

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, CARINA L.  
DACER, SABINA DACER-  
REYES, EMILY DACER-  
HUNGERFORD, and  
AMPARO DACER-HENSON,**  
*Respondents.*

**Promulgated:**

**FEB 03, 2011**

x ----- x

**DECISION**

**BATO, JR., J.:**

This is a petition for certiorari and prohibition, under Rule 65 of the 1997 Rules of Civil Procedure, to annul and set-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 Senator Panfilo Lacson (petitioner for short) who was implicated in the Dacer-Corbito case and charged of two counts of murder for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

The pertinent factual and procedural antecedents, as culled from the pleadings and annexes submitted by the parties, are as follows:

---

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

In the morning of November 24, 2000, a prominent public relations practitioner in the person of Salvador “Bubby” Dacer, on board his white Toyota Revo, together with his driver Emmanuel Corbito, were abducted along Zobel Roxas St. in the City of Manila.<sup>1</sup> Two days after the abduction, Mr. Edwin Fargas, the spokesperson for the Dacer family, requested the NBI Director to conduct an investigation. After almost five months of police work, the NBI filed several complaints for kidnapping (I.S. No. 2001-247) and double murder (I.S. Nos. 2001-311 & 2001-347) against several persons with the Department of Justice (DOJ).

On May 11, 2001, after a preliminary investigation, the DOJ panel of prosecutors<sup>2</sup> filed an Information for double murder against the following persons, namely: Jimmy L. Lopez, Alex B. Diloy, William L. Lopez, SPO4 Marino Soberano, SPO3 Mauro Torres, SPO3 Jose Escalante, Crisostomo M. Purificacion, Rigo De Pedro, Renato Malabanan, Jovencio Malabanan, Margarito Cueno, Rommel Rollan, P/Supt. Glen Dumlao, P/C.Insp. Vicente Arnado, P/Insp. Roberto Langcaun, SPO4 Benjamin Taladua, SPO1 Rolando Lacasandile, P/Insp. Danilo Villanueva<sup>3</sup>, SPO1 Mario Sarmiento, SPO1 William Reed, PO2 Thomas J. Sarmiento, SPO1 Ruperto A. Nemen, John Does and James Does.<sup>4</sup> The case, docketed as Criminal Case No. 01-191969, was raffled to RTC-Branch 41 of Manila. Later, the case was transferred to RTC-Branch 18 of Manila after the inhibition of Judge Rodolfo Ponferrada.

One of the accused, P/Supt. Glen Dumlao, after he was arrested, executed on June 12, 2001 a handwritten Affidavit<sup>5</sup>, subscribed before Quezon City Asst. Prosecution II Nilo A. Peñaflor, wherein he narrated his actual knowledge and recollection of the Dacer-Corbito case, viz:

**“A F F I D A V I T**

---

<sup>1</sup> Rollo, p. 288-311, DOJ Resolution dated May 11, 2001.

<sup>2</sup> Made up of State Prosecutor II Ruben B. Carretas, State Prosecutor Geronimo L. Sy and Prosecution Attorney Juan Pedro C. Navera.

<sup>3</sup> Dropped as an accused in the Order dated August 17, 2001 of the RTC.

<sup>4</sup> Ibid., p. 12.

<sup>5</sup> Rollo, pp. 337-345.

I, P/SUPT. GLENN DUMLAO y GALAPON, of legal age, married and a resident of Bgy. Villa Sur, Maddela, Quirino, after having been sworn to in accordance with law do hereby depose and say:

1- That I am a police officer by profession and the former Deputy Chief for Operation of the Task Group Luzon of the defunct Presidential Anti-Organized Crime Task Force (PAOCTF);

2- That I am narrating my actual and truthful knowledge and recollection about the DACER-CORBITO case:

In the second or third week of January 1999, I was given a tasking by P/SSUPT. MICHAEL RAY B. AQUINO, the then Chief of Operations Division, PAOCTF, to conduct discreet Background Investigation on a certain personality which later turned-out to be MR. SALVADOR "BUBBY" DACER. For this purpose, he gave me a calling card of the subject and instructed me to withdraw Twenty Thousand Pesos (P20,000.00) from the Finance and Logistic Division. I, then, proceeded to Manila Hotel, checked-in to one of its room (nr can't remember) using the alias IRWIN CHAVEZ.

In (sic) my first day, I was able to locate the two (2) units/rooms being occupied by MR. DACER and his staff (nr of room can't remember but I know its location). The next instruction to me by P/SSUPT. AQUINO, having zeroed in the rooms, is to surreptitiously enter the rooms and take whatever documents I can and to monitor personalities/visitors of our subject.

In my desire to accomplish said tasking, I tried hard to go back and forth in the vicinity of the rooms but it is really hard for it is situated in the dead-end of the right-wing of Manila Hotel. It is equipped with a camera or a sort of monitoring device at the top of the main door. There was a wooden bench in front of the other room but I can't stay long.

Since I cannot find a good cover to be there and a good reason to enter any of the rooms/office, I reported to P/SSUPT. AQUINO the need to recruit an insider or employee of Manila Hotel preferably (sic) security guard or janitor. I also relayed to him that staying in the hotel as a guest is not feasible either as the room I occupied was not strategically co-located with my subject. The next days, I endeavored to talk with the waiters at the coffee shop, attendants at the mini-stores on the ground floor and security guards and janitors purposely to spot possible recruits. But I later

ruled it as risky since these employees might still be loyal to the former Director of the Hotel.

With negative development, I again reported to P/SSUPT. AQUINO and there he told me: “Kung di kaya, sunugin na lang o pasabugin, masira man lang ang mga dokumento at computers nila.” I answered: “Tingnan ko Sir.” Then I leave (sic). Personally not amenable and convince (sic) with such instruction, I just went to the Hotel irregularly for two (2) weeks and hang around at its lobby and soon with the influx of other cases and development of my on-going projects, this tasking had waned. Parang nakalimutan since I was then delivering positive results in other cases I am handling. Then I went to Bangkok, Thailand to undergo a forty-five days (45) Criminal Investigation Course at the International Law Enforcement Academy (CILEA) from 16 August – 27 September 1999.

From schooling, I worked on Robbery/Hold-up cases and delivered positive results. From here on, I was pre-occupied with taskings from my Chief, TG Luzon regarding cases and complaints endorsed to our office.

Sometimes (sic) on the month of October 2000, I was asked by P/SSUPT. AQUINO regarding my previous CI efforts' result of MR. DACER and told me to revive such effort. I answered that I'm handling a CASEOP and is nearing its execution phase. With that reason, he instructed me to turn it over to C/INSP. VICENTE ARNADO. The next day, C/INSP. ARNADO approached me and relayed the guidance of P/SSUPT. AQUINO. I told that I was only able to locate the two (2) rooms being rented by MR. DACER at the Manila Hotel. He asked me vehicles being used, but I have not seen any as it is being parked at the back of the hotel.

In one occasion in the same month of October 2000, while I was at the Administrative Office TASK GROUP LUZON, P/SSUPT. CEZAR MANCAO called me in his office and inquire (sic) from me if I know the tasking of C/INSP. ARNADO written in the dispatch form as “Special Operations”. I answered him I don't know. P/SSUPT. MANCAO was concerned on the funding as well as the use of his men since C/INSP. ARNADO and his team members are under TG LUZON. P/SSUPT. MANCAO then asked me to go with him at the Operations Division where P/SSUPT. AQUINO was the Chief. While en route to that office, he uttered: “Kung sila ang may tasking dapat sila ang magpondo. Ang liit na nga ang pera natin, tapos tao pa natin ang gagamitin.” When we reached the office of P/SSUPT. AQUINO, P/SSUPT. MANCAO asked: “Noy, ano ba

itong Special Operations na ito?” P/SSUPT. AQUINO answered: “Kay kuwan yan nr ... DACER. Ok na yan sa Malacañang, pinag-usapan na yan.” P/SSUPT. MANCAO again queried: “Clear ba ito sa boss natin, kay 71?” (referring to Gen. Lacson). P/SSUPT. AQUINO answered: “Sila na daw bahala sa kanya.”

We then went out of the office and P/SSUPT. MANCAO commented: “Si Ninoy talaga ... totoo kaya yon?” He then asked me what I am doing and told him, I am supervising the effort of C/INSP. ADANGLAO re- Drug Syndicates which we later linked to CVA kids kidnapping.

On November 24, 2000, there was a scheduled promotional board meeting prepared by Chief, Administrative Division, C/INSP. EMMA EBLANAN. This meeting was to tackle who would be included in the recommendee for promotion as a result of the Alabang Encounter with Robbery/Hold-up Group in which I was the Project Officer. While we were waiting for other members to arrive (supposedly it would start 10:00 a.m.), P/SSUPT. MANCAO, also a member of the board asked if the members are already complete. I told him not yet, then he invited me to his office: “Don muna tayo sa taas magtambay,” he said.

At around 11:00 – 11:30 a.m. on same day, while we were talking, (I and P/SSUPT. MANCAO), I received a text message from P/SSUPT. AQUINO which read: “Nakuha na si DELTA. Paki T.I. mo siya coordinate with 19 (referring to C/INSP. ARNADO). Huwag kang magdala tao mo taga Bicol.” I immediately told P/SSUPT. MANCAO and asked him: “Ano sir?” He answered. “Sige puntahan mo na. I-update mo ako ng resulta ng T.I. mo.”

I went down from the Office of P/SSUPT. MANCAO then called-up P/SSUPT. AQUINO and asked him: “Sir, ano ang itatanong ko?” He answered: “Itanong mo kung ano ang pinag-usapan nila ni Presidente, tapos ano ang balak ng oposisyon, lalo na si FVR at Almonte. Iligaw mo para di niya alam kung sino ang kumuha sa kanya.”

I proceeded to the parking lot in front of PAOCTF Hqs. My issued vehicle, a blue Mitsubishi Adventure with Plate # WHJ-309, was then going out of the compound so I told the guard on duty to stop it. I coped up with my vehicle and saw C/INSP. ARNADO on board. He immediately told me: “Sige hiramín ko ang sasakyan mo, nakuha na ng mga bata ko yong subject namin.” I answered: “May pinapunta si - 88 (P/SSUPT. AQUINO) contact lang daw kita,

T.I. daw ako ng tao.” He answered: “Yon na yon sir, tamang-tama, sama na tayo.” But when I saw my driver, PO3 Nilo Escanio (he is a Bicolano), I told him: “Esca, tulungan mo na lang yong team natin sa pag B.I. Tanungin mo kay SPO4 Nuas yong mga targets.” “Kami na ang bahala dito.” The guy obliged and disembarked. C/INSP. ARNADO enthused: “Wala na tayong driver sir?” I told him: “Instruction ni 88 (P/SSUPT. AQUINO, huwag magdala ng Bicolano.” Then C/INSP. ARNADO told me: “Sir, Cavite pa ang punta natin.” With that, I looked for another driver and I spotted PO3 Larry Ambre and C/INSP. TANNACAN who told me that PO3 Ambre was at the back of PAOCTF office near PNP Gym.

C/INSP. ARNADO instructed him to drive to Cavite. While going out from Camp Crame to EDSA, C/INSP. ARNADO was calling his troops thru his cellphone then told me: “traffic daw sa Coastal Road, mag SLEX na tayo sa Carmona exit.” PO3 Larry Ambre obliged. Then he called someone and relayed: “Sir, nag-aantay yong tropa ko sa likod ng Metrobank, wala pa daw yong mga tao mo doon.” When they finished, I asked: “Sino yon?” He answered: “Si 17 sir.” (Referring to P/SSUPT. TEOFILO VINA). “Pinapunta ko sa lugar,” Then we slept on the way.

When we finally arrived on or about 1-2 PM at Dasmariñas, Cavite, It told my driver to park in the shaded area and just wait inside the vehicle and sleep while waiting for me. C/SSUPT. ARNADO immediately went ahead together with his troops and after sometime, I followed suit. I saw one (1) white Toyota Corolla - engine on, one white Lite Ace – engine on and one (1) Toyota Revo parked at the back of the establishment thereat. Also, I saw C/INSP. ARNADO now talking with S/INSP. ROBI LANGCAUON, PO3 LACASANDILE, SPO1 REED & SPO4 TALADUA.

Again, C/INSP. ARNADO called-up thru his cellphone. “Sir, wala pa yong mga bata mo.” After their brief conversation, I asked: “Sino ba yon?” He answered, “17 sir, parating na daw sila.” After a while, PO3 Sarmiento and Rigor arrived with some foods pack in white styrofor. C/INSP. ARNADO & S/INSP. LANGCAUON went inside the Lite-Ace Van. After around ten (10) minutes they came out and said: “Walang masabi sir. Ikaw T.I. mo.” I told them: “Kain muna tayo.” And I instructed Rigor to give one (1) pack of food to my driver.

After eating, I went inside the van and saw two (2) blindfolded malefactors. I also saw SPO3 Nemeño who stood as guard inside. I talked to the malefactors seated in the middle

portion wearing all white attire. I asked his name and told me MR. BUBBY DACER. I asked what was instructed to me re – Their conversation with the president but just answered: “Humihingi lang ng advise.” “Regarding the plans of the opposition, he answered.” Kaibigan ko ng matagal yong mga yan. Kahit sa administrasyon, marami rin akong kaibigan but I always stay neutral and professional.

With these straight answers, I know I can't facilitate anything so I called up P/SSUPT. AQUINO and can't get anything. He then instructed me to go back to base but secure any documents and give it to him. With that, I told C/INSP. ARNADO about the instruction and he answered: “Sige, sir, ako ng bahala dito.”

At this juncture, at around 2:30 P.M., the team members of P/SSUPT. VINA arrived on board one (1) model car and one (1) white Toyota Revo. I recognized only SPO4 Soberano, the two (2) others I don't know their names.

So I proceeded back to PAOCTF Hqs. With me who requested to hitch a ride, were S/INSP. LANGCAUON, SPO3 NEMEÑO, PO3 LACASANDILE and RIGOR. Upon reaching the PAOCTF Hqs., P/SSUPT. AQUINO was not around as such, I went to P/SSUPT. MANCAO. He told me: “Anong nangyari?” I replied: “Wala sir akong nakuhang maganda walang sinabi.” Then, P/SSUPT. MANCAO reiterated: “Si 17 (referring to P/SSUPT. VINA) nandon ba?” I answered: “Wala sir, bata lang niya.” He then dialled (sic) his cellphone and I heard him say: “Bogs (referring to P/SSUPT. VINA), wala ka na naman pala sa area...Na flash alarm na ... baka madragnet kayo ... kami na naman mapuputukan dito sa Luzon.” While they were talking, I eased out in his office and proceed to the officers' barracks and rested.

When the vehicle of DACER, a Toyota Revo, was recovered at Maragondon, Cavite, P/SSUPT. AQUINO called me up about the matter but I just said I don't know. Then he queried (sic) about the documents, I told him I had them in my vehicle. He instructed me to just secure it for the meantime. Then, P/SSUPT. MANCAO chanced upon me in the office, called me inside and asked: “Bat naman ganoon ang ginawa nila Bogs? Tayo ang maiipit dito. Dami na ngang tumatawag tungkol sa kaso na ito. Tinatanong kung anong ginagawa natin.” I just answered: “Diskarte nila sir eh.” Then he queried (sic) so troubled: “Sino kaya ang i-tasking natin na team dito? ... Sige, ako na bahala.” I also told him: “Sir, pinapatago pa nga ni 88 (P/SSUPT. AQUINO) yong mga papeles

na narecover eh.” He answered: “Naku, delikado yan, idispose mo na.” So I went out and went straight to La Mesa Dam where I burned the said document.

In another occasion after this meeting, P/SSUPT. MANCAO and I have a chance to talk until it again reached the DACER case. He told me that he had reported to 71 (referring to GEN. LACSON). He also expressed to me his concern on how to deal with the case specially to media who were always asking for development “Tayo tuloy ang naiipit sa Luzon,” he ended.

3- That the above circumstances are my personal knowledge and truthful recollection of the facts surrounding the DACER-CORBITO case.

IN WITNESS WHEREOF, I do hereby affixed my signature this 12<sup>th</sup> day of June, 2001 at PNP Intelligence group, Camp Crame, Quezon City.

(SGD)  
P/SUPT. GLENN G. DUMLAO  
(Affiant)

SUBSCRIBED AND SWORN TO before me this 14<sup>th</sup> day of June 2001 at Quezon City.

(SGD)  
NILO A. PEÑAFLOR  
ASST. PROSECUTION ATTORNEY II  
QUEZON CITY”

On June 22, 2001, upon motion of accused P/Insp. Danilo Villanueva that he is not the “SPO3 Villanueva” implicated in the Dacer-Corbito case, the RTC ordered the DOJ panel of prosecutors to conduct a reinvestigation of Criminal Case No. 01191969. Also, the RTC directed the DOJ panel of prosecutors to determine whether probable cause exist against P/Senior Supt. Cezar Mancao, P/Senior Supt. Michael Ray Aquino, P/Senior Supt. Teofilo Vina and PO3 Larry Ambre. The DOJ Panel of Prosecutors issued subpoenas to the aforementioned persons for them to appear on July 27 and 31, 2001.

During the reinvestigation, through his lawyer Atty. Bernard



Vitriolo, P/Senior Supt. Cezar Mancao submitted his Counter-Affidavit<sup>6</sup> dated June 29, 2001, subscribed before Prosecutor II Fernando Felicen, wherein he declared under oath, as follows:

“COUNTER-AFFIDAVIT

I, P/Sr. Supt. Cezar O. Mancao II, of legal age, married, Filipino, and with office address at the Regional Special Study Committee 8, Police Regional Office 8, Philippine National Police, Camp Kangleon, Palo, Leyte, after having sworn to in accordance with law, hereby depose and say, THAT:

1. I am the person referred to as P/Sr. Supt. Cezar Mancao in the affidavit dated June 12, 2001 executed by P/Supt. Glenn G. Dumlao implicating me in the Dacer-Corbito double murder case;

2. Prior to my present assignment as Chairman of the Regional Special Study Committee 8, Police Regional Office 8, Camp Kangleon, Palo, Leyte, effective April 18, 2001, it was a common knowledge and an open book that I was one of the high ranking officers assigned with the defunct Presidential Anti-organized Crime Task Force as Chief, Task for Luzon. Attached for ready reference as Annex “1” is a photo copy of my designation;

3. After the fall of the Estrada administration, all high ranking officers of the then PAOCTF who were perceived to be as close associates and aides of former C/PNP Panfilo Lacson now Senator-elect were relieved from their positions and reassigned in far flung areas in Visayas and Mindanao, a clear manifestation of harassment and persecution violative of the rights of the affected Police Officers like myself without due process of law;

4. Shortly after my relief in the PAOCTF, I was assigned on a “floating status” at Headquarters Support Service, Camp Crame, Quezon City. Subsequently, I was charged before the Commission on Elections no less than by the PNP for violation of the election law docketed under E.O. Case No. 10-03 now pending before the Law Department of the said Commission on account of my alleged support to then Senatorial Candidate Panfilo Lacson;

5. Thereafter, on April 17, 2001, the PNP through no less than the Chief of the Philippine National Police, Leandro R.

---

<sup>6</sup> Rollo, pp. 440-449.

Mendoza, referred the matter of the revival of the Kuratong Baleleng case on the basis of alleged new witnesses to the Secretary of Justice who, on April 17, 2001, issued Department Order No. 114 constituting a panel to conduct the reinvestigation/re-opening of the preliminary investigation of the said case in violation of both the substantial and procedural rights of the respondents therein including respondent herein;

6. Not contended, the present administration, particularly the Department of Justice through the law enforcement agencies of the government implicated me and other opposition leaders in the imagined offense of rebellion on May 1, 2001 by declaring a non-existent concept of "State of Rebellion" in Metro Manila and ordered the arrest without warrant of respondent herein including opposition leaders. Consequently, a hold departure order was likewise issued by the Bureau of Immigration in their concerted effort to persecute the opposition to which respondent herein is identified. For days and weeks, the black propaganda scripted by the government was published in almost all newspapers including the projection that the respondent herein was a fugitive and a plotter to grab power. However, because of mounting disagreement from the left, the left of center including rightist elements the government backtracked and justified its move through the decision of the Supreme Court on the matter. Attached as Annex "2" is a photo copy of the Hold Departure Order issued on May 1, 2001 by BID, DOJ.

7. Further, on June 6, 2001, despite his authorized leave of absence issued for and in behalf of the Regional Director, PNP Region 8, Palo, Leyte, by Deputy Regional Director for Personnel, P/Sr. Supt. Falconit, to attend court hearings in Metro Manila on May 28 to June 5, 2001 and despite his verbal communication with the Regional Director to extend his authorized leave, the PNP Region 8 Command through its Regional Director reported to the C/ PNP through the PNP Deputy Director General for Directorial Staff to place him under the list of AWOL. Attached as Annexes "3" and "3-A" are photo copies of respondent's authorized leave and the communication to place under the list of AWOL officers, respectively.

8. The pattern of persecution is so obvious that several weeks after the arrest of P/Supt. Glenn G. Dumlao, the principal suspect in the alleged Dacer-Corbito double murder case, an affidavit allegedly executed by said suspect implicated respondent herein for the said double murder case without any solid factual basis other than his self-serving, scripted and coerced affidavit.

Under present jurisprudence, an affidavit is susceptible of fabrication and subjective statement. The Supreme Court is consistent on this point that an affidavit without sufficient and solid corroborative factual evidence is looked upon as weak evidence and has no probative value sufficient to determine moral certainty for conviction. The factum probans therefore remains unproven unless additional direct, factual and real evidence are introduced to support the allegations in the complaint or affidavit. In *People vs. Gabas*, 233 SCRA 77, the court rules:

“a sworn statement or an affidavit does not purport to contain a complete compendium of the details of the event narrated by the affiant.”

9. The affidavit of P/Supt. Glenn G. Dumlao is full of lies, inconsistent, half truths and untenable to say the very least. It never happened the way the hidden strong arm in the execution of this affidavit projects it to be. It is pure and simple harassment with political undertones. As a decorated Police Officer, it would be highly illogical, unnatural and unlikely to do the allegations leveled against me, knowing fully well that at that time of the alleged gruesome murder the opposition and the civil society were waging a hate campaign against all persons connected with the Estrada administration. Particularly, the hate campaign against the former C/PNP and the defunct PAOCTF as a result of the impeachment trial at that time against former President Joseph E. Estrada. The said affidavit executed by Dumlao is therefore conclusively concocted by the strong arm of the government, the law enforcement authorities, to persecute persons or police officers identified with the past administration. It is a simple mere after thought in order for Dumlao to extricate himself from his present situation and may have entered a sweet deal with his captors. Perhaps Dumlao suffered from mental and physical abuse in the hands of the police authorities that forced him to execute said affidavit. The fact that Dumlao took several weeks to execute said affidavit shows not only after thought (sic) but puts into question his credibility and the very reason of the execution. Obviously, it is politically motivated not only to pin down Senator-elect Panfilo Lacson but likewise all other Police Officers close to him.

10. From the affidavit of P/Supt. Glenn G. Dumlao (Dumlao for brevity), he alleges that sometime in the third week of January 1999, he received a tasking or instruction form P/Sr. Supt. Michael Ray B. Aquino (Aquino for brevity), then Chief of Operations Division of the whole PAOCTF, for background

investigation for Mr. Salvador "Bubby" Dacer with specific instruction to enter subject's office rooms in Manila Hotel and take documents found thereat. This instruction or tasking clearly shows that the story he alleges is not only ridiculous but incredible. If true, this is a very sensitive mission not only because it involves a known personality in the political arena but it concerns an illegal act. Having said that, it is quite incredible and beyond human experience specially when the operatives are high ranking officers, a Police Superintendent and Senior Superintendent equivalent to Lieutenant Colonel and full Colonel, to forget about the specific details of the documents to be retrieved;

11. In the same affidavit, Dumlao alleges that he reported to Aquino his inability to penetrate the subject because of a camera or a monitoring device mounted on top of the main door of Dacer's office. With this assertion, it is therefore imperative to look at the tape of the said security camera to confirm and verify his statement, if indeed he is telling the truth. Dumlao further alleges that he recommended to Aquino the need to recruit persons from the said hotel to accomplish his tasking and talked to waiters, security guards and store attendants. Again, in the interest of justice, these persons whom he talked to can confirm his presence in the hotel. Why is it that up to now these persons have not been named?

12. Dumlao further alleges that he conducted the hotel surveillance for two weeks and reported directly to Aquino that the mission failed and said "Di kaya". Again, Aquino instructed him to "pasabugin o sunugin" masira man lang ang mga dokumento and computers nila." Clearly, Dumlao was receiving instructions from and reporting to only one person, if indeed he is telling the truth, that person is P/Sr. Supt. Aquino. Obviously, P/Sr. Supt. Cezar O. Mancao, II has no knowledge or information and never consented to the activities, mission and tasking of Aquino and Dumlao, if it ever existed at all. If P/Sr. Supt. Mancao was involved, Dumlao should have at least informed him of the nature and progress of his mission being his immediate superior officer in terms of designation. This was never done;

13. Next, Dumlao alleges that his operation "waned" or "nagkalimutan" from February 1999 to October 2000 or after the lapse of 20 months (1 year and 8 months). In the interim he further alleges that he went to Bangkok, Thailand on official schooling from August 16, 1999 to September 27, 1999 without any progress report on the tasking or operation or endorsement to any officer for that matter. No coordination whatsoever, even to Aquino, his direct

superior in the alleged Dacer operation, for any endorsement despite the sensitive nature of the tasking. This is again indicative of a scripted story line, impossible and incredible.

14. When he returned from Bangkok sometime in the last week of September of 1999, he alleges that he became busy from the various taskings assigned to him by respondent herein then Task Force Luzon Group Chief, PAOCTF. On October of 2000, despite the period of 1 year and 8 months working under respondent herein without mentioning anything about the alleged Dacer tasking, then out of nowhere he drags and implicates respondent P/Sr. Supt. Mancao.

15. Dumlao alleges that Aquino instructed him to revive the alleged Dacer special operation, but because of his present assignment he was instructed by Aquino to turn over the said operation to P/C Insp. Arnado. At this point, Dumlao alleges that respondent herein made an inquiry about the said "special operations" from Dumlao as indicated in the dispatch form. Again, the best evidence is the dispatch form if indeed this story scripted by Dumlao is true. Where is the dispatch form? Clearly, Dumlao is lying because respondent herein being then the Task Force Group Chief for Luzon can easily confront and inquire from P/C Insp. Arnado, his subordinate then working under him in the said Task Force. Nothing was said in Dumlao's affidavit about respondent herein and Arnado in relation to the said tasking. Indeed, a cheap attempt to implicate respondent herein in the Dacer case.

16. Again, Dumlao continued in his attempt to implicate respondent Mancao by giving an impression that said respondent was worried about the said tasking in respect of funding and manpower. PAOCTF was not a private entity, it is a government law enforcement composite unit funded by the Office of the President with a yearly budget of Php120,000,000.00. It goes without saying that funding and men were never an issue in the pursuit of peace and order. Dumlao and his captors are desperate in trying to invent a wild story line that cannot be given credence;

17. In a familiar tone, Dumlao now miserably tried to link respondent herein with Aquino in the alleged "special operations" and in a blanket date of October 2000, he alleges that in his presence respondent herein personally inquired from Aquino about the said "special operations" and thereafter made comments in relation to the conversation. This alleged meeting never happened. Respondent herein will never and will not consent to or be a part of

any criminal activities. Respondent herein is a professional and decorate police officer with sterling record in his cap. Respondent in conscience can not and will not do criminal acts and violate the rule of law he was sworn to defend and uphold. Respondent's good name and reputation, the dedication to his sworn duty, the bright and promising career, the future of his family and love of country will always be his guiding factors in his pursuit to uphold the law. In fine, Respondent was meritoriously promoted twice to the next higher rank for accomplishment in police operations which explains why at his young age of 39 he is already a full Colonel or P/Senior Superintendent, one step shy for General rank. Respondent was a recipient of the highest and prestigious Philippine Military Academy Cavalier Award for Police Operations. In 1993, Respondent was awarded the Junior Police officer of the year in the entire Philippine National Police. Just recently, respondent was awarded twice as the Best Task Group Chief for the year 1999 and 2000;

18. Surprisingly, Dumlao alleges that respondent herein invited him in his office to talk while said respondent was waiting for the scheduled promotional board meeting on November 24, 2000 where he was a member. However, the affidavit shows that they did not talk about anything despite the fact that on the same day Dacer and his driver Corbito were abducted. Dumlao further alleges that he received a text message from Aquino saying that "nakuha na si Delta, paki T.I. mo siya with 19." This text message was personal to Dumlao, he never said in his affidavit that he told respondent Mancao about it or showed it to him if indeed it was true. How can Mancao say "Sige puntahan mo na, I update mo ako sa resulta ng T.I. mo" when he has no knowledge of the contents of the text message in particular and the alleged "special operations" in general, if it existed at all. The truth is that this alleged meeting never happened. It was merely fabricated and meant to link respondent Mancao to the Dacer-Corbito case;

19. Further to the allegations of Dumlao as indicated in his affidavit, the alleged "special operations" dealt with the instructions and communications from Aquino to Dumlao, Arnado to Dumlao, Dumlao to Arnado, Dumlao to Vina and the minor officers. Thereafter, Dumlao reported to Aquino and the latter instructed Dumlao to secure or get the documents. Take note that in 1999 when Dumlao allegedly started this operation as indicated in his affidavit, the mission was to retrieve documents from Dacer's office. Now, in his attempt to implicate Senator-elect Panfilo Lacson, Dumlao, desperately links respondent Mancao for him to directly

link Senator-elect Lacson as well as P/Supt. Vina who is under the custody of the police authorities. In this way, the police authorities can utilize Vina, Aquino and Mancao to testify one way or the other against ultimately Senator-elect Lacson, the only credible opposition leader at this time.

20. Finally, Dumlao alleges that he talked or reported to respondent Mancao after the alleged abduction. He likewise said that Mancao talked to P/Supt. Teofilo Vina over the cellular telephone. Worst, respondent Mancao allegedly instructed Dumlao to dispose the retrieved documents and reported the matter to Senator-elect Lacson. This story line concocted by Dumlao in his own initiative or by the coercive force of his captors is not only false, incredible but also ridiculous. From the very inception of Dumlao's affidavit, respondent Mancao was never part of the "special operations" in any manner but later to his affidavit respondent Mancao suddenly played a very crucial role in that he reported the matter to Lacson and ordered the disposal of the documents. These statements coming from P/Supt. Dumlao negate the instruction of Aquino to secure the documents retrieved from Dacer and contrary to the objective of the alleged mission that is to retrieve the documents as narrated in Dumlao's affidavit. Dumlao's penultimate statements were meant to link respondent Mancao and ultimately to link Senator-elect Lacson in the Dacer-Corbato double murder case. Obviously, this is a simple demolition job to paralyze a possible strong opposition leader in the person of Senator-elect Panfilo Lacson.

21. The undisputable fact is that after the reported abduction of Mr. Salvador Dacer and his driver, respondent Mancao as Chief of Task Force Luzon, PAOCTF initiated an investigation through the instruction of then C/PNP Panfilo Lacson and took steps to solve the abduction as follows:

- a.) Conducted follow-up investigation as evidenced by his initial report dated November 25, 2000 inclusive of attachments.
- b.) 1<sup>st</sup> Progress report dated November 28, 2000 inclusive of attachments.
- c.) Spot report from PPO to RD.
- d.) Letter request of Chief TF Luzon, PAOCTF to NBI.
- e.) MEMO to C/PNP from RD, PRO2 dated December 1, 2000.
- f.) Request from Chief, TF Luzon to LTO for verification.
- g.) Request for verification dated December 4, 2000 re: Recovered handcuff

- h.) Copies of letters of demand to the Dacer family by unknown suspects.
- i.) Memo for Chief, TF Luzon re: after meeting report dated December 5, 2000 transferring the lead agency to the NBI for the Dacer-Corbito investigation
- j.) Memo for C/PNP dated December 11, 2000.

Unfortunately, the government decided to transfer the case to the National Bureau of Investigation. Attached as Annexes "4" to "13" are photo copies of the actions taken in the Dacer-Corbito Case.

22. All said, the investigating prosecutor should proceed with the investigation of this case ad cautelam, as the Supreme Court repeatedly ruled that the purposes of a preliminary investigation are to secure the innocent against hasty, malicious and oppressive prosecution, and to protect him from an open and public accusation of a crime, from the trouble, expense and anxiety of a public trial, and also to protect the state from useless and expensive trials;

23. In view of the foregoing, it is respectfully prayed that the Honorable Investigating Officer resolves this case in our favor and dismiss outright the above-entitled complaint against me for lack of merit and for insufficiency of evidence.

June 29, 2001, Manila.

(SGD.)  
P/Sr. Supt. Cezar O. Mancao II  
Affiant

SUBSCRIBED AND SWORN to before me this 29<sup>th</sup> day of June 2001, in Manila.

I hereby certify that I personally examined the affiant and I am convinced that he voluntarily executed and understood his affidavit

(SGD.)  
FERNANDO L. FELICEN  
Prosecutor II"

On September 14, 2001, after the reinvestigation, the DOJ



panel of prosecutors issued a Resolution<sup>7</sup> the dispositive portion of which states:

“WHEREFORE, it is respectfully recommended that P/Senior Supt. Cezar Mancao II, P/Senior Supt. Michael Ray B. Aquino, P/Senior Supt. Teofilo Vina and SPO3 Allan Cadenilla Villanueva be indicted of double murder for the deaths of Salvador “Bubby” Dacer and Emmanuel Corbito. Further, it is respectfully recommended that the complaint for double murder against PO3 Larry Ambre be DISMISSED for insufficiency of evidence and that P/Senior Supt. Glenn Dumlao, P/C Insp. Danilo Villanueva, Jimmy Lopez, William Lopez and Alex Diloy be DISCHARGED as accused from the said Amended Information, for them to testify as witnesses for the State, with the exception of P/Chief Inspector Danilo Villanueva.”

Pursuant to the above Resolution, the prosecution filed a Manifestation and Motion dated September 17, 2001 to Admit the Amended Information. Accused Soberano, Torres, Escalante Purificacion, Renato and Jovencio Malabanan filed their Opposition dated September 28, 2001. The RTC denied the Motion to Admit Amended Information in its Order dated October 1, 2001. The prosecution elevated the matter by way of certiorari to the Court of Appeals which rendered a Decision dated April 04, 2002 ordering the admission of the “Amended Information dated September 17, 2001 substituting SPO3 ALLAN CADENILLA VILLANUEVA for P/Insp. DANILO VILLANUEVA as accused, and charging P/Senior Supt. MICHAEL RAY AQUINO, P/Senior Supt. CEZAR MANCAO II and P/Senior Supt. TEOFILO VINA as additional accused, and discharging or excluding only the accused JIMMY L. LOPEZ, WILLIAM L. LOPEZ and ALEX B. DILOY and to CONTINUE with the proceedings therefrom with utmost deliberate dispatch. Needless to state, the original information filed on May 11, 2001 stands insofar as P/Senior Supt. GLEN(N) G. DUMLAO is concerned.”<sup>8</sup> The Supreme Court in its Decision dated October 5, 2005 affirmed the aforestated Decision dated April 4, 2002 of the Court of Appeals, “with MODIFICATION to include P/Sr. Supt. GLEN G. DUMLAO as one of the accused

<sup>7</sup> Rollo, pp. 312-336.

<sup>8</sup> *SPO4 Marino Soberano, et al. vs. The People of the Philippines*, G.R. No. 154629, October 5, 2005, 472 SCRA 125.

excluded from the Amended Information dated 17 September 2001.”<sup>9</sup>

On March 1, 2007, while in the United States, Cezar Mancao II executed his second Affidavit, subscribed before Isabel Moreno, Notary Public, County of Broward, State of Florida, stating his knowledge of the “Dacer-Corbito Double Murder Case”, viz:

“AFFIDAVIT OF CEZAR O. MANCAO II

I, CEZAR O. MANCAO II, hereby make the following statement voluntarily and of my own free will. I was not pressured, coerced, or promised anything in return for this statement. At all times prior to making this statement, I

- I. I am 45 years old, married, and have four children. I currently reside with my family in Florida. I was born in the Philippines and graduated from the Philippine Military Academy (PMA) in 1986. After graduation, I served in Philippine law enforcement until I left the country in 2001. From 1986 to 1991 I served with the Philippine Constabulary as a second and first lieutenant. In 1991 the Philippine constabulary was integrated into the Philippine National Police (PNP) where I served in various supervisory positions ranging from Senior Inspector to Senior Superintendent which is the equivalent of an Army Colonel.
- II. I first met Michael Ray Aquino during my cadet days at the Philippine Military Academy. Michael Ray Aquino graduated two years after me in 1988. Michael Ray Aquino and I first worked together in a 1993 joint operation to neutralize a criminal syndicate known as the “Red Scorpion Group.” I was working with the Philippine National Police and Michael Aquino was working with the Presidential Anti-Crime Commission headed by Panfilo Lacson. In May of 1995, Michael Aquino and I were again united in another joint operation against a gang of armed robbers known as the “Kuratong Baleleng Group.” As a result of this operation several members of the joint task force were accused of crimes as serious as murder. Michael Aquino, Panfilo Lacson, and I were among those accused. All charges were ultimately dismissed by the courts and approximately two years later in 1997, Michael Aquino and I were both

---

<sup>9</sup> Ibid.

assigned to "Special Project Alpha" where we worked closely together for about one year under the supervision of Panfilo Lacson. During this time, Panfilo Lacson was known for his very close ties to Vice-President Joseph Estrada who would soon win the presidential election. In July of 1998, then president, Joseph Estrada, formed the Presidential Anti-Organized Crime Task Force (PAOCTF) with Panfilo Lacson as its leader. Michael Aquino held the position of Chief of Operations and I was assigned as Chief Task Group – Luzon.

III. In November 2000, Michael Aquino and I were again embroiled in controversy in a case known as "Dacer-Corbito". Bubby Dacer was a journalist who had made public comments against President Estrada and Corbito was his driver. Dacer's car was dumped into a ravine in Cavite Province and a murder investigation ensued with Aquino and myself among those suspected of involvement. In the midst of the murder investigation in February of 2001, President Estrada was removed from office and the PAOCTF was disbanded and its former members were reassigned to far flung areas of the country. Sometime August of 2001 in a Las Vegas hotel, Michael Aquino was blaming fellow officer Teofilo Vina for sloppily dumping Bubby Dacer's car into a ravine in Cavite where it was easily discovered. Aquino was complaining that the task had not been carried out correctly. This sloppy work resulted in an investigation which later implicated Michael Aquino in Dacer and Corbito's disappearance.

A. After Dacer and Corbito's disappearance, I was asked to investigate the case. During my investigation I spoke with Teofilo Vina and Glen Dumlao. I called Vina and asked him if he had any involvement in the disappearance and he told me that he had been tasked by Michael Aquino to get Bubby Dacer. I understood this to mean that Aquino had tasked Vina to neutralize Dacer. When speaking to Glen[n] Dumlao about Michael Aquino's possible involvement, Mr. Dumlao blamed Aquino for illegal orders. I understood the illegal orders to be conspiring in the abduction and murder of Dacer and Corbito.

IV. In May of 2001 Panfilo Lacson was elected Senator. Michael Aquino acted as a campaign coordinator for Lacson by overseeing campaign contributions, posters, and other campaign media. Shortly after winning the seat a meeting was held where Panfilo Lacson advised Aquino and I that we should leave the country. He told us that the new presidential administration would come after us for the

Dacer-Corbato case in an effort to destroy Lacson's reputation and negatively affect Lacson's possible chances of a presidential bid in 2004. On July 1, 2001 I followed Lacson's instructions, left my family, and flew from the Philippines to Hong Kong where I met up with Michael Aquino. From there the two of us flew to the United States where we traveled and lived together for the next three months. In September of 2001, I settled in Florida and Michael Aquino settled in New Jersey. Michael Aquino and I kept in touch with each other and met with Senator Lacson several times over the next two years including meetings in Washington DC (October '01), New York (January '02), Los Angeles and Las Vegas (January '03), and Miami (September '03).

- V. It was during this September '03 meeting in Miami that I heard Senator Lacson instructing Michael Ray Aquino to search for U.S. real properties in the name of Jose Miguel Arroyo, the husband of the Philippine President, Gloria Arroyo. Lacson believed that Jose Miguel Arroyo had received millions of dollars in illegal kickbacks and was investing the money in U.S. real estate. This was commonly known as the "Jose Pidal Scandal." This information would be extremely helpful in discrediting the current administration. One day after lunch, Michael Aquino brought me to Lacson's room in the hotel. Lacson then asked Aquino what he got and Aquino showed Lacson some documents with addresses of suspected properties. Lacson reviewed the documents and appeared unsatisfied. He asked Aquino to continue searching and to search for various aliases used by Miguel Arroyo as well.

After carefully reviewing the facts and being fully aware of the consequence of my decision, I DO SOLEMNLY SWEAR/AFFIRM that the facts stated are true and correct.

(Sgd.) \_\_\_\_\_  
Signature

3/01/07  
Date

State of Florida      Passport #PPO104824  
Country of Broward

Sworn to and subscribed  
before me this 1<sup>st</sup> day of March 2007, by CEZAR O. MANCAO II,  
who is personally known to me.

(Sgd.) \_\_\_\_\_

Notary Signature

STAMP MARKED appearing on the document reads as follows:

Isabel Moreno  
MY COMMISSION #DD249032  
EXPIRES: SEP 11, 2007  
Bonded through Advantage Notary

with the seal:

Notary Public  
State of Florida”

On February 13, 2009, while in custody of the U.S. Federal Agents, Cezar Mancao II executed his third Affidavit, subscribed on February 14, 2009 before Philippine Honorary Consul General Angelo S. Macatangay, Fort Lauderdale, Florida USA, containing the following statements, viz:

“A F F I D A V I T

I, CEZAR OCHOCO MANCAO II, of legal age, married, Filipino and presently under the custody of US Federal Marshals at Fort Lauderdale, Florida, United States of America, after being duly sworn to in accordance with the law, hereby depose and state, to wit:

1. I am the same CEZAR OCHOCO MANCAO II who is one of the several accused in Criminal Case No. 01-191969 pending before Branch 18 of the Regional Trial Court of Manila, Metro Manila, Philippines, entitled “*PEOPLE OF THE PHILIPPINES versus MICHAEL RAY AQUINO, et. al.*”, or more popularly known as the DACER-CORBITO DOUBLE MURDER CASE.

2. I am executing this Affidavit to narrate, out of my own personal knowledge, among others, the relevant incidents that transpired in connection with the abduction and death of SALVADOR “BUBBY” DACER and his driver EMMANUEL CORBITO on November 24, 2000, and name the persons responsible therefore.

3. I hereby attest at the outset that I am executing this statement freely, voluntarily and intelligently, without any force,

intimidation, threats, or any form of duress being exerted on myself or on any of my family members by the government of the Republic of the Philippines or any of its officials or employees. The execution of this statement is the result of my own initiative to offer the Government of the Republic of the Philippines cooperation in terms of disclosure of relevant information concerning the DACER-CORBITO double murder case. I likewise attest that I was assisted and given sufficient legal counsel by my lawyer, BERNARDO LOPEZ, Esq., Assistant Federal Public Defender, Federal Public Defender's Office, Fort Lauderdale, Florida, U.S.A. all throughout the preparation of this affidavit.

4. I start with the fact that in July 1998, the Presidential Anti-Organized Crime Task Force (PAOCTF) was formed during the administration of PRESIDENT JOSEPH ESTRADA (ERAP). This was headed by CHIEF SUPT. PANFILO LACSON (LACSON). I was initially designated as deputy chief of task group Luzon but a few months thereafter, I was promoted as chief, Task Group Luzon. The following were some of its ranking officials together with myself, namely:

- a. CHIEF SUPT. FRANCISCO ZUBIA – Deputy for Administration;
- b. SUPT. MAGTANGOL GATDULA – Deputy for Operations;
- c. SUPT. MICHAEL RAY AQUINO (AQUINO) – Head, Operations Division;
- d. JOHN LOPEZ – Head, Finance and Logistics Division;
- e. SUPT. TEOFILO VINA (VINA) – Head, Task Group Visayas;

5. As chief of Task Group Luzon, I was assisted by P/SUPT. GLENN G. DUMLAO (DUMLAO) as my deputy for operations and SUPT. GACUTAN as my deputy for administration. Aside from being the deputy for operations, DUMLAO is also one of my team leaders, together with CHIEF INSP. VICENTE ARNADO (ARNADO).

6. However, notwithstanding the formal organizational structure of PAOCTF, and as the reality in specialized and compartmentalized law enforcement units like the POACTF, some personnel may be directed to perform special operations by the chief of operations – P/SUPT. MICHAEL RAY AQUINO (AQUINO). For instance, my deputy for operations, DUMLAO in some special cases directly reports to AQUINO without giving me the details of his assignment or progress of his taskings.

7. Sometime in the early part of October 2000, I found out from my operatives' dispatch slips that AQUINO was utilizing some of my personnel at Task Group Luzon in his "special operations" without my knowledge. Right then and there, I, together with DUMLAO who happened to be in my office at that time, went together to AQUINO's office and inquired about the matter. AQUINO informed us that these "special operations" had been previously approved and cleared by LACSON and by MALACAÑANG itself. DUMLAO mentioned to me that the "special operations" had for its target a certain media man critical of ERAP, whom they referred to as "DELTA". Being in the nature of a special operation, I decided not to inquire further. For purposes of clarity, PAOCTF's "special operations" then pertained to operations that did not follow the normal channels of command and did not come under the purview of its mandate.

8. While I was opposed to AQUINO's use of my personnel, there was nothing I could do then to prevent him because he occupied a position higher than myself in terms of designation at the PAOCTF organizational hierarchy. Additionally, these special operations were under the directions of LACSON as PAOCTF head. However, I still instructed my men at Task Group Luzon to bring to my attention orders regarding special operations not directly coming from me and not to be keen in performing operations outside of the PAOCTF mandate, especially illegal ones.

9. On two (2) separate occasions sometime in October - November 2000, two of my team leaders, ARNADO and REYES, confided to me that AQUINO ordered both of them to conduct operations against REYNALDO BERROYA. I remember two (2) instances when ARNADO and REYES were already in a position to abduct BERROYA but could not get in touch with AQUINO for the final "go" signal and sought mine, and which I both declined. These incidents ostensibly reached the attention of LACSON and AQUINO because I felt them turn lukewarm and indifferent towards me, to the extent that I was constrained to request for my transfer to a regular PNP unit. LACSON, however, refused to grant my request.

10. Sometime in October 2000, I heard LACSON order AQUINO to liquidate BERROYA, his publicly-known nemesis, saying: "*Noy, tirahin niyo na si Bero.*" LACSON said this while we were on board his car en route to a Japanese restaurant in Greenhills, San Juan, for lunch. I was seated at the front seat of

the car then driven by SGT. OXIMOSO (“Oxy” as we usually called him), while AQUINO and LACSON sat at the back. AQUINO responded to LACSON that he intends to neutralize or liquidate DELTA first because ERAP was already peeved at him, saying: “Tapusin muna namin si Delta, Sir, kasi naiirita na si Bigote sa kaniya.” “DELTA”, referred to media and PR man SALVADOR “BUBBY” DACER (DACER), while “BIGOTE” was commonly-known pseudonym of ERAP. LACSON however insisted that AQUINO rather operate on both BERROYA and DACER SIMULTANEOUSLY, saying “*Ipagsabay mo na at tingnan natin kung sino na ang mauuna.*”, which obviously meant that AQUINO operate on DACER and BERROYA at the same time and to just see who between them is killed first.

11. At around 11:00 in the morning of November 24, 2000, while DUMLAO and myself were at my office at task group Luzon, DUMLAO suddenly excused himself because he supposedly received a text message from AQUINO saying that DACER was already in the custody of VINA somewhere in the province of Cavite and thus directing him to proceed to the area to conduct tactical interrogation on DACER. As DUMLAO was leaving my office, I told him to share with me the results of his tactical interrogation.

12. After DUMLAO left, I immediately called VINA and verified about the alleged operation. VINA confirmed to me the operation and told me he will take care of it and that the same was upon the orders of AQUINO.

13. When DUMLAO returned to the office, I inquired what happened to his tactical interrogation of DACER and he told me that he did not obtain any valuable information from the subject. I asked him if VINA was also present in the area and he replied in the negative. And so I called up VINA on his cellphone and asked him why he was not at the area after all. Again he told me not to worry as he will take care of the situation.

14. After learning about DACER's abduction, I immediately informed LACSON and asked for his guidance on the matter. LACSON instructed me to head the investigation of the incident since doing so will allow PAOCTF to control the situation by covering up the involvement of PAOCTF personnel. Accordingly, I dispatched my men to conduct a regular investigation of the incident; I also required all investigating police stations to forward to us all relevant documents, making us the repository of



these documents, and thus enabled us to cover-up for the involved PAOCTF operatives. Due to my successful cover-up of the incident, LACSON and AQUINO became warm and appreciative of me again.

15. Several days thereafter, news broke out about Dacer's car being found dumped in a ravine in Maragondon, Cavite. I chanced upon DUMLAO in our office and asked him why it happened that way when VINA continuously assured me that he will take care of the situation. I remember me saying: *"Akala ko plinantsa niya ng maayos?! Mapapasama tuloy tayong lahat dito!"* DUMLAO on the other hand, told me that he had in his possession the documents recovered from Dacer's vehicle. In reply, I commented that it was very risky for him to be keeping them. I later on learned that DUMLAO disposed the documents by burning the same.

16. After ERAP was deposed from power in January 2001, I was reassigned to Region VIII.

17. After winning the election as senator of the Republic of the Philippines in the May 2001 elections, LACSON called AQUINO and myself to a meeting in a house somewhere in Greenhills, San Juan, Metro Manila. In that meeting, LACSON instructed both of us to leave the country since the new administration would surely go after us and link us in the DACER-CORBITO double murder case, among others, in order to destroy his reputation and presidential ambition. He assured us that he will take care of both of us and will continue to give us our monthly allowance. I can vividly remember LACSON's words: *"Kailangang umalis na kayo ng bansa dahil si Glenn nagbigay na ng statement, ang Kuratong Baleleng case ay binuhay, at posibleng gagawa yan ng iba pang mga kaso. Huwag kayong mag-alala, ako ang bahala sa inyo."* At that time, the burnt remains and belongings of DACER and CORBITO had been recovered from a creek somewhere in Indang, Cavite; some of the perpetrators had even confessed to the killing; and the case was already being investigated by the Department of Justice.

18. In reaction to LACSON's instructions, I told him that for his sake, I will obey even if that would entail for me to be away from my family. Incidentally, I remember that on the same occasion, JANE GOMEZ, a vital witness in the Kuratong Baleleng incident was also in the house where our meeting with LACSON was held.

19. On July 1, 2001, I followed LACSON's instructions for me to leave the country for the United States. I rendezvous with AQUINO in Hongkong and from there, we proceeded to the United States via San Francisco. LACSON made arrangements for our stay at Harrold Hicks' friend's house in Daly City; Hicks is a former enlisted man who worked under LACSON. However, before I left the country, I was made to sign a Counter-Affidavit in the then pending preliminary investigation concerning the abduction and death of DACER and CORBITO before the Department of Justice. The Counter-Affidavit contained for the most part, strong denials of my supposed knowledge or participation in the DACER-CORBITO operations as narrated by DUMLAO in a handwritten affidavit. I was constrained to sign the same despite knowing that some of the allegations were actually true, in order to save my neck and the hope that I will be exonerated therefrom.

20. On or about August 3, 2001, while AQUINO and myself were inside our room at the MGM Hotel in Las Vegas where we were staying upon the invitation and sponsorship of BUTCH TENORIO (TENORIO), the former head of Philippine Amusement and Gaming Corporation (PAGCOR) during the term of ERAP, I heard TENORIO telling AQUINO that when he received information from the latter that DACER has been neutralized, he immediately relayed the information to ERAP thinking that the information will please him. However, ERAP supposedly turned indifferent, which reaction surprised TENORIO. Incidentally, TENORIO, ESTRADA and LACSON all stood as principal sponsors in AQUINO's wedding.

21. In September 2001, I decided to settle in the state of Florida, while AQUINO settled in the state of New Jersey. I have lived in Florida since then and never went back to the Philippines. In the meanwhile, LACSON repeatedly travelled to the U.S. from October 2001 up to September 2003 and met with us in all of these occasions; he also did not fail to reimburse our plane fares and other expenses.

22. I am executing this Affidavit to attest to the truth of the foregoing allegations and for other legal purposes this may serve. I reserve the right to provide more details about this incident as need be during court trial.

IN WITNESS WHEREOF, I have hereunto signed this 13<sup>th</sup> day of February 2009, at FORT LAUDERDALE, STATE OF FLORIDA, U.S.A.

(SGD)  
CEZAR OCHOCO MANCAO II  
Affiant

SUBSCRIBED AND SWORN to before me this 13<sup>th</sup> day of  
February 2009 at Fort Lauderdale, FLORIDA, U.S.A.”

On March 27, 2009, the daughters of Salvador Dacer, filed a  
Complaint-Affidavit<sup>10</sup> against petitioner with the DOJ, docketed as I.S.  
No. XVI-INV-09C-00232, praying for a “re-opening” and  
“reinvestigation” of the Dacer-Corbito case. The full text of the  
Complaint-Affidavit reads:

“COMPLAINT-AFFIDAVIT

We---

EMILY DACER-HUNGERFORD, of legal age, married, U.S. citizen,  
and presently residing at Long Beach, California, United States of  
America;

SABINA DACER-REYES, of legal age, married, Filipino citizen, and  
presently residing at Stonybrook, New York, United States of  
America;

CARINA LIM DACER, of legal age, single, Filipino citizen, and  
presently residing in West New York, New Jersey, United States of  
America; and

AMPARO DACER-HENSON, of legal age, married, Filipino citizen,  
and presently residing at Long Beach, California, United States of  
America,

---after having sworn in accordance with law, hereby depose and  
state:

1. We are the daughters of the late Salvador “Bubby”  
Dacer, who was a publicist, newspaper columnist and media  
practitioner during his lifetime.

2. On 24 November 2000, our father and his driver,

---

<sup>10</sup> Rollo, pp. 94-102.

Emmanuel Corbito, were murdered and appropriate charges were filed against the suspects.

3. After the proceedings, a case entitled, "People of the Philippines v. Michael Ray Aquino, et al." and docketed as Criminal Case No. 01-191969 was filed in court now pending before Branch 18 of the Regional Trial Court of Manila, charging the following with double murder for the killing of our father and Mr. Corbito:

- a) P/Senior Supt. Michael Ray Aquino;
- b) P/Senior Supt. Cezar O. Mancao II;
- c) P/Senior Supt. Teofilo Viña;
- d) SPO2 Allan C. Villanueva
- e) P/Senior Supt. Glenn Dumlao;
- f) SPO4 Marino Soberano;
- g) SPO3 Mauro Torres;
- h) SPO3 Jose Escalante;
- i) Crisostomo M. Purificacion;
- j) Digo de Pedro;
- k) Renato Malabanan;
- l) Jovencio Malabanan;
- m) Margarito Cueno;
- n) Rommel Rollan;
- o) P/Insp. Roberto Langcauon;
- p) SPO4 Benjamin Taladua;
- q) SPO1 Rolando Lacasandile;
- r) SPO1 Mario Sarmiento;
- s) SPO1 William Reed;
- t) PO2 Thomas J. Sarmiento; and
- u) SPO1 Ruperto A. Nemeño.

Some of the accused are now facing trial while others remain at large.

4. Recently, Carina had occasion to talk to Cezar O. Mancao II and his wife in Fort Lauderdale, Florida, U.S.A. where Mr. Mancao is presently being held for extradition proceedings. In the meeting, Mr. Mancao expressed to Carina his willingness to reveal all that he knows pertaining to the perpetrators, including the mastermind, of the murders of our father and Mr. Corbito.

5. Mr. Mancao executed a sworn statement in the U.S. disclosing all that he knows of the circumstances that led to the killing of our father and Mr. Corbito. Mr. Mancao gave Carina a copy of his Affidavit dated 13 February 2009.

6. Paragraph 10 of Mr. Mancao;s Affidavit dated 13

February 2009 (copy of which is attached hereto as Annex "A") states:

"10. Sometime in October 2000, I heard LACSON order AQUINO to liquidate BERROYA, his publicly-known nemesis, saying: "Noy, tirahin niyo na si Bero." LACSON said this while we were on board his car en route to a Japanese restaurant in Greenhills, San Juan, for lunch. I was seated at the front seat of the car then driven by SGT. OXIMOSO ("Oxy" as we usually called him), while AQUINO and LACSON sat at the back. AQUINO responded to LACSON that he intends to neutralize or liquidate DELTA first because ERAP was already peeved at him, saying: "*Tapusin muna namin si Delta, Sir, kasi naiirita na si Bigote sa kaniya.*" "DELTA" referred to media and PR man SALVADOR "BUBBY" DACER (DACER), while "BIGOTE" was the commonly-known pseudonym of ERAP. LACSON however insisted that AQUINO rather operate on both BERROYA and DACER SIMULTANEOUSLY, saying "*Ipagsabay mo na at tingnan natin kung sino na ang mauuna,*" which obviously meant that AQUINO operate on DACER and BERROYA at the same time and to just see who between them is killed first."

7. It is clear from the afore-quoted paragraph that Sen. Lacson ordered the killing of our father. It can also be gleaned from the same paragraph that Sen. Lacson ordered the killing of Berroya. Moreover, it is apparent from Mr. Mancao's Affidavit that the PAOCTF, which Sen. Lacson headed, conducted "special operations," *i.e.*, "operations that did not follow the normal channels of command and did not come under the purview of [PAOCTF's] mandate."<sup>11</sup>

8. Sen. Lacson's complicity in the murder of our father and Mr. Corbito is shown further by his appointing Mr. Mancao as head of the investigating team in the case to allow the PAOCTF to have control over the same and thus able to cover up the involvement of PAOCTF personnel. Mr. Mancao stated:

"14. After learning about DACER's abduction, I immediately informed LACSON and asked for his guidance on the matter. LACSON instructed me to head the investigation of the incident since doing so will allow PAOCTF to control the situation by covering up the involvement of PAOCTF personnel. Accordingly, I dispatched my men to conduct a regular investigation of the incident; I also required all investigating police stations to forward to us all relevant documents, making us the repository of these documents, and thus enabled us to cover-up

---

<sup>11</sup> Affidavit dated 13 February 2009, par. 4, p. 1.

for the involved PAOCTF operatives. Due to my successful cover-up of the incident, LACSON and AQUINO became warm and appreciative of me again.”

9. Moreover, after the burnt remains and belongings of our father and Mr. Corbito, were recovered from a creek somewhere in Indang, Cavite, Sen. Lacson instructed Mr. Mancao and Mr. Aquino to leave the country “since the new administration would surely go after [them] and link [them] in the DACER-CORBITO double murder case, among others, in order to destroy [Sen. Lacson's] reputation and presidential ambition.”<sup>12</sup> Sen. Lacson even consistently met with Mr. Mancao and Mr. Aquino in the U.S. from October 2001 to September 2003, and provided for them.<sup>13</sup> This makes Sen. Lacson criminally liable for violation of Presidential Decree No. 1829, Section 1(c), which states:

“SECTION 1. The penalty of *prision correccional* in its maximum period, or a fine ranging from 1,000 to 6,000 pesos, or both, shall be imposed upon any person who knowingly or willfully obstructs, impedes, frustrates or delays the apprehension of suspects and the investigation and prosecution of criminal cases by committing any of the following acts:

“x x x.

“(c) Harboring or concealing, or facilitating the escape of, any person he knows, or has reasonable ground to believe or suspect, has committed any offense under existing penal laws in order to prevent his arrest, prosecution and conviction;

“x x x.”

10. Sen. Lacson had an axe to grind, so to speak, against our father. Our father strongly opposed Sen. Lacson's appointment as Chief of the Philippine National Police (PNP) during the Estrada administration. This he expressed in one of his letters to then President Estrada. (A copy of the letter is attached hereto as Annex “B”).

11. Our father had repeatedly told us a few months before his disappearance on 24 November 2000 that if something happened to him, there should be no one else to blame but Sen.

---

<sup>12</sup> Affidavit dated 13 February 2009, par. 17, p. 4, Annex “4” hereof.

<sup>13</sup> *Ibid.*, pars. 20-21, p. 5.

Lacson. This was testified in court by Sabina on 11 July 2008 in the proceedings in Crim. Case No. 01-191969. (A copy of the pertinent portion of the Transcript of Stenographic Notes dated 11 July 2008 is attached hereto as Annex "C").

12. It is clear from the above that Sen. Lacson not only conspired with the accused in the murders of our father and Mr. Corbito but in fact orchestrated the same. Being then the head of the PAOCTF, he exercised ascendancy over all members of the task force, particularly those who executed the killings. To be sure, the acts of the PAOCTF personnel involved before, during and after the gruesome killing of our father and Mr. Corbito could have only been done upon the direction of Sen. Lacson.

13. Based on the foregoing, and considering further that a new personality has been implicated in the murders of our father and Mr. Corbito, it is apparent that there is a need for a reopening and reinvestigation in order to determine whether probable cause exists to hold Sen. Lacson for trial as a co-conspirator in the murders of our father and Mr. Corbito. In this light, it is respectfully requested that the appropriate action be taken by the Honorable Office insofar as this newly-discovered evidence, *i.e.*, Mr. Mancao's Affidavit dated 13 February 2009, is concerned.

14. We are executing this Affidavit in support of our Complaint for double murder and violation of Presidential Decree No. 1829 against Sen. Panfilo Lacson, Jr. We are also executing this Affidavit to attest to the truth of the foregoing statements and for whatever useful purpose it may later serve.

IN WITNESS WHEREOF, we have hereunto set our hand on this \_\_\_ day of March 2009 in New York, U.S.A.

(SGD)  
CARINA L. DACER  
*Affiant*

(SGD)  
SABINA DACER-REYES  
*Affiant*

IN WITNESS WHEREOF, we have hereunto set our hands on this \_\_\_ day of March 2009 in Los Angeles, California, U.S.A.

(SGD)

(SGD)

EMILY DACER-HUNGERFORD  
*Affiant*

AMPARO DACER-HENSON  
*Affiant*

On October 26, 2009, petitioner filed his Counter-Affidavit (Ex Abundante Ad Cautelam)<sup>14</sup> denying any involvement in the Dacer-Corbito case and refuting the allegations in the Complaint-Affidavit filed against him, viz:

“COUNTER-AFFIDAVIT  
(EX ABUNDANTE AD CAUTELAM)

I, SENATOR PANFILO M. LACSON, of legal age, Filipino and with address at the Senate of the Philippines, GSIS Headquarters Building, Financial Center, Roxas Boulevard, Pasay City, after having been sworn to in accordance with law, hereby depose and state that:

1. I am submitting this Counter-Affidavit without prejudice to my Petition in G.R. No. 189503 now pending with the Supreme Court.

2. I am a Senator of the Republic of the Philippines currently on my second term. I was first elected in 2001 and was reelected in 2007 and my term of office will expire in 2013.

3. I am a vocal critic not only of the President of the Philippines but also the First Gentleman and all their erring allies in the administration as shown by my expose` of the latter in several of my speeches in the Senate.

4. Against the backdrop and considering the circumstances under which the charges against me were filed, it is clear that this case is nothing but persecution undertaken by the present Administration against me because of my criticisms, which directly or indirectly have caused the low rating of incumbent President.

5. I admit that the complainants in this case are the daughters of Salvador “Bubby” Dacer as stated in paragraph 1 of their complaint-affidavit. In fact, the complainants approached me for assistance in the investigation of the disappearance of their

---

<sup>14</sup> Rollo, pp. 401-439.



father and his alleged driver, Emmanuel Corbito.

6. I admit that a criminal case entitled, "*People of the Philippines vs. Michael Ray Aquino, et al.*" and docketed as Criminal Case No. 01-191969 is pending before Branch 18 of the Regional Trial Court of Manila (RTC), which involves the alleged murder of complainants' father and his driver as stated in paragraphs 2 and 3 of their complaint-affidavit.

#### COUNTER-STATEMENT OF FACTS

7. I vehemently and specifically deny the rest of the allegations of the complaint-affidavit, the truth of which are as follows:

7.1 Prior to my first election as a Senator of the Republic of the Philippines in 2001, I headed the Philippine National Police (PNP) as Chief (Police Director General) thereof and concomitantly, I was also the Chief of the Presidential Anti-Organized Crime Task Force (PAOCTF), an anti-crime task force created by then President Joseph Estrada, from 1998-2001.

7.2 On June 26, 2001, while still in the Philippines and prior to leaving for the United States of America, Cezar Mancao (Mancao) executed a Counter-Affidavit stating that the affidavit of Glen[n] Dumlao implicating him (referring to Mancao) in the "Dacer-Corbito Double Murder Case" is "full of lies, inconsistent, half truths and untenable to say the least." Mancao dismissed the affidavit of Dumlao as "pure and simple harassment with political undertones" and that Dumlao may have "suffered from mental and physical abuse in the hands of the police authorities that forced him to execute said affidavit." Mancao also deplored the same as "politically motivated not only to pin down Senator-elect Panfilo Lacson but likewise all other Police Officers close to him."

A Certified copy of Mancao's Counter-Affidavit dated June 26, 2001 is hereto attached as Annex "A" and made an integral part hereof.

7.3. On 01 March 2007, while in the United States of America, Mancao executed another Affidavit stating his knowledge concerning the "Dacer-Corbito Double Murder Case." In said affidavit, Mancao never mentioned a single word concerning my possible involvement, participation or role in the "Dacer-Corbito Murder Case."

A Certified copy of Mancao's Affidavit dated 01 March 2007 is hereto attached as Annex "B".

7.4 On 06 August 2008, in an interview with GMA News' Maki Pulido, Mancao revealed the pressures from the Philippine Government (Arroyo administration) through ISAFP Chief Brig. General Romeo Prestoza even offering him to migrate to Singapore with his family in exchange for testifying against me. A CD copy of the GMA News Report is hereto attached as Annex "C" and made an integral part of this Counter-Affidavit.

7.5 On 12 August 2008, in another interview with Tambalang Failon at Sanchez in DZMM, Mancao narrated in detail the offer of the Philippine Government (Arroyo administration) through then Presidential Security Group (PSG) Commander, now Brig. Gen. Romeo Prestoza, in exchange for testifying against me in the "Dacer-Corbito Double Murder Case". In the said interview, he recounted Brig. Gen. Prestoza's statements as follows:

"Q: Ano ang offer?

A: After niyang magpakilala, sinabihan niya akong siya ay bagong halal, bagong appoint na PSG Chief. Sabi niya masyado raw maingay si Senator Lacson, parang asong ulol, gusto niya patahimikin. Gusto niya akong gamitin, in-offer-ran nila ako at buong pamilya ko na manirahan sa Singapore. Lahat na kailangan ko provide nila." Xxx

An audio copy of the interview of Mancao with Tambalang Failon at Sanchez is also included in the CD copy hereto attached as Annex "C".

7.6 The existence of the said interviews was confirmed by Mancao himself when he testified in open court on 10 September 2009 in the Regional Trial Court of Manila as follows:

"ATTY. AVISADO

Q: Mr. Witness, would you admit having an interview in 2008 with ABS-CBN's Ted Failon and GMA 7's Maki Pulido?

x x x x x x

(WITNESS MANCAO ANSWERING)

A: Yes, Sir."<sup>15</sup>

7.7 In the said interviews, specifically in the interview with GMA News correspondent Maki Pulido, Mancao disclosed that the Philippine

---

<sup>15</sup> TSN page 67, September 10, 2009, Criminal Case No. 01-191969, Initial Cross-Examination of Cezar Mancao II.

Government wants to demolish and quiet me.

7.8 In the same interview, Mancao also revealed that he received several offers from the present Administration through then PSG Commander, now ISAFP Chief Brig. Gen. Romeo Prestoza, in exchange for implicating me in the "Dacer-Corbito" case. This fact was affirmed by Mancao himself as follows:

ATTY. MENDOZA TO THE WITNESS:

Q. Is it not a fact that a certain General Prestoza called you and made you some offers regarding your testimony in court.

(WITNESS MANCAO ANSWERING)

A. I didn't know the person on line identified himself as then Colonel Prestoza.

X X X X X

Q. Is it not a fact that during that time he called you and asked you to testify and implicate Senator Panfilo Lacson in exchange for relocation to Singapore, Mr. Witness?

A. No, sir.

Q. In exchange for some benefits such as reinstatement to the Philippine National Police?

A. Promises were made as to relocation of my family, reinstatement to the police force, in order for me to fabricate some issues against now Senator Lacson at that time when we had a conversation over the phone, sir.<sup>16</sup>

7.9 Again, under oath, Mancao testified as follows:

STATE PROSECUTOR VALDEZ

Q How many times did you receive a call from certain Prestoza?

(WITNESS MANCAO ANSWERING)

A. Once, Ma'am on September 27, 2007.

X X X X X

Q. Could you please tell us again what that caller told you?

A. He was asking me to fabricate some information or charges

---

<sup>16</sup> TSN pages 34-35, September 17, 2009, Criminal Case No. 01-191969, Cross-Examination of Cezar Mancao II.

against Senator Lacson and promising me in exchange of the efforts that I would be brought back to the different country or to Singapore specifically and to relocate my family, financial support and reinstated to the police force.<sup>17</sup>

X X X X X

7.10. With these admissions in open court, it is very clear that the present government exerted great efforts in pressuring and bribing witness Mancao just to implicate me. As early as 2008, I already knew that Mancao was under tremendous pressure from this government to fabricate a malicious story which was designed to silence me. I could only hope that Mancao would have the courage to resist the pressure and temptation.

7.11. It appear that on 13 February 2009, after giving in to the pressures of the Philippine Government, Mancao, in a complete turnaround, executed another affidavit this time allegedly implicating me in connection with the "Dacer-Corbito Double Murder Case."

7.12. In May 2009 after having been extradited by the Philippine government through the unusual and extraordinary efforts of the Department of Justice, Mancao came back to the country but ironically not to be prosecuted by this Honorable Office for his involvement in said criminal case but rather to utilize him to pin me down and other leaders of the political opposition.

7.13. A copy of Mancao's sworn Answer in a civil case for Damages I filed against him is hereto attached as Annex "D". In the said Answer, Mancao confirmed the pressures exerted against him to implicate me in the "Dacer-Corbito Double Murder Case" and that he executed the Affidavits attached hereto as Annexes A and B.

7.14. Again, it must be emphasized that before such pressures were exerted, Mancao made statements regarding the "Dacer-Corbito Double Murder Case" WITHOUT IMPLICATING ME thereto. Obviously, it is not coincidental that after pressures were exerted against him to implicate me in the gruesome crime, he sang a different tune and executed his 13 February 2009 Affidavit, nearly two (2) years after such phone call.

7.15. Clearly then, relying solely on the Affidavit executed by Mancao on 13 February 2009, complainants' complaint-affidavit has no ground to stand on, as the allegations in the said complaint-affidavit are purely hearsay.

#### I. Complainants' allegations in

---

<sup>17</sup> TSN pages 104-105, September 17, 2009, Criminal Case No. 01-191969, Re-direct Examination of Cezar Mancao II.

their complaint-affidavit are purely hearsay.  
-----

8. It must be emphasized that the allegations of the complainants in their complaint-affidavit against me are hearsay since a perusal thereof would readily show that they completely relied on the affidavit of Mancao. This is not a mere evidentiary matter but an absolute requisite for preliminary investigation. My counsel advised me that in *Borlongan, Jr., et al. vs. Pena, et al.*, the Supreme Court held that:<sup>18</sup>

It must be emphasized that the affidavit of the complainant, or any of his witnesses, shall allege facts within their (affiants) personal knowledge. The allegation of the respondent that the signatures of Ponce, Abad, Ong and Montilla were falsified does not qualify as personal knowledge. Nowhere in said affidavit did respondent state that he was present at the time of the execution of the documents. Neither did he claim that he was familiar with the signatures of the signatories. He simply made a bare assertion that the signatories were mere dummies of ISCI and they were not in fact officers, stockholders or representatives of the corporation. At the very least, the affidavit was based on respondent's "personal belief" and not "personal knowledge." Considering the lack of personal knowledge on the part of the respondent, he could have submitted the affidavit of other persons who are qualified to attest to the falsity of the signatures appearing in the questioned documents. One cannot just claim that a certain document is falsified without further stating the basis for such claim, i.e., that he was present at the time of the execution of the document or he is familiar with the signatures in question. Otherwise, this could lead to abuse and malicious prosecution. This is actually the reason for the requirement that affidavits must be based on the personal knowledge of the affiant. The requirement assumes added importance in the instant case where the accused were not made to rebut the complainant's allegation through counter-affidavits. Xxx

9. Further, my counsel informed me that although only a low quantum and quality of evidence is needed to support a finding of probable cause, the same cannot be justified upon hearsay evidence that is never given any evidentiary or probative value in this jurisdiction.<sup>19</sup>

10. Thus, complainants' conclusions that I had an axe to

---

<sup>18</sup> G.R. No. 143591, November 23, 2007.

<sup>19</sup> *Kilosbayan, et al. vs. COMELEC, et al.*, G.R. No. 128054. October 16, 1997.

grind against their father and that the latter told them that should their father disappear there is no other person to blame but me, are all hearsay if not mere conclusions, which are not supported by facts within their personal knowledge.

11. More importantly, it may be recalled that during the Senate Investigation on 19 April 2001 by the Senate Committee on Justice and Human Rights, where herein complainants Ms. Emily Dacer and Ms. Sabina Dacer-Reyes appeared as resource persons, none of them in 1998 ever mentioned that their father had previously told them that should he die, I would be responsible for such death. Clearly, their belated disclosures on this supposed conversation was mere afterthought desperately designed to implicate me in this case.

II. Mancao's 13 February 2009 affidavit no longer has probative value in light of his previous affidavits, which failed to implicate me in the Dacer-Corbito murder case and there is evidence, which contradicts a material fact contained therein.

-----

12. This Honorable Office cannot disregard the prior affidavits of Mancao. Through counsel, I was advised that the discrepancies in his affidavits are irreconcilable and unexplained and they dwell on material points, such inconsistencies necessarily discredit his veracity as a witness.<sup>20</sup> Given the flip-flopping affidavits of Mancao, it is beyond logical comprehension for this Honorable Office to accept the statements in his 13 February 2009 Affidavit. His cavalier attitude in changing sworn statements indeed does not speak well of his candor and honesty.<sup>21</sup> His latest affidavit is obviously a product of a well-funded but lousily executed special operation. It is well-settled that affidavits of recantation are not favored and do not cancel or erase the affiant's earlier declaration, thus:

Granting arguendo, that the second affidavit validly repudiated the first one, courts do not generally look with favor on any retraction or recanted testimony, for it could have been secured by considerations other than to tell the truth and would make solemn trials a mockery and place

<sup>20</sup> *People vs. Aniscal*, 228 SCRA 101 p. 112; *People vs. Tulagan*, 143 SCRA 107; *People vs. Casim*, 213 SCRA 390.

<sup>21</sup> *Fojas, Jr. vs. Rollan*, A.M. No. P-00-1384. February 27, 2002.

the investigation of the truth at the mercy of unscrupulous witnesses. A recantation does not necessarily cancel an earlier declaration, but like any other testimony the same is subject to the test of credibility and should be received with caution.<sup>22</sup>

13. My counsel advised me that in determining probable cause, the average man weighs facts and circumstances without resorting to the calibrations of technical rules of evidence of which his knowledge is nil. Rather, he relies on the calculus of common sense of which all reasonable men have an abundance. The terms are legally synonymous and their reference is not a person with training in the law such as a prosecutor or a judge but to the average man on the street.

14. Thus, although I have presented evidence of the clear prejudgment of this Honorable Office against me, based on the common sense of the proverbial average man on the street, Mancao's allegation cannot be given any weight even for purposes of determining probable cause. An average man will not believe a person who under the admitted pressure of the government executes an affidavit, which mentions my name contrary to his previous affidavits that failed to mention me at all.

III. Mancao's statements as to the conversation he allegedly "personally overheard" while he was riding at the front passenger seat stands on solid ground.

-----

15. Mancao's allegation in his 13 February 2009 Affidavit deserves scant consideration for it is pure fabrication. Mancao relayed that the "incident" in the car occurred during the time when then President Estrada was out of the country. This fact is the material reference in time upon which the alleged incident adverted to by Mancao is anchored upon. This was testified to by Mancao as follows:

STATE PROSECUTOR VALDEZ

Q. Mr. Mancao, you testified that or you said awhile ago that Col. Aquino told you that the operation was approved by

---

<sup>22</sup> *Francisco v. NLRC*, G.R. No. 170087, August 31, 2006, citing *People v. Joya*, G.R. No. 79090, October 1, 1993, 227 SCRA 9, 26-27 and *People v. Davatos*, G.R. 93322, February 4, 1994, 229 SCRA 647, 651.

Malacañang and that they will take care of the PAOCTF Chief General Lacson. What else, if any, transpired after that incident in relation to this operation delta?

(WITNESS MANCAO ANSWERING)

A. After that incident, I can recall on September to early October, it was the time when the then President was out of the country, myself, General Lacson, Col. Aquino and Oximoso were in route to go to a restaurant in Greenhills and inside the car, I have personally overheard the operation and another operation.<sup>23</sup>

16. It must be emphasized however that during such time, I was also out of the country with President Estrada. A Certification issued by the Bureau of Immigration, attached hereto as Annex "E", would show that former President Joseph E. Estrada and I were out of the country from September 4, 2000 until September 13, 2000. After his return from abroad, President Estrada did not leave the country for the rest of September and October 2000.

17. Since I was also in the United States at that time when President Estrada was abroad, I could not have been possibly present in the car with Mancao. Since I was not in the car at that time, I could have given Col. Michael Ray Aquino the alleged "order" to neutralize Dacer and Corbito. Mancao's story therefore is nothing but a big lie.

18. In fact, during the said official trip to the United States with former President Joseph "ERAP" Estrada, I was in the company of Senator Manuel Roxas. The Affidavit of Senator Manuel Roxas is attached hereto and made integral part hereof as Annex "F".

19. Mancao's point of reference of the time the "incident" allegedly transpired is the time when then President Estrada was out of the country. Necessarily, considering that, during such time, I was also out of the country with President Estrada, such "incident" actually never transpired.

20. Even assuming, without admitting, that the alleged incident in the car took place, still, Mancao's own statements made in open court on 10 September 2009 failed to live up to the simple test of credibility, where he testified as follows:

ATTY. AVISADO

---

<sup>23</sup> TSN pages 23-29, September 3, 2009, Criminal Case No. 01-191969, Direct Examination of Cezar Mancao II.



Q. Could you recall what kind of car were you riding including the plate number of that car?

(WITNESS MANCAO ANSWERING)

A. I cannot recall exactly, sir.

Q. But you could recall Mr. Witness because in your testimony you said that, correct me if I'm wrong, you were seated on the front passenger side beside the driver Sgt. Oximoso and behind you was Col. Aquino beside General Lacson, is that correct?

A. No, sir. On my back was General Lacson and on the left side was Col. Aquino, Sir.

Q. You were seated in front.

A. Yes, sir.

Q. Are you familiar Mr. Witness with the protocol observed by PMAers and PNP officers with regard to riding a vehicle.

A. I am familiar but is not strictly observed, Sir.

Q. Is it correct that the protocol is based on seniority?

A. Yes Sir.

Q. Okay, between you and Col. Michael Ray Aquino who is more senior?

A. I am, Sir.

Q. And is it correct that based on protocol the more senior officer should sit at the back while the junior officers should sit in front, is that correct?

A. It's a general rule, Sir.

x x x x x x

Q. Mr. Witness you said that you were seated in the front passenger side of the vehicle, correct?

A. Yes Sir.

Q. Are you aware that the area was supposed to be the place of the aide of General Lacson?

A. Usually but in some circumstances it is not always done, Sir.

X X X X X X

Q. So the aides of Gen. Lacson were in the back up car and you were seated at the place reserved for the aide, correct?

A. Yes, Sir.

Q. But you were not the aide of Gen. Lacson, correct?

A. Yes, Sir.<sup>24</sup>

21. Based on the above quoted exchange, Mancao's statements would not pass the simple test of credibility. Protocol based on seniority is strictly observed by PMAers and senior officers of the PNP. There is absolutely no way that Mancao would allow a junior officer like Col. Michael Ray Aquino to sit in the back while a more senior officer like him would sit in front. Mancao, would all his bravado at that time, would never sit in place reserved for an aide. Verily, these statements would easily crumble when placed under the test of protocol and seniority.

22. Also fatal to Mancao's credibility was his imagined allegation that he "personally overheard" the conversation while he was seated in the front passenger aide of the vehicle. Under stress of cross examination, Mancao testified as follows:

ATTY. AVISADO

Q. In your testimony, that incident inside the car you said based on page 29 of the transcript of stenographic notes dated September 3, 2009 you said "I have personally overheard Lacson talking to Aquino about the operation and another operation," do you confirm this?

(WITNESS MACAO ANSWERING)

A. Yes, Sir.

Q. So there were actually two operations Mr. Witness, is that correct?

A. Yes, Sir.

---

<sup>24</sup> TSN, pages 27-31, 36-37, September 10, 2009, Criminal Case No. 01-191969, Initial Cross-Examination of Cezar Mancao II.

Q. The operation wherein you allegedly overheard General Lacson tell Michael Ray Aquino, "Noy tirahin nyo na si Bero." Who was the target of that operation?

A. Then Col. Reynaldo Berroya, Sir.

Q. And the other operation wherein you allegedly heard Col. Aquino informed Gen. Lacson, "Sir unahin na natin si Delta, naiirita na si Bigote sa kanya." Who was the target of this operation?

A. The then PR man Salvador "Bubby" Dacer, Sir.

Q. So would you agree with me that initially the operation which Gen. La[c]son was principally involved in was the operation regarding Berroya, is that correct?

A. Initially yes sir.

Q. And then later on you allegedly overheard him saying, "pagsabayin nyo na," is that correct?

A. Yes Sir.

Q. That is why according to you he is also involved in the delta operation, correct?

A. Yes, Sir.

Q. Were you facing Gen. Lacson and Col. Michael Ray Aquino at that time?

A. No, Sir.

Q. You were not, your back was turned against them, is that correct?

A. Yes, Sir.

Q. So could you actually really overhear the whole conversation, will you?

A. The whole I cannot recall, Sir.

X X X X X X

Q. Did you actually hear the whole conversation where you heard that portion?

A. I heard that portion, Sir.

Q. Could it be possible Mr. Witness that what you actually overheard was “pagsabayin ko na” and not “pagsabayin nyo na,” would that be possible?

X X X X X X

A. There is a possibility, Sir.<sup>25</sup>

23. With a clear admission that Mancao was not at all certain of what he actually overheard, then my alleged involvement now becomes rather doubtful. A witness who is certain of his narrations will remain staunch, the assiduous efforts of the defense to demolish his credibility notwithstanding. On the other hand, a witness who prevaricates will find it hard to stick to his story and will find himself eventually entangled in the web of lies he has woven.<sup>26</sup> Easily Mancao falls under this category.

24. Moreover, Mancao's 13 February 2009 Affidavit, even if its allegations were assumed *arguendo* to be true, shows that former President Estrada, rather than I, was behind the alleged murder of Dacer. Nothing in that Affidavit implicates me as a conspirator or as a principal by induction.

25. Based on Mancao's 13 February 2009 Affidavit, the reason for “operation DELTA” is “because ERAP was already peeved at him (DELTA)”. Clearly, Mancao is not claiming that I was the mastermind behind “operation DELTA” but another person called “ERAP”. In fact, the only statement attributed to me by Mancao, which complainants claim to link me to the crime, is my alleged statement “*Ipagsabay mo na at tingnan natin kung sino na ang mauna.*” But this statement (assuming *arguendo* that I had uttered it and Mancao heard it) actually shows that I was not part of the plan to kill Dacer. At most, it would only show a desire that such a plan, as to which I had no involvement, should be executed together with the alleged plan to kill Berroya.<sup>27</sup>

26. My counsel advised me that to hold someone guilty as a co-principal by reason of conspiracy, it must be established that

<sup>25</sup> TSN pages 31-35, September 10, 2009, Criminal Case No. 01-191969, Initial Cross-Examination of Cezar Mancao II.

<sup>26</sup> *People vs. Capitle*, G.R. No. 137046, February 26, 2001.

<sup>27</sup> Of course, I also vehemently and specifically deny any involvement in any plan to kill Berroya, but this is not the issue in this preliminary investigation.

he “performed an overt act in pursuance or in furtherance of conspiracy. The overt act may consist of active participation in the actual commission of the crime itself or moral assistance to co-conspirators by exerting moral ascendancy over them by moving them to execute or implement the conspiracy.”<sup>28</sup> The alleged statement attributed to me does not suggest any of these things. In fact what Mancao attests to is that it was President Estrada who ordered the killing, and that it was upon his orders that they committed the crime. All that Mancao's 13 February 2009 Affidavit suggests is that I *knew* of the plan. But mere knowledge, acquiescence or approval, without agreement to cooperate, is not conspiracy.<sup>29</sup>

27. Likewise, the alleged statement attributed to me is also not an inducement to commit the crime. My counsel informed me that to hold petitioner liable as a principal by inducement, it must be shown that he promised a price or reward to others to commit the crime, or that he commanded others to commit the crime.<sup>30</sup> And the inducement or command must be the determining cause of the crime. In other words, it must be such that the act would not have been performed, without it.<sup>31</sup>

28. The alleged statement attributed to me did not promise any price or reward. Nor did it command the killing of Dacer. The command had been given by President Estrada according to Mancao. My alleged suggestion that it be executed together with the plan against Berroya related only to the timing of the act, which the others were going to commit anyway, because President Estrada (their Commander-in-Chief) had already commanded it. Even without my alleged statement, there is no showing that the others would not have executed the plan against Dacer.

29. Besides, the conclusions drawn by Mancao and the complainants from my alleged statement are simply interpretations and speculative inferences. There are no express, direct and

---

<sup>28</sup> *People v. Ballesta*, G.R. No. 181632, September 25, 2008, citing *People v. Santiago*, 396 Phil. 200 (2000), citing *People v. Bautista*, 387 Phil. 183, 204-205 (2000), *People v. Ragundiaz*, 389 Phil. 532, 551 (2000) and *Salvatierra v. Court of Appeals*, 389 Phil. 66, 74 (2000).

<sup>29</sup> *Taer vs. Court of Appeals*, 186 SCRA 604 (1980); *People v. Rafael*, G.R. No. 123176, October 13, 2000; *Ladonga v. People*, G.R. No. 141066, February 17, 2005, citing *People vs. Natividad*, G.R. No. 151072, September 23, 2003, 411 SCRA 587, 595.

<sup>30</sup> *People vs. Peralta*, 25 SCRA 759 (1968); *Santos v. People*, G.R. No. 167671, September 3, 2008, citing *People v. Yanson-Dumancas*, 378 Phil. 341, 351 (1999).

<sup>31</sup> *People vs. Castillo*, G.R. No. L-19238, July 26, 1966; *People v. Rafael*, G.R. No. 123176, October 13, 2000.

categorical statements assigned to me which declare that I allegedly ordered or participated in any manner in the gruesome crime.

30. Thus, it is crystal clear that the allegations of Mancao in his affidavit did not directly implicate me in the perpetration of the gruesome crime. It is very well-settled in our jurisprudence that conspiracy cannot be established by mere inferences or conjectures.<sup>32</sup> It is incumbent upon complainants to prove that I performed an overt act in pursuance or furtherance of the alleged complicity. However, Mancao's general accusation against me does not constitute proof of conspiracy and neither will complainants' sweeping conclusions that I orchestrated the same.

IV. The Affidavit was conveniently drafted by the unseen hands of the government in an attempt to persecute me in a crime of which I have no participation.

-----

31. The charges filed against me were not made in pursuit of justice in finding the truth behind the incidents of the Dacer-Corbito Double Murder case, but were made in a desperate attempt by the Arroyo Administration to persecute me. This was in fact affirmed by Mancao when he testified on 17 September 2009, as follows:

ATTY. CAJUCOM

Q: Mr. Witness, I will refresh you on your deposition which you executed last May 21, 2009. Did you execute this deposition, Mr. Witness?

X X X X X X

Q: But Mr. Witness, do you confirm that you attended the deposition taking?

(WITNESS MANCAO ANSWERING)

A: Yes, Sir.

Q: And would you affirm that when you were asked on Page 22 of this deposition, "Question: And one of the reasons you did

---

<sup>32</sup> *People v. Maluenda*, 351 Phil. 467, 493 (1998).

not want to return to the Philippines is that you were concerned that you would not be treated fairly by the Government of President Gloria Arroyo. Isn't that true?" and you answered, "Gloria Arroyo, sir?" Question: Yes. Answer: Yes, Sir. Answer: Yes, Sir. Question: Just – I'm just going to repeat that question just to be clear. One of the reasons that you did not want to return to the Philippines was that you were afraid you would not be treated by the Arroyo Government?" And you answered, "Yes, sir." Do you confirm that, Mr. Witness?

A: Yes, sir.

Q: And then after that another question, "Why did you feel that way? And you answered, "Because they are persecuting people who are known or allied with the now Senator Panfilo Lacson, sir. Question: And that would include yourself, correct? Answer: Yes, sir. Question: And Michael Ray Aquino? Answer: Yes, sir. Question: And Glenn, Glenn Dumlao? Answer: Yes, sir. Question: And you in fact were very afraid that if you were sent back to the Philippines that you would be persecuted as well? Answer: Yes." Do you confirm that?

A: Yes, sir.<sup>33</sup>

32. Taking into consideration the incidents leading to the execution of the 13 February 2009 Affidavit belatedly implicating me in this case, it is manifest that the unseen hands of the government are busy at work in persecuting me. In the process, they had no choice but to use Mancao for their malicious ends. The government's fingerprints could be found all over the place.

33. First, there were threats made to Mancao and his family. As early as 2001, efforts were being exerted to pressure him to testify against me. This fact was categorically affirmed and testified to by Mancao himself in a cross-examination dated 17 September 2009, as follows:

ATTY. ATIENZA TO THE WITNESS:

X X X X X X

Q. Mr. Witness, you earlier testified that you executed and signed your counter affidavit dated June 2001 in order to save your neck. Is that correct, Mr. Witness?  
(WITNESS MANCAO ANSWERING)

---

<sup>33</sup> TSN pages 85-87, September 17, 2009, Criminal Case No. 01-191969, Cross-Examination of Cezar Mancao II.

A. Yes, sir.

Q. And you executed and signed your counter affidavit because you were receiving intimidation at that time. Is that correct, Mr. Witness?

A. Yes, sir.

Q. You likewise testified, Mr. Witness that several cases were being prepared against you including possible charges of rebellion. Is that correct, Mr. Witness?

A. Yes, sir.

Q. Are these cases being readied by the current administration?

A. The Supreme Court at that time ruled that there was no state of rebellion and that the warrant of arrest that we feared of was nullified.

Q. But my question, Mr. Witness, that the cases that were being prepared against you and your men are being undertaken by the current administration? Meaning the Arroyo Administration at that time and even up to now?

A. Yes, sir.<sup>34</sup>

34. Second, as previously discussed, there were efforts made on the part of the government to persuade Mancao to implicate me in the Dacer-Corbito Double Murder case by fabricating charges against me.

35. Third, the present government cannot deny that it is the architect of this project. No less than then Department of Justice Secretary Raul Gonzales himself was personally involved in this special operation. In fact, as quoted in a news report of Inquirer.Net<sup>35</sup> dated 10 June 2009, he expressed his intention to serve as counsel for Cezar Mancao and Glen Dumlao. In no uncertain terms, he declared that *"I am willing to resign and offer myself as counsel for Mancao and Dumlao."* As evidence of the

<sup>34</sup> TSN, pages 44-45, September 17, 2009, Criminal Case No. 01-191969, Cross-Examination of Cezar Mancao II.

<sup>35</sup> Inquirer.net, Breaking news / Nation, "Gonzales offers to serve as Mancao's counsel" By: Tetch Torres, June 10, 2009, <http://newsinfo.inquirer.net/breakingnews/nation/view/20090610-209701/Gonzales-offers-to-serve-as-counsel>.



government's efforts to maneuver the outcome of the case, he also stated that *"I am the architect of this case. I would assume that Mancao and Dumlao are doing this because of confidence to my commitment."*

36. Moreover, even at the time he was to leave his post as Justice Secretary, he was very worried that his impending transfer to the Office of the Chief Legal Counsel might affect the Dacer-Corbito double murder case. In recounting his discussion with incoming Justice Secretary Agnes Devanadera, he stated that "She said she is not very sure of the parameters. I told her what I wanted." In a news report from *Inquirer.net*<sup>36</sup>, he was quoted saying that "If this case will not be handled well – not because of the incompetence of the prosecutors but because of some other reasons – I can always resign and offer myself as lawyer." Coming from no less than the Justice Secretary himself, I already knew what to expect. On the contrary, I actually knew what not to expect, I CANNOT EXPECT TO GET JUSTICE UNDER THIS ADMINISTRATION.

37. Finally, showing his great spite towards me, former Justice Secretary Raul Gonzales, in his valedictory speech, "expressed hope that when Devanadera goes to the Commission on Appointments, she would not suffer "the tribulations" which he experienced in the hands of Lacson."<sup>37</sup>

38. All these circumstances taken together, it is easy to conclude that the government is hell bent in pursuing this case against me. Worse, the irony of it all, it is still the Department of justice which is tasked to find probable cause against me, a task whose outcome had already been determined from the very beginning.

39. The active participation of former Justice Secretary was confirmed by Mancao when he testified under oath on 17 September 2009 when he was cross-examined by Atty. Cajucom, as follows:

ATTY. CAJUCOM

<sup>36</sup> *Inquirer.net*, *Inquirer Headline / Nation*, "Gonzales won't let go of Dacer-Corbito case" by: Norman Bordadora, June 11, 2009, <http://newsinfo.inquirerheadlines/nation/view/20090611-209857/Gonzales-wont-let-go-of-Dacer-Corbito-case>.

<sup>37</sup> [www.businessmirror.com.ph](http://www.businessmirror.com.ph). "Gonzales yields port to Devanadera" By: Joel San Juan, June 15, 2009, <http://businessmirror.co.ph/nation/11783/Gonzales-yields-DOJ-post>.

Q: Mr. Witness, would you confirm if you have personally talked to Secretary Gonzales or by telephone when you were in the United States, Mr. Witness?

(WITNESS MANCAO ANSWERING)

A: Yes, I did, sir.

Q: When was that, Mr. Witness?

A: Early December, sir.

Q: So that was before you executed that affidavit, Mr. Witness?

A: Yes, sir.<sup>38</sup>

40. Taking into consideration all these incidents preceding the execution of the supposed Affidavit, there is no doubt that Mancao executed the same while he was under a tremendous pressure from the Government led by no less than the former Justice Secretary.

41. The affidavit itself was prepared by a panel of Department of Justice prosecutors and Mancao was merely asked to sign it. Mancao confirmed this in open court as follows:

ATTY. AVISADO

Q. Mr. Witness, you testified you executed an Affidavit in Florida before the Honorable Consul Macatangay on February 14, 2009, do you affirm this?

(WITNESS MANCAO ANSWERING)

A. Yes, Sir.

X X X X X X

Q: Mr. Witness, would you admit that you spoke with the prosecutor and other DOJ officials in the United States before you prepared this affidavit?

A: Yes, Sir.

Q: And can you tell us what did they tell you before you

---

<sup>38</sup> TSN Page 83, September 17, 2009, Criminal Case No. 01-191969, Cross-Examination of Cezar Mancao II.

prepared this affidavit?

A: That I have to tell the truth so I can receive the justice that I want.

Q: So can you tell the Court who actually prepared this affidavit when you were in the United States?

A: It was prepared by the panel, we read the draft, it was made more than 24 hours.

X X X X X X

Q: Did the panel of prosecutors give inputs in preparing this affidavit?

A: Guidance, Sir.<sup>39</sup>

42. This fact was again confirmed by Mancao on 17 September 2009 when he testified as follows:

ATTY. ATIENZA

Your Honor, I am now in the stage where February 14 when the DOJ representatives came to jail. And on page 49 the "Question was "Yes, prettier. (sic) Mr. Witness would you admit that you spoke with the prosecutor and other DOJ officials in the United States before you prepare this Affidavit?" and the "Answer: Yes, Sir." And in another question in the same page, "Question: Can you tell the court who actually prepared this affidavit when you were in the United States? Answer: It was prepared by the panel, we read the draft, it was made more than 24 hours. And on page 50, second to the last question, "Did the panel of prosecutors give inputs in preparing this affidavit? Answer: Guidance, Sir. Question: Not inputs, guidance? Yes, Sir." So, it is very well established, Your Honor, that the DOJ officials...

THE COURT:

The question is?

ATTY. ATIENZA:

Who were with Prosecutor Valdez at the time?

THE COURT:

Answer.

---

<sup>39</sup> TSN pages 48-50, September 10, 2009, Criminal Case No. 01-191959, Initial Cross-Examination of Cezar Mancao II.

(WITNESS MANCAO ANSWERING)

A: At the time when we first met on February 12 before a proper agreement on the kind of immunity meeting between Assistant U.S. State Attorney Jeffer Kin and my Public Defender Lopez, sir, I cannot explain fully how supposed to be, sir. But it is a kind of exploratory meeting where in the statement that I will be making will be used for a case, it could be taken against me but if I will tell a lie or perjure a statement those people who were there as I've mentioned earlier the people from the Philippines who were led by Assistant or Undersecretary Ernesto Pineda, Undersecretary Oscar Calderon who is also under the DOJ, the Lady Prosecutor, NBI Regional Director Ric Diaz who is also present, sir, and an ICE Agent or Immigration and Customs Enforcement Agent in the name of Ric Matthew was there, sir.

X X X X X X

ATTY. ATIENZA

Q. And as you earlier testified there was guidance in the preparation of the affidavit?

A. Yes, sir.<sup>40</sup>

43. Expectedly, instead of prosecuting Mancao for the criminal charge against him in the Dacer-Corbito Double Murder case, the government knowingly allowed him to freely roam in the United States for eight (8) years. Now, after successfully pressuring Mancao to sign his supposed affidavit on 13 February 2009, the government in return, immediately initiated the process for his extradition to the Philippines. As promised, the government asked for the discharge of Mancao as state witness. Having these in mind, it is easy to see why Mancao fabricated a fictitious story to implicate me in this unfounded suit.

V. The affidavits/statements presented in Criminal Case No. 10-191969 failed to implicate me in the Dacer-Corbito Double Murder case.

-----

44. During the hearing on 14 August 2009, this Honorable Panel directed complainants to produce the persons who executed

---

<sup>40</sup> TSN pages 56-61, September 17, 2009, Criminal Case No. 01-191969, Cross-Examination of Cezar Mancao II.

the purported sworn affidavits attached to their Motion and Supplemental to Admit Additional Evidence.

45. Complainants committed that they will only adopt and utilize the affidavits of the persons who will appear before the Honorable Panel and swore on their affidavits. For this purpose, complainants requested for the issuance a subpoena upon the following:

1. Jimmy L. Lopez;
2. William L. Lopez;
3. Alex B. Diloy;
4. Willy G. Cabuguin;
5. Glenn Dumlao.

46. Considering that the request for subpoena has been limited to the aforementioned individuals, it necessarily follows that the purported affidavits/statements of the following persons must be excluded pursuant to then 14 August 2009 directive of this Honorable Panel:

1. *Sinumpaang Salaysay* of Mauro Torres;
2. *Sinumpaang Salaysay* of Marino Soberano;
3. *Sinumpaang Salaysay* of Ruperto Nemeño;
4. *Sinumpaang Salaysay* of Crisostomo Purificacion;
5. *Sinumpaang Salaysay* of Renato Malabanan;
6. *Sinumpaang Salaysay* of Jovencio Malabanan;
7. *Sinumpaang Salaysay* of Rommel Rollan;
8. Written statement as contained in the letter dated 11 April 2001 of Dr. Racquel Del Rosario-Fortun to NBI Director Gen. Reynaldo G. Wycoco;

47. Accordingly, the affidavits/statements mentioned above must be excluded from the proceedings of the case because of the directive of this Honorable Panel including the affidavit of Jimmy L. Lopez for his failure to affirm his statement because of his untimely demise. Be that as it may, all the foregoing affidavits/statements do not implicate me in the Dacer-Corbito murder as in fact the aforesaid affiants never attributed a single act of any alleged participation on my part in the said murder. In fact, their own witness Col. Glen Dumlao even cleared me of any involvement in this case when he revealed that it was actually then President "ERAP" Estrada who gave the order to Col. Michael Ray Aquino to neutralize Dacer.

VI. The physical evidence presented in Criminal Case

No. 01-191969 failed to implicate me in the Dacer-Corbito murder case.  
-----

48. According to my counsel, the corpus delicti includes two things: first, the objective; second, the subjective element of crimes. In homicide (by dolo) and in murder cases, the prosecution (in this case the complainants) is burdened to prove: (a) the death of the party alleged to be dead; (b) that the death was produced by the criminal act of some other than the deceased and was not the result of accident, natural cause or suicide; and (c) that defendant committed the criminal act or was in some way criminally responsible for the act which produced the death.

49. The burden of complainants was not discharged even at this stage where the issue is merely probable cause. The result of the DNA Examination conducted by the UP National Science Research Institute (UPNSRI) shows that:

- |          |    |                                                                                                 |
|----------|----|-------------------------------------------------------------------------------------------------|
| SPECIMEN | 1. | Several pieces of burnt tires contained in a sealed transparent plastic bag with markings.      |
|          | 2. | Ashes contained in a sealed transparent plastic bag with markings.                              |
|          | 3. | Alleged charred bones contained in three (3) sealed transparent plastic bags all with markings. |
|          | 4. | Eight (8) pieces of teeth contained in a transparent plastic bag with markings.                 |

DATE SUBMITTED: Specimen 1-3 = March 28, 2001 at 1:45 p.m.  
Specimen 4 = March 28, 2001 at 1:45 p.m.

ALLEGED CASE: Re: FOD Case, NBI, Manila  
Victim: BUBBY DACER and his driver

REQUESTING PARTY: SI 3 Antonio Erum Noted: Atty. Marianito  
Panganiban  
FOD-DIS, NBI, Chief, FOD, NBI, Mla.  
Mla.

PURPOSE OF EXAMINATION: For DNA Analysis

FINDINGS:  
Deoxyribonucleic acid analysis conducted on the above-

mentioned specimens all gave NEGATIVE RESULTS for the presence of HUMAN DNA.

50. Verily, assuming *arguendo* that statements of the above-mentioned affiants should be included in the proceedings, the State's own investigation, through the NBI, shows the alleged charred bones of Dacer and Corbito gave negative results for the presence of human DNA, which necessarily means that specimen gathered by the investigators (charred bones, teeth, etc.) are not human. This necessarily contradicts the allegations of William L. Lopez and Alex B. Diloy in their respective Affidavits that Dacer and Corbito were murdered and burned at an "*ilat*" in Indang, Cavite. If it were true that Dacer and Corbito were killed, and their remains burned, at the site where the charred bones were allegedly discovered, then the site should have been littered with remains, whether charred bones or otherwise, that could be traced to Dacer or Corbito or at the very least, to the remains of human beings.

51. Anent the dentures allegedly recovered from the alleged crime scene, suffice it to say that the circumstances by which they were recovered are highly suspect. Consider the following:

51.1. Newspaper reports stated that when Dr. Raquel Fortun went to the crime scene on 7 April 2001, she observed that the area was not preserved and agreed that the dental plate she allegedly found could have possibly been planted.

51.2. The dental plate was suspiciously missed by the NBI agents at the time they scoured the alleged crime scene before the visit of Dr. Fortun. It is highly improbable that what a composite team of PNP and NBI officers failed to find, Dr. Raquel Fortun was able to miraculously retrieve after five (5) months in a crime scene that was admittedly not preserved. A copy of the newspaper reports published in *Manila Standard* and *Today* on 20 April 2001 is hereto attached and made integral part hereof as Annexes "G" and "G-1".

51.3. Per report of the NBI pursuant to the subpoena issued by this Honorable Panel, the NBI has no record of the reports prepared relative to search of the crime scene on 7 April 2001 or any proof of the proper transfer of the chain of custody thereof, which renders the integrity of the things recovered from such search, including the alleged dentures of Dacer and Corbito, highly suspect.

51.4. More importantly, it was not the personal and family dentist of Dacer and Corbito who was able to positively identify that the dental

plate was indeed that of Dacer but only Dr. Raquel Fortun who is not even a dentist. Such failure is fatal to their case. Besides, as mentioned earlier, Dr. Raquel Fortun's written statements contained in her letter dated 11 April 2001 to NBI Director Gen. Reynaldo G. Wycoco, as to her alleged findings about the case, are not even admissible since she did not verify the same under oath or execute any affidavit affirming the same.

52. Furthermore, in a Senate investigation conducted by the Committee on Justice on Human Rights on 19 April 2001, then NBI Director Reynaldo Wycoco admitted that in the course of their investigation, they have no evidence linking me to the Dacer murder case. He even stated that my name was not even mentioned by any of the witnesses or suspects.<sup>41</sup>

53. All in all, the evidence presented could not prima facie establish my involvement in the Dacer-Corbito case.

VII. There is no violation of P.D. No. 1829.  
-----

54. I vehemently deny the accusation that I gave instructions to Mancao to cover up the investigation of the Dacer-Corbito murder case and that I instructed him and Michael Ray Aquino to flee the country. I also strongly deny that I provided money or reimbursed their expenses in the Unites States. Nonetheless, since the elements of murder have not been laid out in the affidavits in this case, the charge of obstruction of justice is worthless.

55. Pertinent to my defense, Mancao, in his testimony in open court on 10 September 2009 testified as follows:

ATTY. AVISADO

Q: Will you agree that Gen. Lacson never really gave you an order to cover up it was just your personal interpretation, is that correct?

(WITNESS MANCAO ANSWERING)

A: The way we operate is not all verbal. It could be manifestation of actions but since that we have been together for a while we know each other and we know how to deal on some

---

<sup>41</sup> Annex "G-1" of the Counter-Affidavit.



problem like this so I was made to impress that the order carry out was to protect or cover up our men, sir.

Q: But Gen. Lacson never expressly said do a cover up, do you agree?

A: Not expressly, Sir.<sup>42</sup>

56. It must emphasized that Mancao admitted that I never expressly gave an order to cover up the said investigation. Even then, no actual cover up was made by Mancao because it was the NBI who already took charge of the investigation.

57. I was advised by my counsel that the Supreme Court in *Ilusorio vs. Ilusorio, et al.*, citing Section 1 of Presidential Decree No. 1829, otherwise known as "*Penalizing Obstruction Of Apprehension and Prosecution Of Criminal Offenders*" rules that:

Section 1. The penalty of prision correccional in its maximum period, or a fine ranging from 1,000 to 6,000 pesos, or both, shall be imposed upon any person who knowingly or willfully obstructs, impedes, frustrates or delays the apprehension of suspects and the investigation and prosecution of criminal cases by committing any of the following acts:

(b) xxx altering, xxx destroying, xxx suppressing, or concealing any paper, record, document, or object, with intent to impair its verity, authenticity, legibility, availability, as evidence in any investigation of or official proceedings in, criminal cases, or to be used in the investigation of, or official proceedings in, criminal cases;

(c) harboring or concealing, or facilitating the escape of, any person he knows, or has reasonable ground to believe or suspect, has committed any offense under existing penal laws in order to prevent his arrest, prosecution, and conviction.

We hold that the evidence adduced does not support a finding of probable cause for the offenses defined in the provisions cited above. Marietta failed to prove, by competent evidence, that: (1) Penthouse Unit 43-C was the dwelling place of Erlinda; (2) she has

---

<sup>42</sup> TSN page 42, September 10, 2009, Criminal Case No. 01-191969, Initial Cross-examination of Cezar Mancao II.

authority over the said unit; (3) Sylvia and Cristina had no authority to enter the unit and conduct acts of maintenance thereon; and (4) Sylvia and Cristina were armed when they effected entrance. Based on these circumstances, the charges of robbery and qualified trespass to dwelling must inevitably fail. Perforce, the charge against Jovito for violation of P.D. No. 1829 should also be dismissed. Xxx

58. In this case, complainants' reliance on Mancao's allegation that I told them to go to the United States is absolutely false. It must be stressed that Mancao left the country because he knew of the impending rebellion charges against him and not because I asked him to. Contrary to his statements, he voluntarily left the country for his own safety and convenience.

59. Complainants' allegations remain as mere allegations with nothing to support them. Such an imputation of violation of a law cannot and should not be premised on pure assumptions and inference, but on concrete facts. Unfortunately, this was not sufficiently established by the facts at hand. Complainants failed to discharge this burden.

#### CONCLUSION

60. The allegations of the complainants and Mancao nor the belatedly submitted affidavits cannot engender probable cause against me. Complainants' allegations that I "*exercised ascendancy over all members of the task force*" and that killing of their father and Mr. Corbito "*could only be done upon*" my alleged "*direction*" are but mere conclusions, which are unsupported by any piece of evidence. Certainly, probable cause demands more than bare suspicion and can never left to presupposition, conjecture, or even convincing logic.<sup>43</sup>

61. It should be realized, however, that when a man is haled to court on a criminal charge, it brings in its wake problems not only for the accused but for his family as well. Therefore, it behooves a prosecutor to weigh the evidence carefully and to deliberate thereon to determine the existence of a prima facie case before filing the information in court. Anything less would be a dereliction of duty.<sup>44</sup>

---

<sup>43</sup> *Kilosbayan Inc. v. COMELEC*, 345 Phil. 1141, 1174 (1997).

<sup>44</sup> *Bernardo v. Mendoza*, 90 SCRA 2145 [1979]; *Vda. De Jacob v. Puno*, 131 SCRA 148-149 [1984].

62. In view of all the foregoing, it is evident that the real purpose in filing this criminal complaint for double murder is to punish me for my relentless and uncompromising stand against graft and corruption and not to seek redress for a crime I never committed.

63. I am executing this Affidavit to attest to the truth of the foregoing statements and in support of my prayer for the outright dismissal of this criminal complaint and for whatever legal purpose this may serve.

AFFIANT FURTHER SAYETH NAUGHT.

IN WITNESS WHEREOF, I have hereunto set my hand this 26<sup>th</sup> day of October 2009 at Manila.

(SGD.)  
SENATOR PANFILO M. LACSON  
*Affiant*

SUBSCRIBED AND SWORN to before me on this 26<sup>th</sup> day of October 2009, at Manila.

(SGD.) (SGD.)  
HON. PETER ONG HON. MARMARIE P. SATIN-VIVAS

(SGD.)  
HON. MARI ELVIRA B. HERRERA

CERTIFICATION

We hereby certify that we have personally examined the affiant and we are satisfied that he understood the foregoing counter-affidavit and that the same is his voluntary act and deed.

(SGD) (SGD)  
HON. PETER ONG HON. MARMARIE P. SATIN-VIVAS

(SGD)  
HON. MARI ELVIRA B. HERRERA”

Initially, the DOJ panel of prosecutors set the hearings on December 1 and 18, 2009, but cancelled the hearings and declared the case submitted for resolution. On December 2, 2009, the DOJ Panel denied petitioner's Motion for Reconsideration Ad Cautelam. On December 18, 2009, the DOJ panel of prosecutors issued a Resolution finding probable cause for two counts of murder against petitioner. The complaint for violation of Section 1(c) of Presidential Decree No. 1929 was dismissed for lack of merit.<sup>45</sup>

On January 7, 2010, two separate but identical informations for murder were filed against petitioner for allegedly conspiring with the other accused in Criminal Case No. 01-191969.

The Information in Criminal Case No. 10272905 reads:

"The undersigned State Prosecutors hereby accuse PANFILO M. LACSON for the crime of Murder, defined and penalized in Article 248 of the Revised Penal Code, as amended, committed as follows:

That on or about November 24, 2000, in the City of Manila, Philippines and within the jurisdiction of this Honorable Court, accused PANFILO M. LACSON, conspiring, confederating and acting together with, aiding and helping, and with the aid and help of, the accused in Criminal Case No. 01-191969, pending before the Regional Trial Court, Branch 18, Manila, namely, P/SSupt Michael Ray B. Aquino, P/SSupt Cezar Ochoco Mancao II, P/SSupt Teofilo Viña, SPO2 Allan C. Villanueva, SPO4 Marino Soberano, SPO3 Mauro Torres, SPO3 Jose Escalante, Crisostomo M. Purificacion, Digo De Pedro, Renato Malabanan, Jovencio Malabanan, Margarito Cueno, Rommel Rollan, P/SInsp Roberto Langcauon, SPO4 Benjamin Taladua, SPO1 Rolando Lacasandile, SPO1 Mario Sarmiento, SPO1 William Reed, PO2 Thomas J. Sarmiento, SPO1 Ruperto A. Nemeño, P/CInsp Vicente Arnado and several John Does, abducted SALVADOR "BUBBY" DACER and Emmanuel Corbito at the corner of Osmeña Highway (formerly South Super Highway) and Zobel Roxas Street, in Manila, and brought them to Indang, Cavite, and with treachery, evident premeditation, abuse of superior strength, nighttime and remoteness of place, malice and intent to kill, did then and there knowingly,

---

<sup>45</sup> Rollo, pp. 485-535, DOJ Resolution dated December 18, 2009.

wilfully, unlawfully and feloniously kill SALVADOR "BUBBY" DACER by strangulation which was the direct and immediate cause of his death and then burned his body to the damage and prejudice of said SALVADOR "BUBBY" DACER and his legal heirs."<sup>46</sup>

The Information in Criminal Case No. 10272906 reads:

"The undersigned State Prosecutors hereby accuse PANFILO M. LACSON for the crime of Murder, defined and penalized in Article 248 of the Revised Penal Code, as amended, committed as follows:

That on or about November 24, 2000, in the City of Manila, and within the jurisdiction of this Honorable Court, accused PANFILO M. LACSON, conspiring, confederating and acting together with, aiding and helping, and with the aid and help of, the accused in Criminal Case No. 01-191969, pending before the Regional Trial Court, Branch 18, Manila, namely, P/SSupt Michael Ray B. Aquino, P/SSupt Cezar Ochoco Mancao II, P/SSupt Teofilo Viña, SPO2 Allan C. Villanueva, SPO4 Marino Soberano, SPO3 Mauro Torres, SPO3 Jose Escalante, Crisostomo M. Purificacion, Digo De Pedro, Renato Malabanan, Jovencio Malabanan, Margarito Cueno, Rommel Rollan, P/SInsp Roberto Langcauon, SPO4 Benjamin Taladua, SPO1 Rolando Lacasandile, SPO1 Mario Sarmiento, SPO1 William Reed, PO2 Thomas J. Sarmiento, SPO1 Ruperto A. Nemeño, P/CInsp Vicente Arnado and several John Does, abducted Salvador "Bubby" Dacer and EMMANUEL CORBITO at the corner of Osmeña Highway (formerly South Super Highway) and Zobel Roxas Street in Manila, and brought them to Indang, Cavite, and with treachery, evident premeditation, abuse of superior strength, nighttime and remoteness of the place, malice and intent to kill, did then and there knowingly, wilfully, unlawfully and feloniously kill EMMANUEL CORBITO by strangulation which was the direct and immediate cause of his death and then burned his body to the damage and prejudice of said EMMANUEL CORBITO and his legal heirs."<sup>47</sup>

The aforesaid cases, docketed as Criminal Cases Nos. 10272905 & 10272906, were raffled to RTC-Branch 32, Manila.

---

<sup>46</sup> Rollo, p. 538.

<sup>47</sup> Rollo, p. 541.

On January 7, 2010, petitioner filed an Omnibus Motion for Consolidation and Judicial Determination of Probable Cause.

On February 4, 2010, then RTC-Branch 18 Judge Myra Fernandez issued an Order finding probable cause and directed the issuance of warrant of arrest against petitioner. On February 10, 2010, petitioner filed a Motion for Reconsideration with prayer for the voluntary inhibition of RTC Judge Myra Fernandez. In March 2010, RTC Judge Fernandez was promoted Associate Justice of the Court of Appeals.

On May 21, 2010, petitioner filed a Motion for Reinvestigation. Thereafter, he filed a Supplemental Motion for Reinvestigation.

On July 23, 2010, RTC-Branch 18 Acting Presiding Judge Thelma Bunyi-Medina issued an Order denying petitioner's Motion for Reconsideration and his Motion for Reinvestigation.

On September 24, 2010, within the reglementary period, petitioner filed the instant petition for certiorari and prohibition with application for a temporary restraining order and preliminary injunction. After the filing of private respondents' Comment dated November 17, 2010, this Court issued a Resolution denying injunctive relief.

On November 26, 2010, the Court directed the parties to submit their respective memoranda on the merits. Petitioner submitted his Memorandum dated December 16, 2010. Private respondents submitted their Memorandum dated December 21, 2010. The Office of the Solicitor General opted to adopt its Comment dated November 26, 2010 as its Memorandum.

Petitioner cites the following ground for the granting of the instant petition, viz:

"GROUND FOR THE PETITION

PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF  
DISCRETION AMOUNTING TO LACK OR EXCESS OF

JURISDICTION WHEN IT FOUND PROBABLE CAUSE FOR THE  
ISSUANCE OF WARRANTS OR ARREST AGAINST  
PETITIONER.

- A. Public respondent gravely abused its discretion in speculating and inferring petitioner's criminal liability from his position as head of PAOCTF and PNP.
- B. Public respondent gravely abused its discretion in finding probable cause based chiefly, if not solely, on Mancao's 13 February 2009 Affidavit, which is patently incredible and unreliable, considering that:
  - (1) It was contrary to Mancao's previous affidavits;
  - (2) It was the product of undue pressure on Mancao to implicate petitioner, which Mancao himself has admitted; and
  - (3) Mancao's account is inherently unbelievable and improbable and has been contradicted in important details.
- C. Public respondent gravely abused its discretion in blindly relying on Mancao's 13 February 2009 Affidavit and rejecting circumstances indicating the incredibility and unreliability thereof, on the supposition that "matters of credibility of witnesses are best resolved during the trial proper."
  - (1) In determining probable cause, a court has a duty to "examine evidence with care." This duty was violated when public respondent relied on the *patently* incredible and unreliable Affidavit of the prosecution's sole witness;
  - (2) The circumstances pointed out by petitioner undermine not only Mancao's personal credibility as a witness, but also the inherent credibility of his *account*.
  - (3) It would be highly unjust to still subject an accused to trial proper, when it is *immediately* obvious that the testimony of the prosecution's sole witness is incredible and unreliable.

(4) This Honorable Court and the Supreme Court have previously ruled that a criminal case should be dismissed for lack of probable cause if the testimony of the prosecution's witness is incredible and unreliable.

D. Even assuming *arguendo* that Mancao's 13 February 2009 Affidavit could be accepted at face value, the alleged statements purportedly uttered by petitioner and overheard by Mancao are not sufficient to establish probable cause against him for murder.<sup>48</sup>

At the outset, it must be pointed out that up to now petitioner is at large and is evading arrest from the time of the issuance of a warrant of arrest on February 4, 2010. Nonetheless, We are entertaining the instant petition, in accordance with the ruling of the Supreme Court in the case of *Miranda vs. Tuliao* (486 SCRA 383), that an accused who is at large with a pending warrant of arrest can legally seek affirmative relief from the Court through a petition for certiorari and prohibition.

Now, on the instant petition.

The pivotal issue for resolution is whether or not the public respondent court committed grave abuse of discretion amounting to excess of jurisdiction in finding the existence of probable cause for the issuance of a warrant of arrest against petitioner for the death of Salvador Dacer and Emmanuel Corbito.

Traditionally, by grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, and it must be shown that the discretion was exercised arbitrarily or despotically.<sup>49</sup> The abuse of discretion must be patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform a duty enjoined by law, as not to act at all in contemplation of law or where power is exercised in an arbitrary and despotic manner by reason of passion or hostility.<sup>50</sup> Its expanded

---

<sup>48</sup> Rollo, pp. 10-11.

<sup>49</sup> *PMI Colleges vs. NLRC and Alejandro Galvan*, G.R. No. 121466, August 15, 1997.

<sup>50</sup> *Panaligan vs. Adolfo*, 67 SCRA 176.



meaning, however, already includes acts done contrary to the Constitution, the law, or jurisprudence.<sup>51</sup>

To begin with, Section 6 of Rule 112 of the Revised Rules of Criminal Procedure, provides for the guidelines to be followed by the RTC Judge in the issuance of a warrant of arrest, viz:

“SEC. 6. When warrant of arrest may issue.- (a) By the Regional Trial Court.- Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused has already been arrested pursuant to a warrant issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to section 7 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint or information.

Xxx

xxx

xxx”

Aptly, in the case of *Teresita Tanghal Okabe vs. Hon Pedro De Leon Gutierrez, et al.*,<sup>52</sup> the Supreme Court declared that:

“The purpose of the mandate of the judge to first determine probable cause for the arrest of the accused is to insulate from the very start those falsely charged of crimes from the tribulations, expenses and anxiety of a public trial:

'It must be stressed, however, that in exceptional cases, the Court took the extraordinary step of annulling findings of probable cause to prevent the misuse of the strong arm of the law or to protect the orderly administration of justice. The constitutional duty of this Court in criminal litigations is not only to acquit the innocent after trial but to insulate, from the start, the innocent from unfounded charges. For the Court is aware of the strains of

<sup>51</sup> *Information Technology Foundation of the Philippines vs. Commission on Elections*, 419 SCRA 141.

<sup>52</sup> G.R. No. 150183, May 27, 2004, citing the Dissenting Opinion of Mr. Justice Reynato Puno in the case of *Roberts vs. Court of Appeals*, 254 SCRA 307.

a criminal accusation and the stresses of litigations which should not be suffered by the clearly innocent. The filing of an unfounded criminal information in Court exposes the innocent to severe distress especially when the crime is not bailable. Even the acquittal of the innocent will not fully bleach the dark and deep stains left by a baseless accusation for reputation once tarnished remains tarnished for a long length of time. The expense to establish innocence may also be prohibitive and can be more punishing especially to the poor and the powerless. Innocence ought to be enough and the business of this Court is to shield the innocent from senseless suits from the start.”

In the case of *Doris Teresa Ho vs. People of the Philippines*,<sup>53</sup> the Supreme Court En Banc clarified the meaning of probable cause for the issuance of a warrant of arrest and declared that it must be based on substantial evidence, viz:

“Xxx Probable cause for the issuance of a warrant of arrest is the existence of such facts and circumstances that would lead a reasonably discreet and prudent person to believe that an offense has been committed by the person sought to be arrested. Hence, the judge, before issuing a warrant of arrest, 'must satisfy himself that based on the evidence submitted, there is sufficient proof that a crime has been committed and that the person to be arrested is probably guilty thereof.' At this stage of the criminal proceeding, the judge is not yet tasked to review in detail the evidence submitted during the preliminary investigation. It is sufficient that he personally evaluates such evidence in determining probable cause. In *Webb v. De Leon*, we stressed that the judge merely determines the probability, not the certainty, of guilt of the accused and, in doing so, he need not conduct a de novo hearing. He simply personally reviews the prosecutor's initial determination finding probable cause to see if it is supported by substantial evidence.”

Corollarily, in the case of *Kilosbayan, Inc. et al. vs. Commission on Elections et al.*,<sup>54</sup> the Supreme Court also declared that:

“The determination of probable cause in any criminal prosecution, is made indispensable by the Bill of Rights which

---

<sup>53</sup> G.R. No. 106632, October 9, 1997.

<sup>54</sup> G.R. No. 128054, October 16, 1997, 280 SCRA 892, 921, 922.

enshrines every citizen's right to due process, the presumption that he is presumed innocent, and the inadmissibility against him of any damaging evidence obtained in violation of his right against self incrimination. As Justice Reynato S. Puno has pointed out, probable cause is not an 'opaque concept in our jurisdiction' or a 'high level legal abstraction to be the subject of warring thought.' It constitutes those 'facts and circumstances which would lead a reasonably discreet and prudent man to believe that an offense has been committed' by the person sought to be judicially indicted. In determining probable cause, however, the public prosecutor must have been apprised by the complainant of his evidence in support of his accusatory allegations. In other words, determining probable cause is an intellectual activity premised on the prior physical presentation or submission of documentary or testimonial proofs either confirming, negating or qualifying the allegations in the complaint.

It follows, therefore, that in the instant case, petitioner Kilosbayan must have necessarily tendered evidence, independent of and in support of the allegations in its letter-complaint, of such quality as to engender belief in an ordinarily prudent and cautious man that the offense charged therein has been committed by herein respondents. Indeed probable cause need not be based on clear and convincing evidence of guilt, neither on evidence establishing guilt beyond reasonable doubt and definitely, not on evidence establishing absolute certainty of guilt, but it certainly demands more than 'bare suspicion' and can never be 'left to presupposition, conjecture, or even convincing logic. The efforts of petitioner Kilosbayan, thus, in order to successfully lead to the judicial indictment of respondents, should have gone beyond a largely declamatory condemnation of respondents and diligently focused on its two-fold obligation of not only substantiating its charges against respondents but also proffering before the Comelec substantial evidence of respondents' utilization, through conspiratorial, cooperative and/or interrelated acts, of Seventy Million Pesos from the CDF for electioneering activities in violation of the pertinent provisions on election offenses as enumerated in the Omnibus Election Code.”

In the case of *Diosdado Jose Allado and Roberto L. Mendoza vs. Hon. Roberto Diokno, et al.*,<sup>55</sup> the Supreme Court, speaking through Mr. Justice Josue Bellosillo, revisited the concept of probable cause for the filing of information and the issuance of a warrant of

<sup>55</sup> G.R. No. 113630, May 5, 1994, 232 SCRA 193.

arrest. In the said case the prosecution filed the information for kidnapping with murder against the petitioners based on the sworn statement of Security Guard Escolastico Umbal who implicated petitioners as “the brains behind the alleged kidnapping and slaying of one Eugene Alexander Van Twest, a German national.” After finding that “the extrajudicial statement of Umbal suffers from material inconsistencies”, taking into account that the “respondent judge committed grave abuse of discretion in issuing the warrant for the arrest of petitioners it appearing that he did not personally examine the evidence nor did he call for the complainant and his witnesses in the face of their incredible accounts”, the Supreme Court nullified the warrant of arrest issued against petitioners. The Supreme Court made the following pronouncements, viz:

“For sure, the credibility of Umbal is badly battered. Certainly, his bare allegations, even if the State invokes its inherent right to prosecute, are insufficient to justify sending two lawyers to jail, or anybody for that matter. More importantly, the PACC operatives who applied for a warrant to search the dwellings of Santiago never implicated petitioners. In fact they claimed that according to Umbal, it was Santiago, and not petitioners, who masterminded the whole affair. While there may be bits of evidence against petitioners' co-accused, i.e., referring to those seized from the dwellings of Santiago, these do not in the least prove petitioners' complicity in the crime charged. Based on the evidence thus far submitted there is nothing indeed, much less is there probable cause, to incriminate petitioners. **For them to stand trial and be deprived in the meantime of their liberty, however brief, the law appropriately exacts much more to sustain a warrant for their arrest – facts and circumstances strong enough in themselves to support the belief that they are guilty of a crime that in fact happened.** Quite obviously, this has not been met.” (Emphasis ours.)

Likewise, earlier in the case of *Jovito Salonga vs. Hon. Ernani Cruz Paño, et al.*,<sup>56</sup> the Supreme Court En Banc, after noting that “(T)he testimony of Victor Lovely against petitioner Salonga is full of inconsistencies”, categorically declared that “this Court will not validate the filing of an information based on the kind of evidence against the petitioner found in the records.” Although, the case for

<sup>56</sup> No. L-59524, February 18, 1985, 134 SCRA 438.

subversion filed against petitioner was rendered moot and academic after the RTC Judge dropped the subversion case against petitioner on motion of the prosecution, nonetheless, the Supreme Court unequivocally declared that:

“The purpose of a preliminary investigation is to secure the innocent against hasty, malicious and oppressive prosecution, and to protect him from an open and public accusation of crime, from the trouble, expense and anxiety of a public trial, and also to protect the state from useless and expensive trials. (Trocio v. Manta, 118 SCRA241; citing Hashim v. Boncan, 71 Phil. 216). The right to a preliminary investigation is a statutory right, and to withhold it would be to transgress constitutional due process. (See People v. Oandasa, 25 SCRA 277) However, in order to satisfy the due process clause it is not enough that the preliminary investigation is conducted in the sense of making sure that a transgressor shall not escape with impunity. A preliminary investigation serves not only the purpose of the State. More important, it is part of the guarantees of freedom and fair play which are birthrights of all who live in our country. It is, therefore, imperative upon upon the fiscal or the judge as the case may be, to relieve the accused from the pain of going through a trial once it is ascertained that the evidence is insufficient to sustain a prima facie case or that no probable cause exists to form a sufficient belief as to the guilt of the accused. Although there is no general formula or fixed rule for the determination of probable cause since the same must be decided in the light of the conditions obtaining in given situations and its existence depends to a large degree upon the finding or opinion of the judge conducting the examination, such finding should not disregard the facts before the judge nor run counter to the clear dictates of reasons (See La Chemise Lacoste, S.A. v. Fernandez, 129 SCRA 391). **The judge or fiscal, therefore, should not go on with the prosecution in the hope that some credible evidence might later turn up during trial for this would be a flagrant violation of a basic right which the courts are created to uphold. It bears repeating that the judiciary lives up to its mission by vitalizing and not denigrating constitutional rights.** So it has been before. It should continue to be so. (Mercado v. Court of First Instance of Rizal, 116 SCRA 93).” (Emphasis ours.)

Clearly, the findings of probable cause either by the prosecution for the filing of an information or the RTC Judge for the issuance of a warrant of arrest, must be supported by substantial evidence. As

defined, substantial evidence refers to “that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.<sup>57</sup> Accordingly, in determining the existence of probable cause for the issuance of a warrant of arrest, the Supreme Court declared in the case of *Teresita Tanghal Okabe vs. Hon. Pedro De Leon Gutierrez*,<sup>58</sup> that “(T)he judge should consider not only the report of the investigating prosecutor but also the affidavits/affidavits (sic) and the documentary evidence of the parties, the counter-affidavit of the accused and his witness, as well as the transcript of stenographic notes taken during the preliminary investigation, if any, submitted to the court by the investigating prosecutor upon the filing of the information.” To justify the issuance of a warrant of arrest, as ruled in the case of *Allado vs. Diokno*,<sup>59</sup> “the law appropriately exacts much more to sustain a warrant for their arrest – facts and circumstances strong enough in themselves to support the belief that they are guilty of a crime that in fact happened.”

Guided by the foregoing pronouncements of the Supreme Court, after a painstaking evaluation of the evidence on record vis-à-vis the arguments of the parties embodied in their pleadings submitted to the Court, this Court finds that respondent Judge committed grave abuse of discretion amounting to excess of jurisdiction when it ruled that there exists probable cause for the issuance of a warrant of arrest against petitioner who was implicated as a co-conspirator in the Dacer-Corbito murder. In other words, after a thorough and careful evaluation of the evidence on records, We do not find the existence of substantial evidence, or the existence of facts and circumstances strong enough to support the belief that would justify the filing of two separate informations for murder and the issuance of a warrant of arrest against petitioner.

Ostensibly, from the evidence on records, petitioner was implicated as a co-conspirator for the first time in the Dacer-Corbito murder, only after Cezar Mancao executed his Affidavit dated February 13, 2009, subscribed on February 14, 2009 before

---

<sup>57</sup> Section 5 of Rule 133 of the Revised Rules of Court; *Banco Filipino vs. Central Bank*, 204 SCRA 767.

<sup>58</sup> *Supra*.

<sup>59</sup> *Supra*.

Philippine Honorary Consul General Angelo S. Macatangay, Fort Lauderdale, Florida USA. Prior to the execution of Cezar Mancao's Affidavit dated February 13, 2009, the NBI who conducted an extensive investigation and police work and the DOJ panel of prosecutors who conducted a preliminary investigation and thereafter a reinvestigation, never implicated the petitioner as a co-conspirator in the Dacer-Corbito murder. Only after February 13, 2009, or after more than eight years from November 24, 2000, that the petitioner was implicated for the first time in the Dacer-Corbito murder. The private complainants, daughters of Salvador Dacer, tagged the petitioner who was then the PNP Chief and concurrent Head of the PAOCTF, as the person who allegedly "orchestrated" and "ordered the killing" of their father based primarily on the Affidavit dated February 13, 2009 of Cezar Mancao.

The Court, after going over the records and the circumstances obtaining in the instant case, entertains serious doubt on the existence of probable cause for the filing of two separate informations for murder and the issuance of a warrant of arrest against the petitioner. The DOJ panel of prosecutors and the RTC Judge relied primarily on the alleged conversation between LACSON and AQUINO which Cezar Mancao allegedly overheard and divulged for the first time eight years after the occurrence of the event. The reliance of the DOJ panel of prosecutors and the RTC Judge on the Affidavit dated February 13, 2009 of Cezar Mancao is misplaced.

*First.* The aforesaid conversation allegedly between LACSON and AQUINO, as narrated by Cezar Mancao in paragraph 10 of his February 13, 2009 Affidavit transpired "Sometime in October 2000", or more than eight (8) long years after the alleged conversation. It is doubtful and unnatural for Cezar Mancao to remember and recall the exact words allegedly uttered by LACSON and AQUINO eight (8) years before he reduced in writing what he overheard and quoted in paragraph 10 of his Affidavit. In his Affidavit dated February 13, 2009, and in his testimonies in court on September 3, 2009 and September 10, 2009, there is no showing that he recorded the conversation he allegedly overheard sometime in October 2000. On cross-examination, Cezar Mancao even testified that he "cannot

recall” the whole conversation between LACSON and AQUINO.<sup>60</sup>

*Second.* In his February 13, 2009 Affidavit, Cezar Mancao declared categorically that he overheard the conversation “Sometime in October 2000”. However, when he testified on direct examination on September 3, 2009, Cezar Mancao contradicted himself when he declared that he “can recall on September to early October, it was the time when the then President was out of the country, myself, General Lacson, Col. Aquino and Oximoso were in route to go to a restaurant in Greenhills and inside the car, I have personally overheard the operation and another operation.”<sup>61</sup> Obviously, barely six (6) months from the execution of his Affidavit dated February 13, 2009, Cezar Mancao committed a contradiction by changing the period he allegedly overheard the conversation from “Sometime in October 2000” to “September to early October”. Certainly, the change in the period and the qualification that he overheard the conversation between LACSON and AQUINO when the “President was out of the country” creates serious doubt on the credibility of Cezar Mancao and the credibility of his story. Also, the qualification that the “President was out of the country”, bolsters the defense of petitioner that he could not be “present in the car with Mancao” because as shown in the Certification issued by the Bureau of Immigration (Annex “E” to Senator Panfilo Lacson’s Counter-Affidavit) and corroborated by the Affidavit of Senator Manuel A. Roxas (Annex “F” to Senator Panfilo Lacson’s Counter-Affidavit), petitioner was in the United States together with former President Joseph Estrada from September 4, 2000 up to September 13, 2000. Thereafter, President Estrada did not leave the country for the rest of September and October 2000.<sup>62</sup>

*Third.* The statement of Cezar Mancao in his Affidavit dated February 13, 2009, that he was “seated at the front seat of the car then driven by SGT. OXIMOSO” when he overheard the alleged conversation between “LACSON” and “AQUINO” creates doubt on the credibility of his story. As pointed out by the petitioner, in his Counter-Affidavit dated October 26, 2009, “(P)rotocol based on seniority is strictly observed by PMAers and senior officers of the

---

<sup>60</sup> TNS, September 10, 2009, pages 31-35, cited p. 18, Counter-Affidavit Senator Panfilo Lacson.

<sup>61</sup> Ibid.

<sup>62</sup> Senator Panfilo Lacson’s Counter-Affidavit dated October 26, 2009, p. 13.



PNP.” In his Affidavit dated March 1, 2007, Cezar Mancao declared that he graduated in 1986 and “Michael Ray Aquino graduated two years after” in 1988 from the Philippine Military Academy (PMA). Cezar Mancao also admitted in court when he testified on September 10, 2009, that “protocol is based seniority” and that he is more senior than “Col. Michael Ray Aquino”. Yet, strangely he was “seated in the front passenger side of the vehicle” when he was not the “aide of Gen. Lacson”. His explanation that “based on protocol the more senior officer should sit at the back while the junior officer should sit in front” is “a general rule” is but a flimsy excuse and an afterthought that deserves scant consideration. It is contrary to the hallowed tradition of seniority which is strictly observed and zealously guarded by graduates of the Philippine Military Academy.

*Fourth.* The self-contradiction and material inconsistencies of Cezar Mancao seriously cast doubt on his credibility and the credibility of his story. Inconsistencies and material contradictions engender doubt on the culpability of the petitioner. The contradictions or inconsistencies on material points are evident in the Affidavits he executed which form part of the records in the instant case.

In his Counter-Affidavit dated June 29, 2001 and Affidavit dated March 01, 2007, Cezar Mancao never impliedly or indirectly implicated petitioner in the Dacer-Corbito murder. As a matter of fact, Cezar Mancao categorically declared under oath that Glenn Dumlao implicated him in the Dacer-Corbito murder in a desperate attempt “to implicate Senator-elect Panfilo Lacson” in the gruesome murder.

In his Counter-Affidavit dated June 21, 2001, Cezar Mancao made the following statements under oath, viz:

“19. Further to the allegations of Dumlao as indicated in his affidavit, the alleged “special operations” dealt with the instructions and communications from Aquino to Dumlao, Arnado to Dumlao, Dumlao to Arnado, Dumlao to Vina and the minor officers. Thereafter, Dumlao reported to Aquino and the latter instructed Dumlao to secure or get the documents. Take note that in 1999 when Dumlao allegedly started this operation as indicated in his

affidavit, the mission was to retrieve documents from Dacer's office. **Now, in his attempt to implicate Senator-elect Panfilo Lacson, Dumlao, desperately links respondent Mancao for him to directly link Senator-elect Lacson as well as P/Supt. Vina who is under the custody of the police authorities. In this way, the police authorities can utilize Vina, Aquino and Mancao to testify one way or the other against ultimately Senator-elect Lacson, the only credible opposition leader at this time.**

20. Finally, Dumlao alleges that he talked or reported to respondent Mancao after the alleged abduction. He likewise said that Mancao talked to P/Supt. Teofilo Vina over the cellular telephone. Worst, respondent Mancao allegedly instructed Dumlao to dispose the retrieved documents and reported the matter to Senator-elect Lacson. This story line concocted by Dumlao in his own initiative or by the coercive force of his captors is not only false, incredible but also ridiculous. From the very inception of Dumlao's affidavit, respondent Mancao was never part of the "special operations" in any manner but later to his affidavit respondent Mancao suddenly played a very crucial role in that he reported the matter to Lacson and ordered the disposal of the documents. These statements coming from P/Supt. Dumlao negate the instruction of Aquino to secure the documents retrieved from Dacer and contrary to the objective of the alleged mission that is to retrieve the documents as narrated in Dumlao's affidavit. **Dumlao's penultimate statements were meant to link respondent Mancao and ultimately to link Senator-elect Lacson in the Dacer-Corbito double murder case. Obviously, this is a simple demolition job to paralyze a possible strong opposition leader in the person of Senator-elect Panfilo Lacson.**" (Emphasis ours.)

In his Affidavit dated March 1, 2007, Cezar Mancao never implicated petitioner in the Dacer-Corbito murder. He made the following statements under oath involving the Dacer-Corbito murder, viz:

"III. In November 2000, Michael Aquino and I were again embroiled in controversy in a case known as "Dacer-Corbito". Bubby Dacer was a journalist who had made public comments against President Estrada and Corbito was his driver. Dacer's car was dumped into a ravine in Cavite Province and a murder investigation ensued with Aquino and myself among those suspected of involvement. In the midst

of the murder investigation in February of 2001, President Estrada was removed from office and the PAOCTF was disbanded and its former members were reassigned to far flung areas of the country. Sometime August of 2001 in a Las Vegas hotel, Michael Aquino was blaming fellow officer Teofilo Vina for sloppily dumping Bubby Dacer's car into a ravine in Cavite where it was easily discovered. Aquino was complaining that the task had not been carried out correctly. This sloppy work resulted in an investigation which later implicated Michael Aquino in Dacer and Corbito's disappearance.

A. After Dacer and Corbito's disappearance, I was asked to investigate the case. During my investigation I spoke with Teofilo Vina and Glen Dumlao. I called Vina and asked him if he had any involvement in the disappearance and he told me that he had been tasked by Michael Aquino to get Bubby Dacer. I understood this to mean that Aquino had tasked Vina to neutralize Dacer. When speaking to Glen[n] Dumlao about Michael Aquino's possible involvement, Mr. Dumlao blamed Aquino for illegal orders. I understood the illegal orders to be conspiring in the abduction and murder of Dacer and Corbito.”

Ironically and strangely, eight years after, in total contradiction to the aforestated statements made under oath, in his Affidavit dated February 13, 2009, Cezar Mancao linked and implicated petitioner for the first time in the Dacer-Corbito murder, viz:

“10. Sometime in October 2000, I heard LACSON order AQUINO to liquidate BERROYA, his publicly-known nemesis, saying: *“Noy, tirahin niyo na si Bero.”* LACSON said this while we were on board his car en route to a Japanese restaurant in Greenhills, San Juan, for lunch. I was seated at the front seat of the car then driven by SGT. OXIMOSO (“Oxy” as we usually called him), while AQUINO and LACSON sat at the back. AQUINO responded to LACSON that he intends to neutralize or liquidate DELTA first because ERAP was already peeved at him, saying: *“Tapusin muna namin si Delta, Sir, kasi naiirita na si Bigote sa kaniya.”* “DELTA”, referred to media and PR man SALVADOR “BUBBY” DACER (DACER), while “BIGOTE” was commonly-known pseudonym of ERAP. LACSON however insisted that AQUINO rather operate on both BERROYA and DACER SIMULTANEOUSLY, saying *“Ipagsabay mo na at tingnan natin kung sino na ang mauuna.”*, which obviously meant that AQUINO

operate on DACER and BERROYA at the same time and to just see who between them is killed first.”

The propensity of Cezar Mancao to contradict himself under oath is further manifested in his statements denying any knowledge or information on the existence of the so-called “special operations”. In his Counter-Affidavit dated June 21, 2001 and in his Affidavit dated March 1, 2007, he never mentioned or implicated LACSON in the so-called “special operations”.

In his Counter-Affidavit dated June 29, 2001, Cezar Mancao even denied meeting AQUINO and inquiring about the “special operations”, viz:

“17. In a familiar tone, Dumlao now miserably tried to link respondent herein with Aquino in the alleged “special operations” and in a blanket date of **October 2000, he alleges that in his presence respondent herein personally inquired from Aquino about the said “special operations”** and thereafter made comments in relation to the conversation. **This alleged meeting never happened.** Respondent herein will never and will not consent to or be a part of any criminal activities. Xxx” (Emphasis supplied.)

But, strangely in paragraph 7 of his Affidavit dated February 13, 2009, Cezar Mancao contradicted himself when he declared under oath, viz:

“7. Sometime in the early part of October 2000, I found out from my operatives' dispatch slips that AQUINO was utilizing some of my personnel at Task Group Luzon in his “special operations” without my knowledge. Right then and there, I, together with DUMLAO who happened to be in my office at that time, went together to AQUINO's office and inquired about the matter. AQUINO informed us that these “special operations” had been previously approved and cleared by LACSON and by MALACAÑANG itself. DUMLAO mentioned to me that the “special operations” had for its target a certain media man critical of ERAP, whom they referred to as “DELTA”. Being in the nature of a special operation, I decided not to inquire further. For purposes of clarity, PAOCTF's “special operations” then pertained to operations that

did not follow the normal channels of command and did not come under the purview of its mandate.”

Indubitably, to add flavor to the alleged meeting, which Cezar Mancao denied to have transpired in his Affidavit dated June 29, 2001, in an obvious effort to implicate petitioner, Cezar Mancao asserted eight years after that AQUINO allegedly told him that the so-called “special operations” was “previously approved by LACSON and by MALACANANG itself.”

As shown above, Cezar Mancao is not a credible and trustworthy witness. Under oath he contradicted himself on material points. Inconsistencies and material contradiction affect the credibility of Cezar Mancao and the veracity of his statements. Under, the circumstances, with the above-cited conflicting statements or serious discrepancy on a material fact, the RTC Judge should have denied the issuance of a warrant of arrest and dismissed the case against petitioner for lack of probable cause.

Aside from the foregoing contradictions on material points, despite the assertion of Cezar Mancao in paragraph 3 of his Affidavit dated February 13, 2009 that he “freely, voluntarily and intelligently, without any force, intimidation, threats, or any form of duress being exerted on myself or any of my family members by the government of the Republic of the Philippines or any of its officials or employees,” nonetheless, the Court entertains serious doubt on the veracity and reliability of his statements. There are facts and circumstances admitted by Cezar Mancao showing beyond a penumbra of doubt that extraneous factors or other persons may have influenced him in the preparation of his Affidavit dated February 13, 2009 thereby diluting the veracity and trustworthiness of his statements implicating petitioner as a co-conspirator in the Dacer-Corbido murder. Firstly, apart from the undisputed fact that it took Cezar Mancao eight long years before he implicated petitioner for the Dacer-Corbido murder, prior to the execution of the February 13, 2009 Affidavit, Cezar Mancao admitted on redirect-examination that on September 27, 2007, ISAFP Chief Brig Gen. Romeo Prestoza called him and asked him “to fabricate some information or charges against Senator

Lacson” promising him his reinstatement to the police force, financial support and relocation of his family to Singapore.<sup>63</sup> Also, petitioner pointed out that in an interview on August 6, 2008 with GMA Newscaster Maki Pulido and on August 12, 2008 with Tambalang Failon at Sanchez in DZMM, which was confirmed by Cezar Mancao when he testified in court on September 10, 2009, he revealed the offer for him to migrate to Singapore with his family in exchange for testifying against petitioner in the Dacer-Corbito murder made by then ISAFP Chief Brig Gen. Romeo Prestoza.<sup>64</sup> Secondly, Cezar Mancao admitted on cross-examination that before he executed his Affidavit in the early part of December he talked to then DOJ Secretary Gonzales by phone.<sup>65</sup> Thirdly, Cezar Mancao declared on cross-examination on the existence of “exploratory meeting” sometime in “February 12” before he executed his Affidavit wherein his statements “will be used for a case” attended by “people from the Philippines” led by “Assistant or Undersecretary Ernesto Pineda, Undersecretary Oscar Calderon who is also under the DOJ, the Lady Prosecutor, NBI regional Director Ric Diaz.”<sup>66</sup> Fourthly, as pointed out by the petitioner in his Counter-Affidavit dated October 26, 2009, on cross-examination, in answer to the question who prepared the Affidavit he subscribed before Consul Macatangay on February 14, 2009, Cezar Mancao replied “It was prepared by the panel, we read the draft, it was made more than 24 hours.”<sup>67</sup> When asked whether the panel of prosecutors give inputs in the preparation of the Affidavit he answered “Guidance, Sir.”<sup>68</sup>

Viewed in its proper perspective, considering the facts and circumstances leading to the execution of Cezar Mancao's Affidavit dated February 13, 2009 as well as material contradictions and inconsistencies affecting his credibility and the credibility of his story, there is no probable cause that could legally justify the filing of two separate informations for murder and the issuance of warrant of

---

<sup>63</sup> TSN September 17, 2009, pp. 104-105, cited p. 7, Counter-Affidavit of Senator Panfilo Lacson.

<sup>64</sup> TSN September 10, 2009, p. 67, cited in Senator Panfilo Lacson's Counter-Affidavit.

<sup>65</sup> Ibid, p. 83.

<sup>66</sup> Ibid. pp. 58-61.

<sup>67</sup> TSN, September 10, 2009, pages 48-50, cited in the Counter-Affidavit dated October 26, 2009 of Senator Panfilo Lacson.

<sup>68</sup> Ibid.

arrest against petitioner. Also, it must be pointed out that the private complainants' allegation that petitioner orchestrated the killing because their father opposed petitioner's appointment as Chief of the PNP is nothing but an inference or conjecture not supported by substantial evidence on record. As held in the case of *Paul Roberts, Jr., et al. vs. The Court of Appeals, et al.*,<sup>69</sup> the Supreme Court En Banc declared that "presumption, conjecture, or even convincing logic" cannot legally justify the issuance of a warrant of arrest which must be based on a specific finding of probable cause "in compliance with a constitutional requirement for the protection of individual liberty." Also, the Supreme Court, in the case of *People vs. Cezar Galvez*,<sup>70</sup> opined that the presumption of innocence "is founded upon the first principle of justice, and is not a mere formal but a substantial part of the law. It is not overcome by mere suspicion or conjecture; a probability that the defendant committed the crime; nor by the fact that he had the opportunity to do so."

In fine, there being no probable cause to legally justify the filing of two separate informations for murder against petitioner, consistent with his constitutional right to be presumed innocent and in consonance with existing jurisprudence, he should be relieved from the pain and agony of trial. Aptly, in the case of *Salonga vs. Paño*,<sup>71</sup> the Supreme Court categorically declared that "(I)t is therefore imperative upon the fiscal or the judge as the case may be, to relieve the accused from the pain of going thru a trial once it is ascertained that the evidence is insufficient to sustain a prima facie case or that no probable cause exists to form a sufficient belief as to the guilt of the accused."

**WHEREFORE**, the instant petition is **GRANTED**. 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 are **NULLIFIED** and **SET-ASIDE**. The Informations in Criminal Cases Nos. 10272905 & 10272906 are hereby **DISMISSED**.

**SO ORDERED.**

---

<sup>69</sup> G.R. No. 113930, March 5, 1996.

<sup>70</sup> G.R. No. 157221, March 20, 2007.

<sup>71</sup> Supra.

**RAMON M. BATO, JR.**  
*Associate Justice*

**WE CONCUR:**

**JUAN Q. ENRIQUEZ, JR.**  
*Associate Justice*

**ISAIAS P. DICDICAN**  
*Associate Justice*

## **C E R T I F I C A T I O N**

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

**JUAN Q. ENRIQUEZ, JR.**  
Associate Justice  
Chairperson, Special Sixth Division