EN BANC

G.R. No. 229781 **SENATOR LEILA M. DE LIMA, *Petitioner*, v. HON. JUANITA GUERRERO, in her capacity as Presiding Judge, Regional Trial Court of Muntinlupa City, Branch 204, PEOPLE OF THE PHILIPPINES, P/DIR. GEN. RONALD M. DELA ROSA, in his capacity as Chief of the Philippine National Police, PSUPT. PHILIP GIL M. PHILIPPS, in his capacity as Director, Headquarters Support Service, SUPT. ARNEL JAMANDRON APUD, in his capacity as Chief, PNP Custodial Service Unit, and ALL PERSONS ACTING UNDER THEIR CONTROL, SUPERVISION, INSTRUCTION OR DIRECTION IN RELATION TO THE ORDERS THAT MAY BE ISSUED BY THE COURT, *Respondents*.**

Promulgated:

October 10, 2017

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CONCURRING OPINION

LEONARDO-DE CASTRO, *J.*:

I concur that the instant Petition for *Certiorari* and Prohibition with Application for a Writ of Preliminary Injunction, and Urgent Prayer for Temporary Restraining Order and *Status Quo Ante* Order filed by petitioner, Senator Leila M. De Lima, suffers from procedural defects and unmeritorious substantial arguments which warrant its dismissal.

Based on the Joint Resolution dated February 14, 2017 of the Department of Justice (DOJ) in NPS Nos. XVI-INV-16J-00313,[1] XVI-INV-16J-00315,[2] XVI-INV-16K-00331,[3] XVI-INV-16K-00336,[4] and XVI-INV-16L-00384,[5] three Informations were filed on February 17, 2017 against petitioner and several other co-accused before the Regional Trial Court (RTC) of Muntinlupa City. One of the Informations was docketed as

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1 For: Violation of Section 5, in relation to Section 26(b) of Republic Act No. 9165.

2 For: Violation of Section 5, in relation to Section 26(b) of Republic Act No. 9165.

3 For: Violation of Section 3(e)(k) of Republic Act No. 3019, Section 5(a) of Republic Act No. 6713, Republic Act No. 9745, Presidential Decree No. 46 and Article 211 of the Revised Penal Code.

4 For: Violation of Section 5, in relation to Section 26(b) of Republic Act No. 9165 in relation to Article 211-A of the Revised Penal Code, Section 27 of Republic Act No. 9165, Section 3(e) of Republic Act No. 3019, Presidential Decree No. 46, Section 7(d) of Republic Act No. 6713, and Article 210 of the Revised Penal Code.

5 For: Violation of Section 5, in relation to Section 26 of Republic Act No. 9165.

Criminal Case No. 17-165 and raffled to RTC-Branch 204 presided by respondent Judge Juanita T. Guerrero.

The Information in Criminal Case No. 17-165 charges petitioner and her co-accused, Rafael Marcos Z. Ragos (Ragos) and Ronnie Palisoc Dayan (Dayan), with "violation of Section 5, in relation to Section 3(jj), Section 26(b) and Section 28, Republic Act No. 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*."

On February 20, 2017, petitioner filed a Motion to Quash said Information based on the following arguments: the RTC has no jurisdiction over the offense charged; it is the Office of the Ombudsman, not the DOJ Panel, that has authority to file the case; the Information charges more than one offense; the allegations and recital of facts in the Information and the DOJ Joint Resolution do not allege the *corpus delicti* of the charge; the Information is solely based on the testimonies of witnesses who are not even qualified to be discharged as state witnesses; and at any rate, the witnesses' testimonies, which constitute the sole evidence against the accused, are inadmissible as hearsay evidence and have no probative value.

In an Order dated February 23, 2017, respondent Judge found sufficient probable cause for the issuance of Warrants of Arrest against petitioner, Ragos, and Dayan. Respondent Judge issued the Warrant of Arrest against petitioner on the same day.

The Warrant of Arrest was served upon petitioner on February 24, 2017 and by virtue of respondent Judge's Order of even date, petitioner was committed to the Custodial Service Unit at Camp Crame, Quezon City.

In this Petition, petitioner imputes grave abuse of discretion on the part of respondent Judge for:

> (a) The *Order* dated 23 February 2017 wherein respondent judge found probable cause for issuance of arrest warrant against all accused, including Petitioner Leila M. de Lima;
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> (b) The *Warrant of Arrest* against Petitioner Leila M. de Lima also dated 23 February 2017 issued by respondent judge pursuant to the Order dated the same day;
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> (c) The *Order* dated 24 February 2017, committing Petitioner to the custody of the PNP Custodial Center; and
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> (d) The omission of respondent judge in failing or refusing to act on Petitioner's Leila M. de Lima (sic) *Motion to Quash*, through which Petitioner seriously questions the jurisdiction of the lower court.

Petitioner prays that the Court render judgment:

a. Granting a writ of certiorari annulling and setting aside the *Order* dated 23 February 2017, the *Warrant of Arrest* dated the same date, and the Order dated 24 February 2017 of the Regional Trial Court-Branch 204, Muntinlupa City, in Criminal Case No. 17-165 entitled *People of the Philippines versus Leila M. de Lima et al.*;

b. Granting a writ of prohibition enjoining and prohibiting the respondent judge from conducting further proceedings until and unless the Motion to Quash is resolved with finality;

c. Issuing an order granting the application for the issuance of temporary restraining order (TRO) and a writ of preliminary injunction to the proceedings; and

d. Issuing a Status Quo Ante Order restoring the parties to the status prior to the issuance of the Order and Warrant of Arrest both dated February 23, 2017, thereby recalling both processes and restoring petitioner to her liberty and freedom.

I

In filing the present Petition, petitioner displayed patent disregard of several procedural rules. Petitioner filed this Petition for *Certiorari* and Prohibition prematurely, without first filing a motion for reconsideration, in violation of the hierarchy of courts, and lacking proper verification and certification of non-forum shopping.

Notably, there is a glaring inconsistency in petitioner's fundamental arguments in her Petition. Petitioner attributes grave abuse of discretion on respondent Judge's part for not acting on her Motion to Quash, yet, at the same time, argues that respondent Judge's issuance of the Order dated February 23, 2017, finding probable cause for issuance of warrants of arrest, and the corresponding Warrant of Arrest of even date against petitioner, should already be deemed a denial of the very same Motion.

Petitioner maintains that respondent Judge should not have issued the Warrant of Arrest against her without resolving first her Motion to Quash the Information. However, petitioner failed to present legal basis to support her position that it was mandatory for respondent Judge to resolve her Motion to Quash prior to issuing the Warrant of Arrest against her.

Respondent Judge's prompt issuance of a Warrant of Arrest on February 23, 2017, seven days after the filing of Information against petitioner, is only in compliance with Rule 112, Section 5(a) of the Rules of Court, which provides:

> Sec. 5. *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 6 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.

Given the aforementioned 10-day period, it behooves respondent Judge to forthwith personally evaluate the evidence on record and determine the existence of probable cause for the issuance of warrants of arrest. Hence, the swiftness by which respondent Judge issued the Warrant of Arrest against petitioner, by itself, does not constitute grave abuse of discretion. As the Court cited in one of its cases, "[s]peed in the conduct of proceedings by a judicial or quasi-judicial officer cannot *per se* be instantly attributed to an injudicious performance of functions. For one's prompt dispatch may be another's undue haste."[6]

It also bears to remember that petitioner's Motion to Quash does not raise the question of jurisdiction alone, but also brings up several other issues, including factual ones, such as the admissibility and probative value of the testimonies of witnesses against petitioner and her co-accused, the resolution of which would have entailed more time. If respondent Judge acted on the Motion to Quash first, she risked failing to comply with the 10-day mandatory period set in Rule 112, Section 5(a) of the Rules of Court for determining probable cause for the issuance of warrants of arrest against petitioner and her co-accused.

In addition, respondent Judge ordered the issuance of the warrants of arrest against petitioner and her co-accused only "[a]fter a careful evaluation of the herein Information and all the evidence presented during the preliminary investigation conducted in this case by the Department of Justice, Manila," and "find[ing] sufficient probable cause against all the accused x x x." This is sufficient compliance with the requirement under Article III, Section 2[7] of the Constitution of personal determination of

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6 *Napoles v. De Lima*, G.R. No. 213529, July 13, 2016, citing *Santos-Concio v. Department of Justice*, 567 Phil. 70, 89 (2008).

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

probable cause by the judge for the issuance of a search warrant or warrant of arrest. Respondent Judge's issuance of the Warrant of Arrest against petitioner enjoys the presumption of regularity in the performance of her duties, and petitioner utterly failed to show capriciousness, whimsicality, arbitrariness, or any despotic exercise of judgment by reason of passion and hostility on respondent Judge's part.[8]

In contrast, there is no particular law, rule, or jurisprudence which sets a specific time period for a judge to resolve a motion to quash in a criminal case. Rule 117, Section 1 of the Rules of Court states that "[a]t any time before entering his plea, the accused may move to quash the complaint or information[;]" and Rule 116, Section 1(g) reads that "[u]nless a shorter period is provided by special law or Supreme Court Circular, the arraignment shall be held within thirty (30) days from the date the court acquires jurisdiction over the person of the accused. The time of the pendency of a motion to quash or for a bill of particulars or other causes justifying suspension of the arraignment shall be excluded in computing the period." It may be reasonably inferred from the foregoing rules that a motion to quash must be filed by the accused **and** resolved by the judge before arraignment of the accused.

Petitioner herein has not been arraigned in Criminal Case No. 17-165. Petitioner filed her Motion to Quash on February 20, 2017; respondent Judge issued the Warrant of Arrest against petitioner on February 23, 2017; and petitioner was arrested on February 24, 2017. Given petitioner's pending Motion to Quash, the thirty (30)-day period for petitioner's arraignment is deemed suspended for the meantime. Petitioner filed this Petition on February 27, 2017.

In the instant Petition, petitioner ascribes grave abuse of discretion on respondent Judge's part for failing or refusing to act on petitioner's Motion to Quash, but petitioner filed said Petition before this Court just seven days after filing her Motion to Quash before the RTC. There is absolutely no showing that respondent Judge had breached the time period for acting on petitioner's Motion to Quash or that respondent Judge has no intention to act on said Motion at all. Respondent Judge should be accorded reasonable time to resolve petitioner's Motion to Quash, which is still pending before respondent Judge's court. Clearly, the present Petition, insofar as it relates to petitioner's Motion to Quash, had been prematurely filed.

Akin to the instant case is *Aguas v. Court of Appeals*,[9] in which therein petitioner resorted to the filing of a petition for *certiorari*, prohibition, and *mandamus*, before the Court of Appeals even before the trial court could act on therein private respondents' motion to dismiss petitioner's complaint. The Court adjudged in *Aguas* that:

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8 *Napoles v. De Lima*, supra note 6.

9 348 Phil. 417, 425 (1998).

> It should be obvious that the petition for *certiorari*, prohibition and *mandamus* filed before respondent appellate court was premature, insofar as it relates to the motion to dismiss which has yet to be resolved. There was no order denying or granting the motion. Thus, there was really nothing to review insofar as the presence or absence of petitioner's cause of action is concerned. Petitioner's apprehension that it will be granted does not alone make it ripe for review by the Court of Appeals. There was no justiciable issue yet. Thus, it was error for the Court of Appeals to rule that the complaint, from the facts alleged by petitioner and hypothetically admitted by private respondents, does not state a cause of action.

In another case, *Tano v. Socrates*,[10] one set of petitioners was apprehended and criminally charged before the Municipal Circuit Trial Court (MCTC) for violating the ordinances of the City of Puerto Princesa and the Province of Palawan, which were enacted for the protection of marine life within their jurisdiction. Without seeking redress from the concerned local government units, the prosecutor's office, and other courts, the petitioners directly invoked the original jurisdiction of this Court by filing a petition for *certiorari*, essentially assailing the constitutionality of the ordinances for depriving petitioners of their means of livelihood without due process of law and seeking the dismissal of the criminal cases against them for violations of the said ordinances. The Court, in *Tano*, dismissed the petition for *certiorari* for being premature as therein petitioners had not even filed before the MCTC motions to quash the informations against them; and the Court then declared that even in the event that petitioners had filed such motions, the remedy of special civil action of *certiorari* would still be unavailing to them, thus:

> The primary interest of the first set of petitioners is, of course, to prevent the prosecution, trial and determination of the criminal cases until the constitutionality or legality of the Ordinances they allegedly violated shall have been resolved. x x x
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> As to the first set of petitioners, this special civil [action] for *certiorari* must fail on the ground of prematurity amounting to a lack of cause of action. There is no showing that said petitioners, as the accused in the criminal cases, have filed motions to quash the informations therein and that the same were denied. The ground available for such motions is that the facts charged therein do not constitute an offense because the ordinances in question are unconstitutional. It cannot then be said that the lower courts acted without or in excess of jurisdiction or with grave abuse of discretion to justify recourse to the extraordinary remedy of *certiorari* or prohibition. It must further be stressed that **even if petitioners did file motions to quash, the denial thereof would not forthwith give rise to a cause of action under Rule 65 of the Rules of Court**. The general rule is that where a motion to quash is denied, the remedy therefrom is not *certiorari*, but for the party aggrieved thereby to go to trial without prejudice to reiterating special defenses involved in said motion, and if, after trial on the merits an adverse decision is rendered, to appeal therefrom in the manner authorized by law. And, even where in an

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10 343 Phil. 670 (1997).

> exceptional circumstance such denial may be the subject of a special civil action for *certiorari*, a motion for reconsideration must have to be filed to allow the court concerned an opportunity to correct its errors, unless such motion may be dispensed with because of existing exceptional circumstances. Finally, even if a motion for reconsideration has been filed and denied, the remedy under Rule 65 is still unavailable absent any showing of the grounds provided for in Section 1 thereof. For obvious reasons, the petition at bar does not, and could not have, alleged any of such grounds.[11] (Emphasis ours.)

Although not on all fours with the case at bar, the aforequoted ruling in *Tano* significantly presents several variables arising from the denial of a motion to quash which will determine the appropriate remedy the affected party may avail under each circumstance, and which may not necessarily be a petition for *certiorari* under Rule 65 of the Rules of Court. It highlights even more the prematurity of the instant Petition wherein, as of yet, respondent Judge has not even granted or denied petitioner's Motion to Quash.

Petitioner prays in her Petition that the Court annul and set aside the Order dated February 23, 2017, finding probable cause to issue a warrant of arrest, as well as the Warrant of Arrest of even date, issued by respondent Judge against her. Petitioner, however, did not previously file a motion for reconsideration of said Order before respondent Judge's trial court.

Rule 65 petitions for *certiorari* and prohibition are discretionary writs, and the handling court possesses the authority to dismiss them outright for failure to comply with the form and substance requirements. The requirement under Sections 1 and 2 of Rule 65 of the Rules of Court on petitions for *certiorari* and prohibition, respectively, that "there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law[,]" is more than just *pro-forma*.[12]

The Court had ruled that a motion for reconsideration of the questioned Order or Resolution constitutes plain, speedy, and adequate remedy, and a party's failure to file such a motion renders its petition for *certiorari* fatally defective.[13] A motion for reconsideration allows the public respondent an opportunity to correct its factual and legal errors. The Court has reiterated in numerous decisions that a motion for reconsideration is mandatory before the filing of a petition for *certiorari*.[14]

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11 Id. at 697-698.

12 *Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc.*, G.R. No. 207132, December 6, 2016.

13 *Metro Transit Organization, Inc. v. PIGLAS NFWU-KMU*, 574 Phil. 481, 491-492 (2008).

14 *Estrada v. Office of the Ombudsman*, 751 Phil. 821, 877 (2015).

While the rule that a motion for reconsideration is a condition *sine qua non* for the filing of a petition for *certiorari* is not iron-clad, none of the recognized exceptions[15] applies to petitioner's case. Petitioner's averment of lack of jurisdiction of the RTC over her case is baseless. Equally groundless is petitioner's claim that a motion for reconsideration is useless or that it is improbable for respondent Judge to grant such a relief. In the absence of clear and convincing evidence, respondent Judge's issuance of the Order dated February 23, 2017 and Warrant of Arrest against petitioner in the regular performance of her official duties can hardly qualify as "political persecution." In addition, the present Petition does not involve pure questions of law as petitioner herself calls upon the Court to look into the evidence considered by the DOJ Panel in finding probable cause to file the Information against her in Criminal Case No. 17-165, as well as by respondent Judge in finding probable cause to issue the Warrant of Arrest against her.

Petitioner also filed directly before this Court her Petition for *Certiorari* and Prohibition assailing respondent Judge's actuations and/or inaction, bypassing the Court of Appeals and disregarding the hierarchy of courts. In *Tano,*[16] the Court stressed the need for strict compliance with the hierarchy of courts:

> Even granting *arguendo* that the first set of petitioners have a cause of action ripe for the extraordinary writ of *certiorari*, there is here a clear disregard of the hierarchy of courts, and no special and important reason or exceptional and compelling circumstance has been adduced why direct recourse to us should be allowed. While we have concurrent jurisdiction with Regional Trial Courts and with the Court of Appeals to issue writs of *certiorari*, prohibition, *mandamus, quo warranto, habeas corpus* and injunction, such concurrence gives petitioners no unrestricted freedom of choice of court forum, so we held in *People v. Cuaresma*:
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> > This concurrence of jurisdiction is not . . . to be taken as according to parties seeking any of the writs an absolute unrestrained freedom of choice of the court to which application therefor will be directed. There is after all hierarchy of courts. That hierarchy is determinative of the venue of appeals, and should also serve as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the

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15 The recognized exceptions are: (a) where the order is a patent nullity, as where the court *a quo* had no jurisdiction; (b) where the questions raised in the *certiorari* proceeding have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where petitioner was deprived of due process and there is extreme urgency for relief; (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (g) where the proceedings in the lower court are a nullity for lack of due process; (h) where the proceedings were *ex parte*, or in which the petitioner had no opportunity to object; and (i) where the issue raised is one purely of law or where public interest is involved. (*Saint Louis University, Inc. v. Olairez,* 730 Phil. 444, 458-459 [2014]).

16 *Tano v. Socrates*, supra note 10 at 699-700.

> issuance of extraordinary writs against first level ("inferior") courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. This is established policy. It is a policy necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket. . . .
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> The Court feels the need to reaffirm that policy at this time, and to enjoin strict adherence thereto in the light of what it perceives to be a growing tendency on the part of litigants and lawyers to have their applications for the so-called extraordinary writs, and sometimes even their appeals, passed upon and adjudicated directly and immediately by the highest tribunal of the land . . . .
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> In *Santiago v. Vasquez*, this Court forcefully expressed that the propensity of litigants and lawyers to disregard the hierarchy of courts must be put to a halt, not only because of the imposition upon the precious time of this Court, but also because of the inevitable and resultant delay, intended or otherwise, in the adjudication of the case which often has to be remanded or referred to the lower court, the proper forum under the rules of procedure, or as better equipped to resolve the issues since this Court is not a trier of facts. We reiterated "the judicial policy that this Court will not entertain direct resort to it unless the redress desired cannot be obtained in the appropriate courts or where exceptional and compelling circumstances justify availment of a remedy within and calling for the exercise of [its] primary jurisdiction."

I fail to appreciate any exceptional or compelling circumstance in petitioner's case to justify her direct resort to this Court or would constitute as an exception to the well-established judicial policy of hierarchy of courts.

Petitioner's utter lack of regard for procedural rules is further demonstrated by her improperly executed Verification and Certification against Forum Shopping. It is not disputed that while the *jurat* states that the said Verification and Certification were "SUBSCRIBED AND SWORN to before [the Notary Public]," this is not what had actually happened. Petitioner did not appear personally before the Notary Public, Atty. Maria Cecile C. Tresvalles-Cabalo (Tresvalles-Cabalo). The Petition and the attached Verification and Certification against Forum Shopping, which was already signed purportedly by petitioner, were merely brought and presented by petitioner's staff to Atty. Tresvalles-Cabalo, together with petitioner's passport, for notarization. This contravenes the requirement under the 2004

Rules on Notarial Practice that the "*jurat*"[17] be made by the individual in person before the notary public.

Verification is required to secure an assurance that the allegations in the petition have been made in good faith or are true and correct, and not merely speculative; and certification against forum shopping is required based on the principle that a party-litigant should not be allowed to pursue simultaneous remedies in different fora. The important purposes behind these requirements cannot be simply brushed aside absent any sustainable explanation justifying their relaxation.[18] Indeed, such requirements may be relaxed under justifiable circumstances or under the rule on substantial compliance. Yet, petitioner did not give a satisfactory explanation as to why she failed to personally see Atty. Tresvalles-Cabalo for the proper execution of her Verification and Certification against Forum Shopping, when Atty. Tresvalles-Cabalo was already right there at Camp Crame, where petitioner was detained, exactly for the purpose of providing notarization services to petitioner. Neither can it be said that there had been substantial compliance with such requirements because despite Atty. Tresvalles-Cabalo's subsequent confirmation that petitioner herself signed the Verification and Certification against Forum Shopping, still, petitioner has not complied at all with the requisite of a *jurat* that she personally appears before a notary public to avow, under penalty of law, to the whole truth of the contents of her Petition and Certification against Forum Shopping.

Petitioner's numerous procedural lapses overall reveal a cavalier attitude towards procedural rules, which should not be so easily countenanced based on petitioner's contention of substantial justice. In *Manila Electric Company v. N.E. Magno Construction, Inc.*,[19] the Court decreed that no one has a vested right to file an appeal or a petition for *certiorari*. These are statutory privileges which may be exercised only in the manner prescribed by law. Rules of procedure must be faithfully complied with and should not be discarded with by the mere expediency of claiming

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17 Rule II, Section 6 of the 2004 Rules on Notarial Practice reads:

Sec. 6. *Jurat.* – "*Jurat*" refers to an act in which an individual on a single occasion:

(a) **appears in person before the notary public** and presents an instrument or document;

(b) is personally known to the notary public or identified by the notary public through competent evidence of identity as defined by these Rules;

(c) signs the instrument or document in the presence of the notary; and

(d) takes an **oath or affirmation** before the notary public as to such instrument or document. (Emphases ours.)

Rule II, Section 2 of the 2004 Rules on Notarial Practice defines "affirmation" or "oath" as follows:

Sec. 2. *Affirmation or Oath.* – The term "Affirmation" or "Oath" refers to an act in which an individual on a single occasion:

(a) **appears in person before the notary public**;

(b) is personally known to the notary public or identified by the notary public through competent evidence of identity as defined by these Rules; and

(c) avows under penalty of law to the whole truth of the contents of the instrument or document.

18 *William Go Que Construction v. Court of Appeals,* G.R. No. 191699, April 19, 2016, 790 SCRA 309, 326.

19 G.R. No. 208181, August 31, 2016.

substantial merit. The Court was even more emphatic in its judgment in *William Go Que Construction v. Court of Appeals*,[20] thus:

> As a final word, it is well to stress that "procedural rules are not to be disdained as mere technicalities that may be ignored at will to suit the convenience of a party x x x Justice has to be administered according to the Rules in order to obviate arbitrariness, caprice, or whimsicality." Resort to the liberal application of procedural rules remains the exception rather than the rule; it cannot be made without any valid reasons underpinning the said course of action. To merit liberality, the one seeking such treatment must show reasonable cause justifying its noncompliance with the Rules, and must establish that the outright dismissal of the petition would defeat the administration of substantial justice. Procedural rules must, at all times, be followed, save for instances when a litigant must be rescued from an injustice far graver than the degree of his carelessness in not complying with the prescribed procedure. The limited exception does not obtain in this case.

II

Granting *arguendo* that the Court can take cognizance of the substantive issues raised in the instant Petition, the same should still be dismissed for lack of merit.

The alleged defects of the Information in Criminal Case No. 17-165 do not warrant its quashal.

The Information in Criminal Case No. 17-165 fully reads:

> The undersigned Prosecutors, constituted as a Panel pursuant to Department Orders 706 and 790 dated October 14, 2016 and November 11, 2016, respectively, accuse LEILA M. DE LIMA, RAFAEL MARCOS Z. RAGOS and RONNIE PALISOC DAYAN, for violation of Section 5, in relation to Section 3(jj), Section 26(b) and Section 28, Republic Act No. 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*, committed as follows:
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> > That within the period from November 2012 to March 2013, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, accused Leila M. De Lima, being then the Secretary of the Department of Justice, and accused Rafael Marcos Z. Ragos, being then the Officer-in-Charge of the Bureau of Corrections, by taking advantage of their public office, conspiring and confederating with accused Ronnie P. Dayan, being then an employee of the Department of Justice detailed to De Lima, all of them having moral ascendancy or influence over inmates in the New Bilibid Prison, did then and there commit illegal drug trading, in the following manner: De Lima and Ragos, with the use of their power, position and authority, demand, solicit and extort money from the high profile inmates in the New Bilibid Prison to support the

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[20] Supra note 18 at 326-327.

> Senatorial bid of De Lima in the May 2016 election; by reason of which, the inmates, not being lawfully authorized by law and through the use of mobile phones and other electronic devices, did then and there willfully and unlawfully trade and traffic dangerous drugs, and thereafter give and deliver to De Lima, through Ragos and Dayan, the proceeds of illegal drug trading amounting to Five Million (₱5,000,000.00) Pesos on 24 November 2012, Five Million (₱5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (₱100,000.00) Pesos weekly "*tara*" each from the high profile inmates in the New Bilibid Prison.

Petitioner challenges the Information on the grounds that the facts therein do not constitute an offense; and that it fails to precisely designate the offense with which petitioner and her co-accused are charged, and to particularly describe the actions or omissions complained of as constituting the offense. Petitioner disputes respondents' contention that petitioner and her co-accused are being charged with conspiracy to commit drug trading, and insists that they are being accused of consummated drug trading.

The relevant provisions of Republic Act No. 9165 expressly mentioned in the Information are reproduced below:

> Sec. 3. *Definitions.* – As used in this Act, the following terms shall mean:
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> x x x x
>
> (jj) ***Trading.*** – Transactions involving the **illegal trafficking** of dangerous drugs and/or controlled precursors and essential chemicals **using electronic devices** such as, but not limited to, text messages, e-mail, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration in violation of this Act.
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> Sec. 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, **trade**, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.
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> Sec. 26. *Attempt or Conspiracy.* – Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:
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> x x x x

> (b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;
>
> Sec. 28. *Criminal Liability of Government Officials and Employees.* – The **maximum penalties** of the unlawful acts provided for in this Act shall be imposed, in addition to **absolute perpetual disqualification from any public office**, if those found guilty of such unlawful acts are **government officials and employees**. (Emphases ours.)

"Trading of dangerous drugs" refers to "transactions involving illegal trafficking." "Illegal trafficking" is broadly defined under Section 3(r) of Republic Act No. 9165 as "[t]he illegal cultivation, culture, delivery, administration, dispensation, manufacture, sale, trading, transportation, distribution, importation, exportation and possession of any dangerous drug and/or controlled precursor and essential chemical." The trading of dangerous drugs evidently covers more than just the sale of such drugs and a singular buy-and-sell transaction. It connotes the conduct of a business involving a series of transactions, often for a sustained period of time. It may be committed by various ways, or even by different combinations of ways.

The respondents aptly contended that the Information contains all the elements of conspiracy to commit illegal trading, *viz.*, "*first*, two or more persons come to an agreement; *second*, the agreement is to commit drug trading by using electronic devices such as mobile or landlines, two-way radios, internet, *etc.*, whether for money or any other consideration in violation of Republic Act No. 9165; and *third*, the offenders had decide[d] to commit the offense."

On the imprecise designation of the offense charged against petitioner and her co-accused, we may be guided accordingly by the pronouncements of the Court in *People v. Valdez*,[21] citing *United States v. Lim San*[22]:

> To discharge its burden of informing him of the charge, the State must specify in the information the details of the crime and any circumstance that aggravates his liability for the crime. The requirement of sufficient factual averments is meant to inform the accused of the nature and cause of the charge against him in order to enable him to prepare his defense. It emanates from the presumption of innocence in his favor, pursuant to which he is always presumed to have no independent knowledge of the details of the crime he is being charged with. To have the facts stated in the body of the information determine the crime of which he stands charged and for which he must be tried thoroughly accords with common sense and with the requirements of plain justice, for, as the Court fittingly said in *United States v. Lim San*:
>
> > From a legal point of view, and in a very real sense, it is of no concern to the accused what is the technical name

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21 679 Phil. 279, 294-296 (2012).

22 17 Phil. 273 (1910).

> of the crime of which he stands charged. It in no way aids him in a defense on the merits x x x. **That to which his attention should be directed, and in which he, above all things else, should be most interested, are the facts alleged. The real question is not did he commit a crime given in the law some technical and specific name, but did he perform the acts alleged in the body of the information in the manner therein set forth. If he did, it is of no consequence to him, either as a matter of procedure or of substantive right, how the law denominates the crime which those acts constitute. The designation of the crime by name in the caption of the information from the facts alleged in the body of that pleading is a conclusion of law made by the fiscal. In the designation of the crime the accused never has a real interest until the trial has ended. For his full and complete defense he need not know the name of the crime at all. It is of no consequence whatever for the protection of his substantial rights. The real and important question to him is, "Did you perform the acts alleged in the manner alleged?" not "Did you commit a crime named murder." If he performed the acts alleged, in the manner stated, the law determines what the name of the crime is and fixes the penalty therefor. It is the province of the court alone to say what the crime is or what it is named x x x.**
>
> A practical consequence of the non-allegation of a detail that aggravates his liability is to prohibit the introduction or consideration against the accused of evidence that tends to establish that detail. The allegations in the information are controlling in the ultimate analysis. Thus, when there is a variance between the offense charged in the information and that proved, and the offense as charged is included in or necessarily includes the offense proved, the accused shall be convicted of the offense proved included in the offense charged, or of the offense charged included in the offense proved. In that regard, an offense charged necessarily includes the offense proved when some of the essential elements or ingredients of the former, as alleged in the information, constitute the latter; an offense charged is necessarily included in the offense proved when the essential ingredients of the former constitute or form part of those constituting the latter.

It may also do us well to remember that the Information only needs to state the ultimate facts; the evidentiary and other details can be provided during the trial.[23] The purpose of an Information is to afford an accused his/her right to be informed of the nature and cause of the accusation against him/her. For this purpose, the Rules of Court require that the Information allege the ultimate facts constituting the elements of the crime charged. Details that do not go into the core of the crime need not be included in the Information, but may be presented during trial. The rule that evidence must be presented to establish the existence of the elements of a crime to the point of moral certainty is only for purposes of conviction. It finds no application

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[23] *People v. Romualdez*, 581 Phil. 462, 484 (2008).

in the determination of whether or not an Information is sufficient to warrant the trial of an accused.[24]

Moreover, if indeed the Information is defective on the ground that the facts charged therein do not constitute an offense, the court may still order the prosecution to amend the same. As the Court ratiocinated in *People v. Sandiganbayan (Fourth Division)*[25]:

> *Outright quashal of the Information not proper*
>
> Even assuming for the sake of argument that the Information was defective on the ground that the facts charged therein do not constitute an offense, outright quashal of the Information is not the proper course of action.
>
> Section 4, Rule 117 of the Rules of Court gives clear guidance on this matter. It provides –
>
> > Sec. 4. *Amendment of complaint or information.* – If the motion to quash is based on an alleged defect of the complaint or information which can be cured by amendment, the court shall order that an amendment be made.
> >
> > **If it is based on the ground that the facts charged do not constitute an offense, the prosecution shall be given by the court an opportunity to correct the defect by amendment.** The motion shall be granted if the prosecution fails to make the amendment, or the complaint or information still suffers from the same defect despite the amendment.
>
> When a motion to quash is filed challenging the validity and sufficiency of an Information, and the defect may be cured by amendment, courts must deny the motion to quash and order the prosecution to file an amended Information. Generally, a defect pertaining to the failure of an Information to charge facts constituting an offense is one that may be corrected by an amendment. In such instances, courts are mandated not to automatically quash the Information; rather, it should grant the prosecution the opportunity to cure the defect through an amendment. This rule allows a case to proceed without undue delay. By allowing the defect to be cured by simple amendment, unnecessary appeals based on technical grounds, which only result to prolonging the proceedings, are avoided.
>
> More than this practical consideration, however, is the due process underpinnings of this rule. As explained by this Court in *People v. Andrade*, the State, just like any other litigant, is entitled to its day in court. Thus, a court's refusal to grant the prosecution the opportunity to amend an Information, where such right is expressly granted under the Rules of Court and affirmed time and again in a string of Supreme Court decisions, effectively curtails the State's right to due process.

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24 *People v. Sandiganbayan (Fourth Division),* G.R. No. 160619, September 9, 2015, 770 SCRA 162, 174-175.

25 Id. at 176-177.

Even if the Information suffers from vagueness, the proper remedy may still not be a motion to quash, but a motion for a bill of particulars. The Court declared in *Enrile v. People*[26] that if the Information charges an offense and the averments are so vague that the accused cannot prepare to plead or prepare for trial, then a motion for a bill of particulars is the proper remedy. The Court further expounded in *Enrile* that:

> ***In general, a bill of particulars is the further specification of the charges or claims in an action***, which an accused may avail of by motion before arraignment, to enable him to properly **plead and prepare for trial**. x x x
>
> In criminal cases, a bill of particulars details items or specific conduct not recited in the Information but nonetheless pertain to or are included in the crime charged. Its purpose is to enable an accused: to know the theory of the government's case; to prepare his defense and to avoid surprise at the trial; to plead his acquittal or conviction in bar of another prosecution for the same offense; and to compel the prosecution to observe certain limitations in offering evidence.
>
> In criminal proceedings, the motion for a bill of particulars is governed by Section 9 of Rule 116 of the Revised Rules of Criminal Procedure which provides:
>
> > Section 9. *Bill of particulars.* — The accused may, before arraignment, move for a bill of particulars to enable him properly to plead and prepare for trial. The motion shall specify the alleged defects of the complaint or information and the details desired.
>
> The rule requires the information to describe the offense with sufficient particularity to apprise the accused of the crime charged with and to enable the court to pronounce judgment. ***The particularity must be such that persons of ordinary intelligence may immediately know what the Information means.***
>
> The general function of a bill of particulars, whether in civil or criminal proceedings, is ***to guard against surprises during trial.*** It is not the function of the bill to furnish the accused with the evidence of the prosecution. Thus, the prosecutor shall *not* be required to include in the bill of particulars matters of evidence relating to how the people intend to prove the elements of the offense charged or how the people intend to prove any item of factual information included in the bill of particulars.[27]

It cannot be denied that a single act or incident might offend against two or more entirely distinct and unrelated provisions of law and the accused may be prosecuted for more than one offense. The only limit to this rule is the prohibition under Article III, Section 21 of the Constitution that no person shall be twice put in jeopardy of punishment for "the same

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26 766 Phil. 75 (2015).

27 Id. at 105-106.

offense."[28] When a single criminal act may give rise to a multiplicity of offenses and where there is variance or differences between the elements of an offense in one law and another law, there will be no double jeopardy because what the rule on double jeopardy prohibits refers to identity of elements in the two offenses.[29]

While arguably, the same acts or incidents described in the Information in Criminal Case No. 17-165 may also constitute corruption or bribery, which is criminally punishable under other laws, said Information is sufficiently clear that petitioner and her co-accused are being charged therein for a drug-related offense. Both the heading and opening paragraph of the Information explicitly indicate that the offense charged is that penalized under Republic Act No. 9165.[30] The allegations in the Information that petitioner and her co-accused demanded and received certain amounts of money from high-profile inmates at the New Bilibid Prison are merely descriptive of their alleged participation in the conspiracy. The following declarations of the Court in *People v. Lava,*[31] which involved a charge for rebellion, is instructive on how the Information should be read in this case:

> The appellants also contend that the informations against them charge more than one offense, in violation of Section 12, Rule 106 of the old Rules of Court (now Section 12, Rule 117 of the new Rules of Court). This contention has no merit. A reading of the informations reveals the theory of the prosecution that the accused had committed the complex crime of rebellion with murders, robbery and arsons, enumerating therein eight counts regarding specific acts of murder, robbery and arson. These acts were committed, to quote the information, "to create and spread terrorism in order to facilitate the accomplishment of the aforesaid purpose", that is, to overthrow the Government. The appellants are not charged with the commission of each and every crime specified in the counts as crimes separate and distinct from that of rebellion. **The specific acts are alleged merely to complete the narration of facts, thereby specifying the way the crime of rebellion was allegedly committed, and to apprise the defendants of the particular facts intended to be proved as the basis for a finding of conspiracy and/or direct participation in the commission of the crime of rebellion. An information is not duplicitous if it charges several related acts, all of which constitute a single offense, although the acts may in themselves be distinct offenses.** Moreover, this Court has held that acts of murder, arson, robbery, physical injuries, *etc.* are absorbed by, and form part and parcel of, the crime of rebellion if committed as a means to or in furtherance of the rebellion charged. (Emphasis ours.)

There is no need for us to belabor the question of why the DOJ would rather prosecute petitioner and her co-accused for violation of Republic Act No. 9165, but not for corruption or bribery. Who to charge with what crime

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28 *Loney v. People*, 517 Phil. 408, 424 (2006).
29 *Nierras v. Dacuycuy*, 260 Phil. 6, 13 (1990).
30 *Ramos, Jr. v. Pamaran*, 158 Phil. 536, 541 (1974).
31 138 Phil. 77, 110 (1969).

or none at all is basically the prosecutor's call.[32] Public prosecutors under the DOJ have a wide range of discretion, the discretion of whether, what, and whom to charge, the exercise of which depends on a smorgasbord of factors which are best appreciated by public prosecutors; and this Court has consistently adhered to the policy of non-interference in the conduct of preliminary investigations, and to leave to the investigating prosecutor sufficient latitude of discretion in the determination of what constitutes sufficient evidence as will establish probable cause for the filing of an information against the supposed offender.[33]

As has been extensively discussed by the *ponente* and Associate Justices Diosdado M. Peralta, Samuel R. Martires, and Noel Gimenez Tijam in their respective opinions, exclusive jurisdiction over drug-related cases still exclusively resides in the RTCs. On one hand, there is Article XI, Section 90 of Republic Act No. 9165, otherwise known as Comprehensive Dangerous Drugs Act of 2002, which specifically provides, under the heading of "*Jurisdiction*," that "[t]he Supreme Court shall designate special courts from **among the existing Regional Trial Courts** in each judicial region to **exclusively try and hear cases** involving violations of this Act. The number of courts designated in each judicial region shall be based on the population and the number of cases pending in their respective jurisdiction." The designation by the Supreme Court of special courts among existing RTCs for drug-related cases is more than just an administrative matter. From a plain reading of Article XI, Section 90, it is clear that the jurisdiction to try and hear violations of Republic Act No. 9165 are presently not only exclusive to RTCs, but even made further exclusive only to RTCs specially designated by the Supreme Court.

On the other hand, the jurisdiction of the Sandiganbayan is set forth in Section 4 of Presidential Decree No. 1606, as amended by Republic Act No. 10660[34]:

> Sec. 4. *Jurisdiction.* – The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:
>
> a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:
>
> (1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade "27" and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:

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32 *Elma v. Jacobi*, 689 Phil. 307, 341 (2012).

33 *Aguirre v. Secretary of the Department of Justice*, 571 Phil. 138, 161 (2008).

34 An Act Strengthening Further the Functional and Structural Organization of the Sandiganbayan, Further Amending Presidential Decree No. 1606, as Amended, and Appropriating Funds Therefor.

x x x x

(2) Members of Congress and officials thereof classified as Grade "27" and higher under the Compensation and Position Classification Act of 1989;

(3) Members of the judiciary without prejudice to the provisions of the Constitution;

(4) Chairmen and members of the Constitutional Commissions, without prejudice to the provisions of the Constitution; and

(5) All other national and local officials classified as Grade "27" and higher under the Compensation and Position Classification Act of 1989.

b. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a. of this section in relation to their office.

c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

***Provided*, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (₱1,000,000.00).** (Emphasis ours.)

Despite the amendments to its jurisdiction, the Sandiganbayan primarily remains an anti-graft court, as it is expressly recognized in the Constitution.[35] Arguments that Republic Act No. 10660 expanded the jurisdiction of the Sandiganbayan are unfounded and contrary to the expressed intentions of the lawmakers in amending Section 4 of Presidential Decree No. 1606 through Republic Act No. 10660.

The lawmakers took note of the dismal rate of disposition reflected in the heavily clogged docket of the Sandiganbayan; and to streamline the jurisdiction and decongest the dockets of the anti-graft court, they included in Republic Act No. 10660 the proviso giving the RTC exclusive jurisdiction over minor cases, *i.e.*, information which (a) does not allege any damage to the government or bribery; or (b) alleges damage to the government or bribery in an amount not exceeding One Million Pesos, regardless of the position or rank of the public official involved. By reason of said proviso, jurisdiction over minor cases involving high-ranking public officials is transferred from the Sandiganbayan to the RTC.[36] Therefore, said proviso

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35 Article XI, Section 4 of the 1987 Constitution provides that "[t]he present anti-graft court known as the Sandiganbayan shall continue to function and exercise its jurisdiction as now or hereafter may be provided by law."

36 LIX JOURNAL, SENATE 16TH CONGRESS 1ST REGULAR SESSION 32-33 (February 26, 2014).

cannot be invoked in reverse – to transfer jurisdiction over more cases from the RTC to the Sandiganbayan – in contravention of the express intent of the lawmakers.

To emphasize, the goal of the amendments to the jurisdiction of the Sandiganbayan under Republic Act No. 10660 is to lessen, not add even more, to the caseload of the said anti-graft court. In any case, the proviso on damage to the government or bribery under Section 4 of Presidential Decree No. 1606, as amended by Republic Act No. 10660, finds no application to the Petition at bar since the Information in Criminal Case No. 17-165 charges petitioner with conspiracy to commit drug trading, and not bribery.

More importantly, I am in complete accord with the *ponente* who points out that Section 4(b) of Presidential Decree No. 1606, as amended, is a catch-all provision, of "broad and general phraseology," referring in general to "all other offenses or felonies whether simple or complexed with other crimes" committed by particular public officials. It cannot take precedence over Article XI, Section 90 of Republic Act No. 9165 which specifically pertains to drug-related cases, regardless of the identity of the accused. Republic Act No. 10660, expanding the jurisdiction of the Sandiganbayan, is of general character, and even though it is a later enactment, it does not alter Article XI, Section 90 of Republic Act No. 9165, a law of special nature. The decisions of the Court in *Manzano v. Valera*[37] and *People v. Benipayo*,[38] affirming the exclusive jurisdiction of RTCs over libel cases under Article 360 of the Revised Penal Code, may be applied by analogy to the case at bar.

The Court pronounced in *Manzano* that:

> Conformably with these rulings, we now hold that public respondent committed an error in ordering that the criminal case for libel be tried by the MTC of Bangued.
>
> For, although R.A. 7691 was enacted to decongest the clogged dockets of the Regional Trial Courts by expanding the jurisdiction of first level courts, said law is of a general character. Even if it is a later enactment, it does not alter the provision of Article 360 of the RPC, a law of a special nature. "Laws vesting jurisdiction exclusively with a particular court, are special in character, and should prevail over the Judiciary Act defining the jurisdiction of other courts (such as the Court of First Instance) which is a general law." A later enactment like R.A. 7691 does not automatically override an existing law, because it is a well-settled principle of construction that, in case of conflict between a general law and a special law, the latter must prevail regardless of the dates of their enactment. Jurisdiction conferred by a special law on the RTC must therefore prevail over that granted by a general law on the MTC.
>
> Moreover, from the provisions of R.A. 7691, there seems to be no manifest intent to repeal or alter the jurisdiction in libel cases. If there was

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37 354 Phil. 66 (1998).

38 604 Phil. 317 (2009).

> such intent, then the amending law should have clearly so indicated because implied repeals are not favored. As much as possible, effect must be given to all enactments of the legislature. A special law cannot be repealed, amended or altered by a subsequent general law by mere implication. Furthermore, for an implied repeal, a pre-condition must be found, that is, a substantial conflict should exist between the new and prior laws. Absent an express repeal, a subsequent law cannot be construed as repealing a prior one unless an irreconcilable inconsistency or repugnancy exists in the terms of the new and the old laws. The two laws, in brief, must be absolutely incompatible. In the law which broadened the jurisdiction of the first level courts, there is no absolute prohibition barring Regional Trial Courts from taking cognizance of certain cases over which they have been priorly granted special and exclusive jurisdiction. Such grant to the RTC (previously CFI) was categorically contained in the first sentence of the amended Sec. 32 of B.P. 129. The inconsistency referred to in Section 6 of R.A. 7691, therefore, does not apply to cases of criminal libel.[39]

In *Benipayo*, the Court upheld the jurisdiction of the RTC, as against that of the Sandiganbayan, over a libel case committed by a public official, reasoning as follows:

> As we have constantly held in *Jalandoni, Bocobo, People v. Metropolitan Trial Court of Quezon City, Br. 32, Manzano*, and analogous cases, we must, in the same way, declare herein that the law, as it still stands at present, dictates that criminal and civil actions for damages in cases of written defamations shall be filed simultaneously or separately with the RTC to the exclusion of all other courts. A subsequent enactment of a law defining the jurisdiction of other courts cannot simply override, in the absence of an express repeal or modification, the specific provision in the RPC vesting in the RTC, as aforesaid, jurisdiction over defamations in writing or by similar means. The grant to the Sandiganbayan of jurisdiction over offenses committed in relation to (public) office, similar to the expansion of the jurisdiction of the MTCs, did not divest the RTC of its exclusive and original jurisdiction to try written defamation cases regardless of whether the offense is committed in relation to office. The broad and general phraseology of Section 4, Presidential Decree No. 1606, as amended by Republic Act No. 8249, cannot be construed to have impliedly repealed, or even simply modified, such exclusive and original jurisdiction of the RTC.[40]

The phrase in the Information that petitioner and her co-accused committed the offense charged by "taking advantage of their public office" is not sufficient to bring the offense within the definition of "offenses committed in relation to public office" which are within the jurisdiction of the Sandiganbayan. Such an allegation is to be considered merely as an allegation of an aggravating circumstance that petitioner and her co-accused are government officials and employees which will warrant the imposition of the maximum penalties, as provided under Section 28 of Republic Act No. 9165:

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39 *Manzano v. Valera*, supra note 37 at 75-76.

40 *People v. Benipayo*, supra note 38 at 330-331.

> Sec. 28. *Criminal Liability of Government Officials and Employees.* – The **maximum penalties** of the unlawful acts provided for in this Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are **government officials and employees**. (Emphases ours.)

For the foregoing reasons, I vote to dismiss the Petition.

Teresita Leonardo de Castro

TERESITA J. LEONARDO-DE CASTRO
Associate Justice