Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

JODY C. SALAS, *ex rel* Person Deprived of Liberty (PDL) RODOLFO C. SALAS, *Petitioner*,	**G.R. No. 251693**
- versus -	Present: LEONEN, *J.*, *Chairperson*, GESMUNDO, CARANDANG, ZALAMEDA, *and* GAERLAN, *JJ.*
HON. THELMA BUNYI-MEDINA, Presiding Judge of the Regional Trial Court of the City of Manila, Branch 32, JCINSP. LLOYD GONZAGA, Warden of the Manila City Jail Annex, and all those taking orders, instructions and directions from him, *Respondents*.	Promulgated: September 28, 2020

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DECISION

GAERLAN, *J.*:

This resolves the petition[1] for the issuance of a writ of *habeas corpus* under Rule 102 of the Rules of Court, as amended, filed by petitioner Jody C. Salas (petitioner) on behalf of his father, Rodolfo C. Salas (Rodolfo) who was arrested on charges of 15 counts of murder in Criminal Case Nos. 08-262163 (formerly H-1581) and 14-306533 to 14-306546, pending with Branch 32 of the Regional Trial Court (RTC) of Manila.

Antecedents

The 1992 conviction of Rodolfo for the crime of rebellion

By virtue of an Amended Information dated October 24, 1986, Rodolfo, along with other members of the Communist Party of the Philippines – New

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[1] *Rollo*, pp. 9-30.

People's Army (CPP-NPA), was indicted for the crime of rebellion. The accusatory portion reads as follows:

> That in or about 1968 and for some time before said year and continuously thereafter until the present time, in the City of Manila and elsewhere in the Philippines, the Communist Party of the Philippines, its military arm, the New People's Army, its mass infiltration network, the National Democratic Front with its other subordinate organizations and fronts, have, under the direction and control of said organizations' leaders, among whom are the aforementioned accused, and with the aid, participation or support of members and followers whose whereabouts and identities are still unknown, risen publicly and taken arms throught [sic] the country against the Government of the Republic of the Philippines for the purpose of overthrowing the present Government, the seat of which is in the City of Manila, or of removing from the allegiance to that government and its laws, the country's territory or part of it;
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> That from 1970 to the present, the above-named accused in their capacities as leaders of the aforenamed organizations, in conspiracy with, and in support of the cause of, the organizations aforementioned, engaged themselves in war against the forces of the government, destroying property or committing serious violence, and other acts in pursuit of their unlawful purpose, such as:
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> 1. Conducting armed raid, sorties and ambushes against police, constabulary and army detachments as well as against innocent civilians in such places as Larap, Camarines Norte; Subic, Zambales; Dinalupihan, Bataan; and Tondo, Manila;
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> 2. Undertaking the so-called 'Operation Agaw Armas' all over the country, including the Metro Manila area, as a consequence of which, victims are mercilessly killed simply for the purpose of obtaining possession of their firearms;
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> 3. Infiltrating and, by falsehood and deception, manipulating legitimate organizations to work for the success of the rebellion;
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> 4. Negotiating with foreign sources/suppliers for the supply of arms to the New People's Army as amply exposed by the arrival in Isabela in July 1972 of the vessel 'M/V KARAGATAN' from foreign shores, fully loaded with arms;
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> That despite the advent of a new regime occasioned by the February 1986 revolution, the aforenamed organizations, through the leadership of the accused who, in open contempt of the new government's policy of reconciliation and, in a determined effort to overthrow the government and to install a new social and political order in our society, persisted and continued in their depredations against the forces of the government and innocent civilians causing death and destruction, which include, among others, the following:

1. Simultaneous raid/attack on the INP Station and Kadiwa Center at Atimonan, Quezon and the INP Station at Plaridel, Quezon on March 16, 1986;

2. Raid/attack on the Pagsanjan, Laguna INP Station on April 12, 1986;

3. Ambuscade of troopers at Brgy. Matacon, Polangui, Albay on April 18, 1986;

4. Ambuscade of troopers at Brgy. Aquiquican, Gattaran, Cagayan on April 24, 1986 resulting in the death of Col. Sudiacal, PA and newsmen Willie Vicoy and Pete Mabazza;

5. Ambuscade of troopers at Villa Principe, Gumaca, Quezon on June 30, 1986;

6. Ambuscade of troopers at Vintar, Ilocos Norte on July 20, 1986;

7. Ambuscade of troopers at Brgy. Cinco, Sarrat, Ilocos Norte on August 24, 1986;

8. Liquidation of Capt. Cecilio Palada and companion at Gate I, Camp Aguinaldo, Quezon City on September 10, 1986;

9. Kidnapping and liquidation of Col. Rex Baquiran at Brgy. Amacian, Pinukpuk, Kalinga-Apayao on September 13, 1986;

10. Ambuscade of troopers at Maria Aurora, Aurora Province on September 14, 1986 resulting in the death of Lt. Col. Constancio Lasatan and others;

11. Raid/attack on PC Detachment at San Francisco, Kalian, San Pablo City on September 17, 1986;

12. Ambuscade of troopers at Balagtas, Bulacan on September 24, 1986 resulting in the death of Lt. Col. Angel Lansang.

CONTRARY TO LAW.[2]

The case, docketed as Criminal Case No. 86-48926, was raffled to Branch 12 of the RTC of Manila, which was presided by Judge Procoro J. Donato.

It bears noting that the foregoing charge involves rebellion as defined and penalized by Articles 134 and 135 of the Revised Penal Code as amended

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[2] Id. at 32-35.

by Presidential Decree (P.D.) No. 1834,[3] which prescribed the penalty of *reclusion perpetua* to death. In the course of the trial, Rodolfo – who was already in detention at the time of the filing of the Information and did not obtain provisional liberty through bail – entered into a plea bargaining agreement with the prosecution. Rodolfo pleaded guilty to rebellion under Executive Order No. 187,[4] which repealed P.D. No. 1834 and reinstated the lesser penalty of six (6) years and one (1) day to twelve (12) years of *prision mayor*. The said agreement was embodied in Rodolfo and the prosecution's Joint Manifestation and Motion (After Plea Bargaining)[5] dated May 9, 1991.

Thus, in its May 10, 1991 Decision, the RTC rendered a judgment of conviction against Rodolfo, *viz.*:

> WHEREFORE, in the light of the foregoing considerations, the Court finds the accused, RODOLFO SALAS alias Commander Bilog/ Henry, guilty beyond reasonable doubt of the crime of REBELLION, as defined in Article 134 and penalized under Article 135, Revised Penal Code, as amended by Executive Order No. 187, and as charged in the Amended Information, and, accordingly, hereby sentences him to suffer the penalty of SIX (6) YEARS and ONE (1) DAY of prision mayor, with the accessory penalties provided for by law; to pay a fine of SIX THOUSAND (₱6,000.00) PESOS without subsidiary imprisonment in case of insolvency; and to pay one-third (1/3) of the costs.
>
> In the service of his sentence, the accused (who appears to have been arrested on September 29, 1985 but brought under the jurisdiction of this Court on October 2, 1986) shall be credited with the full time during which he underwent preventive imprisonment provided he voluntarily agreed in writing to abide by the same disciplinary rules imposed upon convicted prisoners; otherwise, he shall be credited to only four-fifths (4/5) thereof x x x.
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> SO ORDERED.[6]

Rodolfo served the foregoing sentence in full and was released in 1992.

The filing of charges for multiple counts of murder against Rodolfo and

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3 INCREASING THE PENALTIES FOR THE CRIME OF REBELLION, SEDITION, AND RELATED CRIMES, AND AMENDING FOR THIS PURPOSE ARTICLES 135, 136, 140, 141, 142, 143, 144, 146 AND 147 OF THE REVISED PENAL CODE AND ADDING SECTION 142-B THERETO.

4 REPEALING PRESIDENTIAL DECREES NOS. 38, 942, 970, 1735, 1834, 1974, AND 1996 AND ARTICLES 142-A AND 142-B of the REVISED PENAL CODE AND RESTORING ARTICLES 135, 136, 137, 138, 140, 141, 143, 144, 146, 147, 177, 178, AND 179 TO FULL FORCE AND EFFECT AS THEY EXISTED BEFORE SAID AMENDATORY DECREES.

5 *Rollo*, pp. 43-46.

6 Id. at 41-42.

his subsequent arrest and incarceration

On August 26, 2006, a mass grave with at least 67 skeletal remains[7] was discovered by the 43rd Infantry of the Philippine Army at Sitio Mt. Sapang Dako, Barangay Kaulisihan, Inopacan, Leyte. It is believed that the said remains belong to victims of the CPP-NPA's "Operation Venereal Disease" which spanned from 1982 until 1992. Among these remains, 15 were identified by forensic experts and their relatives.

Following the conduct of a preliminary investigation on the case in I.S. No. 06-116, the Office of the Provincial Prosecutor of Leyte issued a Resolution[8] dated February 16, 2007 recommending the filing of murder charges against Rodolfo and 37 other leaders of the CPP-NPA. Accordingly, on February 20, 2007, Rodolfo and his co-accused were formally indicted for 15 counts of murder in an Information,[9] the accusatory portion of which states:

> That on or about the months of May and June 1985, or for sometime prior or subsequent thereto, at Sitio Mt. Sapang Dako, Brgy. Kaulisihan, in the Municipality of Inopacan, Province of Leyte, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, being members of the Central, Regional, and Provincial Committees, Arresting, Investigating and/or Execution Teams/Groups of the CPP-NPA, conspiring, confederating and helping one another, with intent to kill, employing treachery, evident premeditation, and taking advantage of their superior strength, did then and there willfully, unlawfully and feloniously, abduct, torture, strike and hit with blunt instruments, stab with the use of bladed weapon such as "kutsilyo" and shoot with different kinds and caliber of unlicensed firearms, 1). Juanita Aviola, 2). Concepcion Aragon, 3). Gregorio Eras, 4). Teodoro Recones, Jr., 5). Restituto Ejoc, 6). Rolando Vasquez, 7). Junior Miyapis, 8). Crispin Dalmacio, 9). Zacarias Casil, 10). Pablo Daniel, 11). Romeo Tayabas, 12). Domingo Napoles, 13). Ciriaco Daniel, 14). Crispin Prado, and 15). Ereberto Prado, which the accused provided themselves for the purpose thereby inflicting upon them, injuries, gunshot and stab wounds which caused the instantaneous death of 1). Juanita Aviola, 2). Concepcion Aragon, 3). Gregorio Eras, 4). Teodoro Recones, Jr., 5). Restituto Ejoc, 6). Rolando Vasquez, 7). Junior Miyapis, 8). Crispin Dalmacio, 9). Zacarias Casil, 10). Pablo Daniel, 11). Romeo Tayabas, 12). Domingo Napoles, 13). Ciriaco Daniel, 14). Crispin Prado, and 15). Ereberto Prado, buried them in a mass grave at Sitio Mr. Sapang Dako, Brgy. Kaulisihan, Inopacan, Leyte, which was only discovered and unearthed on August 26, 2006, to the damage and prejudice of their respective heirs.

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7 "Mass grave with 67 skeletal remains discovered in Leyte," September 3, 2006 <https://www.philstar.com/cebu-news/2006/09/03/356217/mass-grave-67-skeletal-remains-discovered-leyte> (visited on July 22, 2020).

8 *Rollo*, pp. 47-53.

9 Id. at 120-123.

CONTRARY TO LAW.[10]

In an Order[11] dated June 12, 2008, the venue of the trial of the case was transferred from Branch 18 of the RTC of Hilongos, Leyte to the RTC of Manila. The case was docketed as Criminal Case Nos. 08-262163 (formerly H-1581) and 14-306533 to 14-306546 before Branch 32 of the RTC of Manila, which is currently presided by respondent Judge Thelma Bunyi-Medina (Judge Bunyi-Medina). Thereafter, on August 28, 2019, Judge Bunyi-Medina issued a Warrant of Arrest[12] against all of the accused in the said case.

On February 18, 2020, at around 5:30 a.m., more or less, Rodolfo was arrested by law enforcement authorities at his residence in Angeles City, Pampanga. As attested by a Certificate of Detention[13] dated February 19, 2020, he was detained at the Philippine National Police detention facility at Camp Olivas, San Fernando, Pampanga. By virtue of a Commitment Order[14] dated February 20, 2020, Rodolfo was then transferred to the Manila City Jail Annex in Taguig City of which respondent JCInsp. Lloyd Gonzaga (JCInsp. Gonzaga) is the Warden.

Hence, the present recourse which petitioner filed on behalf of Rodolfo on March 2, 2020. On even date, this Court rendered a Resolution[15] ordering that the writ of *habeas corpus* be issued in favor of Rodolfo.

In his verified Return of the Writ,[16] JCInsp. Gonzaga, through the Office of the Solicitor General, informed this Court that on March 2, 2020, Rodolfo was ordered to be transferred to the Manila City Jail in Sta. Cruz, Manila.

On March 12, 2020, oral arguments were conducted, with the person of Rodolfo being presented before this Court. We then resolved Rodolfo's application for the issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction, as well as his alternative prayer for bail. Thus:

> In a similar case pending in the Regional Trial Court, bail was granted to Saturnino Ocampo in G.R. No. 176830.
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> Acting on these prayers and without prejudice to the final resolution in this case, the Court resolves to:

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10 Id. at 121-122.
11 Id. at 130.
12 Id. at 131,
13 Id. at 132.
14 Id. at 54.
15 Id. at 55-56.
16 Id. at 76-97.

1. DENY petitioner, application for the issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction for lack of merit;

2. GRANT petitioner's alternative application for bail; and

3. ORDER the provisional release of RODOLFO C. SALAS in Criminal Case Nos. 08-262163 (formerly H-1581) and 14-306533 to 14-306546, upon posting of a cash bond of Two Hundred Thousand Pesos (₱200,000.00) in the Regional Trial Court of Manila, unless he is being detained for some other lawful cause.

SO ORDERED.[17]

In view of the parties' submission of their memoranda amplifying the arguments in support of their respective postures, the case is now ripe for resolution.

Issues

1. Whether or not the instant petition for the issuance of a writ of *habeas corpus* lies as the proper remedy for Rodolfo; and

2. Whether or not jeopardy attaches, considering the prior conviction of Rodolfo for the crime of rebellion the penalty for which he had already fully served.

Arguments

Petitioner's Arguments

Petitioner excoriates the filing of the murder charges against his father. He contends that *habeas corpus* is the proper remedy to redress the State's violation of Rodolfo's constitutional rights to due process and against double jeopardy. Rodolfo was never notified of the preliminary investigation in the murder case. Likewise, the 1991 plea bargaining agreement that Rodolfo entered into with the prosecution and approved by the trial court expressly states:

> (2-e) That both accused will be covered by the mantle of protection of the HERNANDEZ-ENRILE political offense doctrine against being charged and prosecuted for any common crime allegedly committed in furtherance of rebellion or surversion [sic]; x x x[18]

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[17] Id. at 202.
[18] Id. at 45.

Rodolfo having already served his sentence for rebellion and having duly repaid his debt to society, he can no longer be charged with murder because the said crime is deemed absorbed in rebellion – a principle that had long been settled by the Court in *People v. Hernandez*[19] and *Ponce-Enrile v. Judge Salazar*.[20] Thus, Rodolfo's criminal prosecution for multiple counts of murder gravely infringes his constitutional right against double jeopardy.

Furthermore, there is no plain and speedy remedy to address Rodolfo's predicament other than *habeas corpus*. To pursue other remedies before the trial court would amount to additional time for Rodolfo to languish in jail.

Respondents' Arguments

Respondents claim that Rodolfo's arrest and subsequent detention were effected through a lawful process which enjoys the presumption of regularity. The petition violates the principle of hierarchy of courts for bypassing the remedies that are readily available before the RTC.

Moreover, the political offense doctrine is inapplicable unless and until Rodolfo is able to prove that the acts of murder were committed in furtherance of a political end. Such must be raised as a defense during trial and evidence in support thereof duly presented before the court *a quo*. This is a factual issue that lies beyond the province of *habeas corpus*.

Ruling of the Court

We dismiss the petition.

The writ of habeas corpus is not the proper remedy to obtain the release of persons detained by virtue of a judicial process

The writ of *habeas corpus*, the "most celebrated writ in the English law",[21] is a procedural device for subjecting executive, judicial, or private restraints on liberty to judicial scrutiny.[22] It is the great and efficacious writ, in all manner of illegal confinement[23] which serves as a swift and imperative

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19 99 Phil. 515 (1956).
20 264 Phil. 593 (1990).
21 *United States v. Hayman*, 342 U.S. 205 (1952) citing 3 Blackstone Commentaries 129.
22 *Peyton v. Rowe*, 391 U.S. 54 (1968).
23 *Harris v. Nelson*, 394 U.S. 286 (1969).

remedy in all cases of illegal restraint or confinement.[24] *Habeas corpus* is, at its core, an equitable remedy[25] which, when properly issued, supersedes all other writs.[26] It is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action.[27]

Habeas corpus plays a vital role in protecting constitutional rights.[28] It is "a proceeding against some person who has the immediate custody of the party detained, with the power to produce the body of such party before the court or judge, that he may be liberated if no sufficient reason is shown to the contrary."[29] *Habeas corpus* does not compensate for past wrongful incarceration, nor does it punish the State for imposing it. Instead, it is a challenge to unlawful custody, and when the writ issues it prevents further illegal custody.[30] Thus, in *Fay v. Noia*:[31]

> x x x Although in form the Great Writ is simply a mode of procedure, its history is inextricably intertwined with the growth of fundamental rights of personal liberty. For its function has been to provide a prompt and efficacious remedy for whatever society deems to be intolerable restraints. Its root principle is that in a civilized society, government must always be accountable to the judiciary for a man's imprisonment: if the imprisonment cannot be shown to conform with the fundamental requirements of law, the individual is entitled to his immediate release. x x x

In this jurisdiction, *habeas corpus* is acknowledged as "a high prerogative writ, known to the common law, the great object of which is the liberation of those who may be imprisoned without sufficient cause."[32] Its primary purpose is to inquire into all manner of involuntary restraint as distinguished from voluntary, and to relieve a person therefrom if such restraint is illegal.[33] It is therefore a writ of inquiry intended to test the circumstances under which a person is detained.[34] Under the Constitution, the privilege of the writ of *habeas corpus* shall not be suspended except in cases of invasion or rebellion, when the public safety requires it.[35]

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24 *Braden v. 30th Judicial Circuit Court*, 410 U.S. 484 (1973).
25 *Schlup v. Delo*, 513 U.S. 298 (1995).
26 *Perky v. Browne*, 105 Fla. 631 (Fla. 1932).
27 *Murray v. Carrier*, 477 U.S. 478 (1986).
28 *Slack v. McDaniel*, 529 U.S. 473 (2000).
29 *Wales v. Whitney*, 114 U.S. 564 (1885).
30 *Lindh v. Murphy*, 521 U.S. 320 (1997).
31 *Fay v. Noia*, 372 U.S. 391 (1963).
32 *Gumabon v. Director of the Bureau of Prisons*, 147 Phil. 362, 367-368 (1971).
33 *In the Matter of the Petition for Habeas Corpus of Datukan Malang Salibo v. Warden, Quezon City Jail Annex, et al.*, 757 Phil. 630, 644 (2015).
34 *Go v. Dimagiba*, 499 Phil. 445, 456 (2005).
35 1987 CONSTITUTION, Article III, Section 15.

In *Villavicencio v. Lukban*,[36] this Court, speaking through Justice Malcolm, decreed:

> A prime specification of an application for a writ of *habeas corpus* is restraint of liberty. The essential object and purpose of the writ of *habeas corpus* is to inquire into all manner of involuntary restraint as distinguished from voluntary, and to relieve a person therefrom if such restraint is illegal. Any restraint which will preclude freedom of action is sufficient.[37]

An application for a writ of *habeas corpus* may be made through a petition filed before this Court or any of its members, the Court of Appeals (CA) or any of its members in instances authorized by law, or the RTC or any of its presiding judges. The court or judge grants the writ and requires the officer or person having custody of the person allegedly restrained of liberty to file a return of the writ. A hearing on the return of the writ is then conducted.[38] The inquiry on a writ of *habeas corpus* is addressed, not to errors committed by a court within its jurisdiction, but to the question of whether the proceeding or judgment under which the person has been restrained is a complete nullity. The concern is not merely whether an error has been committed in ordering or holding the petitioner in custody, but whether such error is sufficient to render void the judgment, order, or process in question.[39]

In *Caballes v. Court of Appeals*,[40] this Court had occasion to exhaustively discuss the nature of the writ of *habeas corpus*, to wit:

> A petition for the issuance of a writ of *habeas corpus* is a special proceeding governed by Rule 102 of the Rules of Court, as amended. In *Ex Parte Billings*, it was held that *habeas corpus* is that of a civil proceeding in character. It seeks the enforcement of civil rights. Resorting to the writ is not to inquire into the criminal act of which the complaint is made, but into the right of liberty, notwithstanding the act and the immediate purpose to be served is relief from illegal restraint. The rule applies even when instituted to arrest a criminal prosecution and secure freedom. When a prisoner petitions for a writ of *habeas corpus*, he thereby commences a suit and prosecutes a case in that court.
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> *Habeas corpus* is not in the nature of a writ of error; nor intended as substitute for the trial court's function. It cannot take the place of appeal, certiorari or writ of error. The writ cannot be used to investigate and consider questions of error that might be raised relating to procedure or on the merits. The inquiry in a *habeas corpus* proceeding is addressed to the question of whether the proceedings and the assailed order are, for any

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36 39 Phil. 778 (1919).
37 Id. at 790-791.
38 *Salibo v. Warden, Warden, Quezon City Jail Annex*, supra.
39 *Abellana v. Hon. Paredes*, G.R. No. 232006, July 10, 2019.
40 492 Phil. 410 (2005).

> reason, null and void. The writ is not ordinarily granted where the law provides for other remedies in the regular course, and in the absence of exceptional circumstances. Moreover, *habeas corpus* should not be granted in advance of trial. The orderly course of trial must be pursued and the usual remedies exhausted before resorting to the writ where exceptional circumstances are extant. In another case, it was held that *habeas corpus* cannot be issued as a writ of error or as a means of reviewing errors of law and irregularities not involving the questions of jurisdiction occurring during the course of the trial, subject to the caveat that constitutional safeguards of human life and liberty must be preserved, and not destroyed. It has also been held that where restraint is under legal process, mere errors and irregularities, which do not render the proceedings void, are not grounds for relief by *habeas corpus* because in such cases, the restraint is not illegal.
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> *Habeas corpus* is a summary remedy. It is analogous to a proceeding *in rem* when instituted for the sole purpose of having the person of restraint presented before the judge in order that the cause of his detention may be inquired into and his statements final. The writ of *habeas corpus* does not act upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be the unlawful authority. Hence, the only parties before the court are the petitioner (prisoner) and the person holding the petitioner in custody, and the only question to be resolved is whether the custodian has authority to deprive the petitioner of his liberty. The writ may be denied if the petitioner fails to show facts that he is entitled thereto *ex merito justicias*.
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> A writ of *habeas corpus,* which is regarded as a "palladium of liberty" is a prerogative writ which does not issue as a matter of right but in the sound discretion of the court or judge. It, is, however, a writ of right on proper formalities being made by proof. Resort to the writ is to inquire into the criminal act of which a complaint is made but unto the right of liberty, notwithstanding the act, and the immediate purpose to be served is relief from illegal restraint. The primary, if not the only object of the writ of *habeas corpus ad subjuciendum* is to determine the legality of the restraint under which a person is held.[41]

Prescinding from the foregoing, it is apparent that the writ of *habeas corpus* is not without its limits. For all its broad, latitudinarian even, scope, the range of inquiry in a *habeas corpus* application is considerably narrowed, where the detention complained of may be traced to judicial action.[42] In *Malaloan v. Court of Appeals*,[43] this Court defined judicial process in the following manner:

> Invariably, a judicial process is defined as a writ, *warrant*, subpoena, or other formal writing issued by authority of law; also the means of accomplishing an end, including judicial proceedings, or all writs, *warrants*, summonses, and *orders* of courts of justice or judicial

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41 Id. at 421-423.

42 *Ventura v. People*, G.R. No. L-46576, November 6, 1978.

43 302 Phil. 273 (1994).

> officers. It is likewise held to include a writ, summons, or *order* issued in a judicial proceeding to acquire jurisdiction of a person or his property, to expedite the cause or enforce the judgment, or a writ, *warrant*, mandate, or other process issuing from a court of justice.[44]

The rule is that if a person alleged to be restrained of his liberty is in custody of an officer under process issued by a court or judge or by virtue of a judgment or order of a court of record the writ of *habeas corpus* will not be allowed.[45] This is bolstered by Rule 102, Section 4:

> Sec. 4. *When writ not allowed or discharge authorized.* - If it appears that the person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or judge or by virtue of a judgment or order of a court of record, and that the court or judge had jurisdiction to issue the process, render the judgment, or make the order, the writ shall not be allowed; or if the jurisdiction appears after the writ is allowed, the person shall not be discharged by reason of any informality or defect in the process, judgment, or order. Nor shall anything in this rule be held to authorize the discharge of a person charged with or convicted of an offense in the Philippines, or of a person suffering imprisonment under lawful judgment.

Accordingly, there have been instances when *habeas corpus* was denied on the ground that the persona seeking relief were detained by virtue of a lawful process.

In *IBP v. Hon. Enrile*,[46] three lawyers were arrested after a Preventive Detention Action was issued against them by President Marcos, thereby prompting the filing of a *habeas corpus* petition before this Court. While the petition was being heard, an Information for rebellion was filed against the said lawyers, and a Warrant of Arrest was ordered issued by the RTC. We dismissed the petition on the ground of mootness because their detention was placed under the auspices of a judicial process. Thus:

> As contended by respondents, the petition herein has been rendered moot and academic by virtue of the filing of an Information against them for Rebellion, a capital offense, before the Regional Trial Court of Davao City and the issuance of a Warrant of Arrest against them. The function of the special proceeding of *habeas corpus* is to inquire into the legality of one's detention. Now that the detained attorneys' incarceration is by virtue of a judicial order in relation to criminal cases subsequently filed against

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44 Id. at 285-286.
45 *Barredo v. Hon. Vinarao*, 555 Phil. 823, 828 (207).
46 223 Phil. 561 (1985).

> them before the Regional Trial Court of Davao City, the remedy of *habeas corpus* no longer lies. The Writ had served its purpose.[47]

Similarly, in *Velasco v. CA*,[48] a warrant of arrest was issued against Lawrence Larkins (Larkins), in a case for violation of *Batas Pambansa* (B.P.) Blg. 22, by Judge Manuel Padolina (Judge Padolina) of Branch 162 of the RTC of Pasig City. Pending the enforcement of the said warrant, a complaint-affidavit for rape was filed against Larkins before the National Bureau of Investigation (NBI). Thereafter, agents of the NBI arrested Larkins and detained him at the Detention Cell of the NBI, Taft Avenue, Manila.

Larkins posted bail in his B.P. Blg. 22 case, which resulted in Judge Padolina issuing an order recalling the warrant and arrest and directing his release. The NBI, however, refused to release him. Thereafter, an Information for rape was filed against Larkins before Branch 71 of the RTC of Antipolo City, presided by Judge Felix S. Caballes. Larkins filed a motion for bail, alleging that his warrantless arrest at the hands of the NBI was illegal, to no avail. Thus, he filed a petition for *habeas corpus* and *certiorari* with the CA, which the appellate court granted.

On review, We ruled that Larkins was not entitled to *habeas corpus* because the illegality of his warrantless arrest was cured by the filing of an Information against him:

> Even if the arrest of a person is illegal, supervening events may bar his release or discharge from custody. What is to be inquired into is the legality of his detention as of, at the earliest, the filing of the application for a writ of *habeas corpus*, for even if the detention is at its inception illegal, it may, by reason of some supervening events, such as the instances mentioned in Section 4 of Rule 102, be no longer illegal at the time of the filing of the application. Among such supervening events is the issuance of a judicial process preventing the discharge of the detained person. x x x
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> Another is the filing of a complaint or information for the offense for which the accused is detained, as in the instant case. By then, the restraint of liberty is already by virtue of the complaint or information and, therefore, the writ of *habeas corpus* is no longer available. Section 4 of Rule 102 reads in part as follows: "Nor shall anything in this rule be held to authorize the discharge of *a person charged* with . . . an offense in the Philippines."
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> x x x x

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47 Id. at 576.

48 315 Phil. 757 (1995).

> Hence, even granting that Larkins was illegally arrested, still the petition for a writ of *habeas corpus* will not prosper because his detention has become legal by virtue of the filing before the trial court of the complaint against him and by the issuance of the 5 January 1995 order.[49]

Furthermore, in *Mangila v. Judge Pangilinan, et al.*,[50] Anita Mangila (Mangila) was arrested following the issuance of a warrant of arrest by Judge Heriberto M. Pangilinan of the Municipal Trial Court in Cities (MTCC) of Puerto Princesa City for seven counts of syndicated estafa. Assailing the regularity of the warrant of arrest, Mangila sought relief before the CA by filing a petition for *habeas corpus* which was, however, denied because it is not the proper remedy therefor. We affirmed the ruling of the CA, thus:

> Under Section 6(b) of Rule 112 of the Revised Rules of Criminal Procedure, the investigating judge could issue a warrant of arrest during the preliminary investigation even without awaiting its conclusion should he find after an examination in writing and under oath of the complainant and the witnesses in the form of searching questions and answers that a probable cause existed, and that there was a necessity of placing the respondent under immediate custody in order not to frustrate the ends of justice. In the context of this rule, Judge Pangilinan issued the warrant of arrest against Mangila and her cohorts. Consequently, the CA properly denied Mangila's petition for habeas corpus because she had been arrested and detained by virtue of the warrant issued for her arrest by Judge Pangilinan, a judicial officer undeniably possessing the legal authority to do so.
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> x x x x
>
> With Mangila's arrest and ensuing detention being by virtue of the order lawfully issued by Judge Pangilinan, the writ of habeas corpus was not an appropriate remedy to relieve her from the restraint on her liberty. This is because the restraint, being lawful and pursuant to a court process, could not be inquired into through habeas corpus.[51]

In the present case, it was clearly averred by petitioner that an Information for 15 filing of criminal charges which were docketed as Criminal Case Nos. 08-262163 (formerly H-1581) and 14-306533 to 14-306546 before Branch 32 of the RTC of Manila. Thereafter, Judge Bunyi-Medina issued a Warrant of Arrest by virtue of which Rodolfo was arrested at his home in Angeles City, Pampanga. Likewise, a Commitment Order was issued by the RTC directing Rodolfo's detention at the Manila City Jail. These issuances are hallmarks of judicial process. The restraint on Rodolfo's liberty was lawful from the very beginning. It cannot be inquired into through *habeas corpus*.

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49 Id. at 768-773.
50 714 Phil. 204 (2013).
51 Id. at 211-212.

It bears repetition to state at this juncture that *habeas corpus* does not lie where the person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court which had jurisdiction to issue the same.[52] Rodolfo is, therefore, not entitled to the writ of *habeas corpus*.

At any rate, this Court had already granted petitioner's alternative prayer for bail in favor of Rodolfo, upon the posting of a bond with the RTC. Jurisprudence holds that the release, whether permanent or temporary, of a detained person renders the petition for *habeas corpus* moot and academic, unless there are restraints attached to his release which precludes freedom of action.[53] Apart from the bail bond requirement, no restriction to Rodolfo's freedom of action was attached to the grant of his provisional liberty. Indeed, if the respondents are no longer detaining or restraining the applicant or the person in whose behalf the petition is filed, the petition should be dismissed.[54]

And even if this Court were to consider the merits of the instant petition, it is premature to declare that Rodolfo was deprived of his right to due process during the preliminary investigation of the murder case, or that his indictment for multiple counts of murder is a political offense which is deemed included in his previous conviction for rebellion and is therefore violative of his constitutional right against double jeopardy.

Habeas corpus is not the proper remedy to question the regularity of a preliminary investigation; the right to such investigation is statutory at best and not constitutional

A preliminary investigation is defined as an inquiry or proceeding for the purpose of determining whether there is sufficient ground to engender a well-founded belief that a crime cognizable by the [RTC] has been committed and that the respondent is probably guilty thereof, and should be held for trial.[55] The investigation is advisedly called preliminary, because it is yet to be followed by the trial proper in a court of law.[56] Consequently, it is not subject to the same due process requirements that must be present during trial.[57] In *Lozada v. Hernandez, etc., et al.*:[58]

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52 *Atty. Serapio v. Sandiganbayan (Third Division)*, 444 Phil. 499, 551 (2003).
53 *Lucien Tran Van Nghia v. Hon. Liwag*, 256 Phil. 771, 775 (1989).
54 *In the Matter of the Petition for Habeas Corpus of Eufrania E. Veluz v. Villanueva, et al.*, 567 Phil. 63, 68-69 (2008).
55 *Sen. Estrada v. Office of the Ombudsman, et al.*, 751 Phil. 821, 894 (2015).
56 *Callo-Claridad v. Esteban, et al.*, 707 Phil. 172, 184 (2013).
57 *Reyes v. Office of the Ombudsman, et al.*, 810 Phil. 106, 119 (2017).
58 92 Phil. 1051 (1953).

> It has been said time and again that a preliminary investigation is not properly a trial or any part thereon but is merely preparatory thereto, its only purpose being to determine whether a crime had been committed and whether there is probably cause to believe the accused guilty thereof. (U.S. *vs.* Yu Tuico, 34 Phil., 209; People *vs.* Badilla, 48 Phil., 716). The right to such investigation is not a fundamental right guaranteed by the constitution. At most, it is statutory. (II Moran, Rules of Court, 1952 ed., p. 673). And rights conferred upon accused persons to participate in preliminary investigation concerning themselves depend upon the provisions of law by which such rights are specifically secured, rather than upon the phrase "due process of law". (U.S. *vs.* Grant and Kennedy, 18 Phil., 122).[59]

It is therefore clear that because a preliminary investigation is not a proper trial, the rights of parties therein depend on the rights granted to them by law and these cannot be based on whatever rights they believe they are entitled to or those that may be derived from the phrase "due process of law."[60] Once the information is filed in court, the court acquires jurisdiction of the case and any motion to dismiss the case or to determine the accused's guilt or innocence rests within the sound discretion of the court.[61] It is established that the issue of whether or not probable cause exists for the issuance of warrants for the arrest of the accused is a question of fact, determinable as it is from a review of the allegations in the Information, the Resolution of the Investigating Prosecutor, including other documents and/or evidence appended to the Information.[62]

Verily, these matters lie squarely within the ambit of the RTC, in consonance with the principle of hierarchy of courts which dictates that direct recourse to this Court is allowed only to resolve questions of law, notwithstanding the invocation of paramount or transcendental importance of the action.[63] The Supreme Court is not a trier of facts[64] and, as discussed earlier, *habeas corpus* is a summary remedy[65] the purpose of which is merely to inquire if the individual seeking such relief is "illegally deprived of his freedom of movement or placed under some form of illegal restraint."[66]

It is too early to make a pronouncement on the existence of double jeopardy as against Rodolfo

Then, too, it would be improper for this Court to order the dismissal of

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59 Id. at 1053.

60 *P/Insp. Artillero v. Deputy Ombudsman Casimiro, et al.*, 686 Phil. 1055, 1072 (2012).

61 *Sec. De Lima, et al. v. Reyes*, 776 Phil. 623, 649 (2016).

62 *Sen. De Lima v. Judge Guerrero, et al.*, 819 Phil. 616, 691 (2017).

63 *Gios-Samar, Inc. v. Department of Transportation and Communications*, G.R. No. 217158, March 12, 2019.

64 *Heirs of Teresita Villanueva v. Heirs of Petronila Mendoza*, 810 Phil. 172, 177-178 (2017).

65 *Caballes v. Court of Appeals*, supra note 40 at 421-422.

66 *Abellana v. Hon. Paredes*, supra note 39.

the murder charges against Rodolfo on the pretext that the same are already deemed absorbed in his prior conviction for rebellion and, resultantly, place him in double jeopardy.

The political nature or motive behind a crime is not presumed. Neither is it readily accepted as an uncontroverted fact upon the mere assertion of an accused. In *People v. Gempes*:[67]

> x x x Since this is a matter that lies peculiarly with their knowledge and since moreover this is an affirmative defense, the burden is on them to prove, or at least to state, which they could easily do personally or through witnesses, that they killed the deceased in furtherance of the resistance movement. x x x[68]

In *Ocampo v. Judge Abando, et al.*,[69] which involves the prosecution of the same Criminal Case Nos. 08-262163 (formerly H-1581) and 14-306533 to 14-306546, this Court declared that the defense that a crime was committed in furtherance of a political end must be raised and proven before the trial court. Thus:

> Under the political offense doctrine, "common crimes, perpetrated in furtherance of a political offense, are divested of their character as 'common' offenses and assume the political complexion of the main crime of which they are mere ingredients, and, consequently, cannot be punished separately from the principal offense, or complexed with the same, to justify the imposition of a graver penalty."
>
> Any ordinary act assumes a different nature by being absorbed in the crime of rebellion. Thus, when a killing is committed in furtherance of rebellion, the killing is not homicide or murder. Rather, the killing assumes the political complexion of rebellion as its mere ingredient and must be prosecuted and punished as rebellion alone.
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> However, this is not to say that public prosecutors are obliged to consistently charge respondents with simple rebellion instead of common crimes. No one disputes the well-entrenched principle in criminal procedure that the institution of criminal charges, including whom and what to charge, is addressed to the sound discretion of the public prosecutor.
>
> But when the political offense doctrine is asserted as a defense in the trial court, it becomes crucial for the court to determine whether the act of killing was done in furtherance of a political end, and for the political motive of the act to be conclusively demonstrated.
>
> Petitioners aver that the records show that the alleged murders were committed in furtherance of the CPP/NPA/NDFP rebellion, and that the political motivation behind the alleged murders can be clearly seen from the

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67 83 Phil. 267 (1949).
68 Id.
69 726 Phil. 441 (2014).

> charge against the alleged top leaders of the CPP/NPA/NDFP as co-conspirators.
>
> We had already ruled that the burden of demonstrating political motivation must be discharged by the defense, since motive is a state of mind which only the accused knows. The proof showing political motivation is adduced during trial where the accused is assured an opportunity to present evidence supporting his defense. It is not for this Court to determine this factual matter in the instant petitions.[70]

Certainly, the determination as to whether the killings of the 15 individuals whose remains were unearthed at Inopacan, Leyte, were motivated by a political end is a question that must be seasonably raised and proven by Rodolfo as a defense before the trial court. It is not this Court's function to analyze or weigh the evidence (which tasks belong to the trial court as the trier of facts and to the appellate court as the reviewer of facts)[71] that Rodolfo may adduce to discharge his burden of proof.

A Final Note

This Court is not unmindful of Rodolfo's perceived persecution for a crime which he believes he has already paid for. We cannot, however, disregard the desire of society and, more importantly, the families of the 15 victims who were summarily executed and unceremoniously discarded in a mass grave in Inopacan, Leyte, to obtain justice for these abhorrent acts some 35 years ago.

In the same vein, We cannot countenance petitioner's assertion that the remedies before the RTC – such as the filing of a motion to quash the complaint or information under Rule 117, Section 3, or filing a motion for reinvestigation – do not offer sufficient and adequate relief, or that Judge Bunyi-Medina will not be able to resolve Rodolfo's motions, should he file the same, with dispatch. This Court will never be at the forefront of casting doubts and aspersions on the performance of our judges. We maintain our faith that the officers of the court are tirelessly working in ensuring "the effective enforcement of substantive rights through the orderly and speedy administration of justice."[72]

For indeed, as Martin Luther King, Jr. once said, "The arc of the moral universe is long, but it bends towards justice."

WHEREFORE, the petition is **DISMISSED**.

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70 Id. at 466-468.
71 *Far Eastern Surety and Insurance Co., Inc. v. People*, 721 Phil. 760, 769 (2013).
72 *Santos v. Court of Appeals, et al.*, 275 Phil. 894, 898 (1991).

SO ORDERED.

SAMUEL H. GAERLAN
Associate Justice

WE CONCUR:

Concur with separate opinion

MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

ALEXANDER G. GESMUNDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARVIC M.V.F. LEONEN
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

DIOSDADO M. PERALTA
Chief Justice