that a clarification be issued to the effect that the "nullification or setting aside is immediately effective, executory and enforceable, without further action from the trial court and regardless of any motion for reconsideration or appeal which may be filed by the other parties."

In their Comment dated February 25, 2011, public respondents assert that the Decision dated February 3, 2011 is not immediately final and executory because the quashal of the Informations and the nullification of the warrants will attain finality and becomes executory only when no appeal or motion for reconsideration is filed within the reglementary period under Rule 51 of the 1997 Rules of Civil Procedure and Rule VII of the Revised Internal Rules of the Court of Appeals; that Section 4, Rule 39 of the 1997 Rules of Civil Procedure applies to an injunction as a main action and not to a petition for certiorari and prohibition with ancillary prayer for an injunctive writ; that petitioner cannot invoke Section 5 of Rule 117 of the Rules of Criminal Procedure because he is not in custody and he has not filed with respondent court a motion to quash the Informations in Criminal Cases Nos. 10272905 and 10272906; that the Decision directing the dismissal of the criminal case against petitioner is not yet final and executory because respondents filed their motions for reconsideration within the reglementary period; that the Decision dated February 3, 2011 is a final order and not an interlocutory order; that the warrant of arrest remain in force and continue to be a lawful basis for the curtailment of his liberty; that the presumption of innocence enjoyed by the petitioner is no way violated by the continued enforcement of the warrants of arrest or his temporary incarceration while the criminal cases are pending; that the immediate execution of the Decision nullifying the warrants of arrest is not necessary and appropriate because petitioner is at large; that petitioner's arguments that the filing of a petition for review is no assurance that the Supreme Court will grant a preliminary injunctive relief is speculative and based on conjectures. Accordingly, public respondents prayed

for the denial of petitioner's Urgent Motion for Clarification dated February 7, 2011.

Likewise, in their Comment dated February 9, 2011, private respondents prayed for the denial of petitioner's Urgent Motion for Clarification on the ground that there is no ambiguity in the Decision dated February 3, 2011; that the Decision did not expressly provide for its immediate execution; that based on Sections 10 and 11 of Rule 51 of the Rules of Court, in relation to Section 1 of Rule VII of the 2002 IRCA, except where the Court's judgments, final order or resolution is ordered to be immediately executory, the motion for its execution may only be filed in the proper court its entry in the book of entries of judgments; that entry of judgment can be made only after a decision becomes final or no appeal or motion for reconsideration is filed; that the Court's Decision has not yet become final and may not be executed because respondents can file a motion for reconsideration or appeal to the Supreme Court; that the Court has no authority to issue immediate execution pending appeal of its own decision as ruled in the case of *Heirs of the Late Justice Jose B.L. Reyes vs. Court of Appeals*[17] which also held that the Court's "display of keen interest in the immediate execution of its decision xxx makes the concerned members of the Court of Appeals liable to disciplinary action and the imposition of appropriate penalty"; that petitioner cannot validly isolate the portion nullifying the arrest warrants from the rest of the Court's Decision dated February 3, 2011 and argue that such nullification "is by nature, an interlocutory order" and consequently "immediately executory"; that there is no merit to petitioner's claim that "the arrest warrants against petitioner are deemed automatically lifted when the criminal cases against him were dismissed."

In his Reply dated March 10, 2011, petitioner asserts, citing *Converse Rubber Corporation vs. Jacinto Rubber & Plastics Co.*[18], that an action with a prayer for injunction partakes of the nature of an action for injunction within the contemplation of Section 4 of Rule 39; that the instant petition includes a prayer for both preliminary and permanent injunction; that while preliminary injunction was not

[17] 338 SCRA 282.
[18] 97 SCRA 158.

granted, the Decision ultimately granted him permanent injunction from arrest and prosecution as a necessary consequence of the granting of the petition, the nullification of the assailed Orders issuing warrants of arrest, and the dismissal of the criminal cases; that the clarification sought by the petitioner refers to the interlocutory aspect of the Decision dated February 3, 2011; that a single decision can have both an interlocutory aspect and a final and executory aspect[19] or both an interlocutory aspect and a final and appealable portion[20]; that in criminal cases, with the dismissal or quashal of the information, the arrest warrant is automatically lifted, regardless of the pendency of a motion for reconsideration or appeal; that he is not speculating or pre-empting the respondents or the Supreme Court; and that the possibility of further appeal to the Supreme Court cannot be invoked by the respondents as basis for continuing to hold hostage the liberty of petitioner.

The pivotal issue for resolution is whether the warrants of arrest issued against the petitioner can still be implemented by the respondent court despite the Decision dated February 3, 2011 nullifying the warrants of arrest and the dismissal of Criminal Cases Nos. 10272905 and 10272906.

After a painstaking evaluation of the arguments of the parties, taking into account the pertinent law and jurisprudence, We rule that the arrest warrants issued against petitioner cannot be implemented unless it is reinstated by the Supreme Court.

Firstly, it must be stressed that the Order dated February 4, 2010 of then RTC-Branch 18 Judge Myra V. Garcia-Fernandez finding probable cause and directing the issuance of warrants of arrest against petitioner is an interlocutory order. It is an interlocutory order for the simple reason that it is issued as an incident to the main case pending in court. An order is interlocutory if it does not dispose of the case, but leaves something more to be done by the court upon its merits.[21] Being an interlocutory order, the issuance of arrest warrant is immediately executory. Conversely, the Order of the Court

[19] *Marcelo vs. De Guzman*, G.R. No. L-20977, June 29, 1982.
[20] *Briones vs. Henson-Cruz*, G.R. No. 159130, August 22, 2008.
[21] *BA Finance Corporation vs. Court of Appeals*, 229 SCRA 566.

nullifying and setting aside the arrest warrants for lack of probable cause should also be considered immediately executory. Otherwise, if the nullification of a warrant of arrest is not immediately executory as advocated by the respondents, we will have a grotesque and ludicrous situation where the accused could be arrested and imprisoned despite the nullification of the arrest warrant by a higher court.

Secondly, petitioner filed the instant petition for certiorari and prohibition with application for the issuance of a temporary restraining order and writ of preliminary injunction, assailing the validity of the Orders dated February 4, 2010 and July 23, 2010. As relief, petitioner prayed for the following: 1) the immediate issuance of a temporary restraining order against respondents, their successors, agents and other persons acting under their authority, restraining them from enforcing the warrants of arrest issued against petitioner; 2) the issuance of a preliminary injunction and thereafter a permanent injunction; 3) the nullification and setting aside of the assailed Orders and the warrants of arrest issued against petitioner; 4) the dismissal of Criminal Cases Nos. 10272905 and 10272906; and 5) for other just and equitable reliefs. Although, in Our Resolution dated November 26, 2010, We denied the issuance of a temporary restraining order and/or preliminary injunction, nonetheless, after a thorough evaluation of the arguments of the parties and the pertinent law and jurisprudence, on February 3, 2011, We rendered a Decision granting the instant petition, nullifying and setting aside the Orders dated February 4, 2010 and July 23, 2010 of public respondent court finding probable cause for the issuance of warrants of arrest against petitioner, and ordered the dismissal of the Informations in Criminal Cases Nos. 10272905 & 10272906.

Now, with the granting of the instant petition which also expressly nullified and set-aside the Orders dated February 4, 2010 and July 23, 2010 as well as the dismissal of the criminal cases filed against petitioner, under the circumstances, despite the fact that the People of the Philippines can still elevate the matter to the Supreme Court, out of respect to the Second Highest Court of the land and following the hierarchy of courts, the respondent court and its agents

or other persons acting under its authority should refrain from enforcing or implementing the arrest warrants issued against petitioner. It would not be prudent on the part of the respondents to implement the arrest warrants we nullified and set-aside in Our Decision dated February 3, 2011. While Our Decision is not yet final and executory, until Our Decision will be reversed and set-aside by the Supreme Court and the arrest warrants will be reinstated, it would not be proper and prudent to arrest the petitioner.

Thirdly, under the circumstances, arresting the petitioner may constitute arbitrary arrest that will be a violation of his right to liberty guaranteed under Sections 1[22] & 2[23] of the Bill of Rights of the 1987 Constitution. Also, with the nullification of the arrest warrant and the dismissal of the criminal cases, a public officer who will arrest and detain petitioner may be criminally liable for arbitrary detention. The crime of arbitrary detention is committed by a public officer who, without legal grounds, detains a person.[24]

Fourthly, between the right of the state to enforce the arrest warrant we nullified and set-aside for lack of probable cause and the constitutional right to liberty of the petitioner, the latter prevails. Thus, in the case of *Allado vs. Diokno*,[25] which was cited in the case of *Sales vs. Sandiganbayan, et al.*[26], the Supreme Court categorically declared that:

> "The sovereign power has the inherent right to protect itself and its people from vicious acts which endanger the proper administration of justice; hence, the State has every right to prosecute and punish violators of the law. This is essential for its self-preservation, nay, its very existence. But this does not confer a license for pointless assaults on its citizens. The right of the State

[22] Section 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

[23] Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

[24] *Milo vs. Salanga*, 152 SCRA 113.

[25] *Supra.*

[26] G.R. No. 143802, November 16, 2001.

> to prosecute is not a carte blanche for government agents to defy and disregard the rights of its citizens under the Constitution. Confinement, regardless of duration, is too high a price to pay for reckless and impulsive prosecution. Hence, even if we apply in this case the 'multifactor balancing test' which requires the officer to weigh the manner and intensity of the interference on the right of the people, the gravity of the crime committed and the circumstances attending the incident, still we cannot see probable cause to order the detention of petitioners.
>
> The purpose of the Bill of Rights is to protect the people against arbitrary and discriminatory use of political power. This bundle of rights guarantees the preservation of our natural rights which include personal liberty and security against invasion by the government or any of its branches or instrumentalities. Certainly, in the hierarchy of rights, the Bill of Rights takes precedence over the right of the State to prosecute, and when weighed against each other, the scales of justice tilt towards the former. Thus, relief may be availed of to stop the purported enforcement of criminal law where it is necessary to provide for an orderly administration of justice, to prevent the use of the strong arm of the law in an oppressive and vindictive manner, and to afford adequate protection to constitutional rights."

Fifthly, the submission of public respondents that the warrant of arrest remain in force and continue to be a lawful basis for the curtailment of petitioner's liberty and that the presumption of innocence enjoyed by the petitioner is in no way violated by the continued enforcement of the warrants of arrest or his temporary incarceration while the criminal cases are pending, is oppressive to the constitutional right to liberty of the petitioner since it would mean that, despite Our findings of absence of probable cause to justify the issuance of arrest warrants and the dismissal of the criminal cases, petitioner should be arrested and imprisoned unless the Supreme Court decides to sustain Our Decision. "Confinement, regardless of duration is too high a price to pay for reckless and impulsive prosecution."[27] Also, prolonged detention, under the circumstances may be offensive to petitioner's constitutional right to due process of law.

[27] *Allado vs. Diokno*, supra.

Sixthly, considering Our finding that based on the record there is no probable cause to issue arrest warrants and to file two counts of murder against petitioner, pursuant to Section 6 of Rule 112 of the Rules of Criminal Procedure which explicitly provides for the immediate dismissal of the case if the evidence on record fails to establish probable cause, consistent with the constitutional right to liberty of petitioner, the dismissal of the criminal cases filed against petitioner, by operation of law, automatically results to the lifting of the arrest warrants.

Seventh, based on Our ruling that there is no probable cause for the issuance of the arrest warrants, applying by analogy the provisions of Section 5 of Rule 117 of the Rules of Criminal Procedure that if the court sustains a motion to quash the information "the accused, if in custody, shall be discharged", by parity of reasoning, since We ordered the dismissal of the two Informations for murder due to the absence of probable cause, the petitioner who is not in custody could no longer be placed in custody. It would be absurd and anomalous to implement the arrest warrants We nullified and set aside. In other words, there is no legal basis to arrest the petitioner.

Eighth, We nullified the arrest warrants and dismissed the unfounded charge against herein petitioner for two counts of murder a non-bailable offense, We should now allow the petitioner who is an incumbent Senator of the Republic of the Philippines to perform his job in the Senate. The threats to arrest petitioner would not only be a violation of his constitutional right to liberty, but would also be a deprivation of the sovereign right of the people particularly the millions of electorates who voted him to office the right of representation in the Senate.

ACCORDINGLY, petitioner's Urgent Motion for Clarification dated February 7, 2011 is ***GRANTED***. The nullification of the arrest warrants is hereby declared immediately executory. All the respondents, their agents, any peace officer or law enforcer, or anybody acting on their behalf, are permanently enjoined from enforcing and implementing the arrest warrants issued in Criminal

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Cases Nos. 10272905 & 10272906.

Private respondents' Motion for Reconsideration dated February 11, 2011 and public respondents' Motion for Reconsideration dated February 21, 2011 are ***DENIED*** for lack of merit.

Cezar Mancao's II Motion for Leave to Intervene dated February 15, 2011 is ***DENIED*** for lack of merit and his Motion for Reconsideration-In-Intervention dated February 15, 2011 is EXPUNGED from the records.

The Notice of Change of Address dated March 4, 2011 of the Onkingko Manhit Custodio & Acorda Law Offices is NOTED.

SO ORDERED.

RAMON M. BATO, JR.
Associate Justice

WE CONCUR:

JUAN Q. ENRIQUEZ, JR.
Associate Justice

ISAIAS P. DICDICAN
Associate Justice

G.R. No. 730458
G.R. No. 731299
MAR 21 2011

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