

REPUBLIC OF THE PHILIPPINES
SUPREME COURT

MANILA

SATURNINO C. OCAMPO,
Petitioner,

- versus -

G.R. No. _____

For: Certiorari and Prohibition with prayer
for issuance of Temporary Restraining
Order and/or Writ of Preliminary
Injunction

HONORABLE EPHREM S. ABANDO, in his
capacity as Presiding Judge of the Regional
Trial Court of Hilongos, Leyte, Branch 18,
CESAR M. MERIN, in his capacity as Approving
Prosecutor and Officer-in-Charge, **ROSULO U.**
VIVERO, in his capacity as Investigating
Prosecutor, **RAUL M. GONZALEZ,** in his
capacity as Secretary of the Department of
Justice,

Respondents.

x _____ x

PETITION

PETITIONER SATURNINO C. OCAMPO, by counsel, to the Honorable Court,
respectfully states that:

PREFATORY

The Supreme Court cannot permit such a sham trial and verdict
and travesty of justice to stand unrectified. The courts of the land
under its aegis are courts of law and justice and equity. They would

have no reason to exist if they were allowed to be used as mere tools of injustice, deception and duplicity to subvert and suppress the truth, instead of repositories of judicial power whose judges are sworn and committed to render impartial justice to all alike who seek the enforcement or protection of a right or the prevention or redress of a wrong, without fear or favor and removed from the pressures of politics and prejudice. More so, in the case at bar, where the people and the world are entitled to know the truth, and the integrity of our judicial system is at stake. (*Galman vs. Sangidanbayan*, 144 SCRA 43)

One of the basic principles of democratic system is that where the rights of the individual are concerned, the end does not justify the means. It is not enough that there be a valid objective; it is also necessary that the means employed to pursue it be in keeping with the constitution. Mere expediency will not excuse constitutional shortcuts. There is no question that not even the strongest moral conviction or the most urgent public need, subject only to a few notable exceptions, will excuse the bypassing of an individual's rights. It is no exaggeration that a person invoking a right guaranteed under Article III of the Constitution is a majority of one even as against the rest of the nation who would deny him that right. (*Association of Small Landowners in the Philippines vs. Secretary of Agrarian Reform*, 175 SCRA 343)

NATURE OF THE PETITION

1. This is a special civil action for Certiorari and Prohibition under Sections 1 and 2 of Rule 65 of the 1997 Rules of Civil Procedure:
 1. to set aside and annul the Order dated March 6, 2007 issued by respondent Judge Ephrem Abando, finding probable cause against herein petitioner for the crime of multiple murder (15 counts);
 2. to set aside and annul the Resolution dated February 16, 2007 by respondent Investigating Prosecutor Rosulo U. Vivero and approved by respondent "Officer-in-Charge" Cesar M. Merin; and,
 3. to order the respondent Judge to cease and desist from proceeding with the hearing on, and respondent Secretary of Justice from proceeding with the

prosecution of, the multiple murder case against petitioner docketed as Criminal Case No. H-1581.

1. Respondent Judge Abando acted with grave abuse of discretion amounting to lack or excess of jurisdiction in arbitrarily issuing the Order dated March 6, 2007 finding probable cause against petitioner Ocampo without giving the basis or reasons therefor. The questioned three-paragraph order did not explain why probable cause exists to justify the issuance of a warrant of arrest without bail. Apparently, the respondent judge simply adopted the Resolution of the investigating prosecutor in complete disregard of the stringent requirements set forth in Article III, Section 2 of the Constitution and Rule 112, Section 6 of the Rules of Criminal Procedure and in violation of the due process rights of petitioner.
2. Respondent prosecutors likewise acted unreasonably and with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed Resolution dated February 16, 2007 finding probable cause against petitioner despite the valid prejudicial issues raised by petitioner which had to be resolved first before coming up with a finding of the existence or lack of probable cause which will be discussed in full below, and despite the serious substantive and procedural defects of the complaints.
3. Petitioner has no plain, speedy and adequate remedy in the ordinary course of law.
4. Respondents' actions will certainly cause grave and irreparable damage to petitioner's constitutional rights, unless injunctive relief is afforded him through the issuance of a writ of preliminary injunction and/or temporary restraining order enjoining respondents from proceeding with the hearing and/or any other stage of the criminal case subject of this petition until this petition has been finally decided.
5. Certified true copies of the assailed Order of respondent Judge Abando dated March 6, 2006, the concomitant warrant of arrest also dated March 6, 2007, and of

the Resolution issued by respondent Investigating Prosecutor Rosulo Vivero and approved by respondent Cesar Merin dated February 16, 2007 are hereto attached as **Annexes “A,” “B” and “D,”** respectively.

TIMELINESS OF THE PETITION

6. Petitioner received a copy of the questioned Resolution signed by respondent Investigating Prosecutor Rosulo Vivero on March 12, 2007. Petitioner was not officially furnished a copy of the assailed Order issued by respondent Judge Abando but was able to obtain a copy thereof on March 13, 2007. Hence, the instant petition is being filed within the reglementary period of sixty (60) days from notice of the order pursuant to Rule 65, Section 4 of the 1997 Rules of Civil Procedure.
7. Petitioner has properly verified and duly certified this petition against forum shopping. Petitioner has likewise furnished each of the respondents with a copy of this petition through registered mail. A duly accomplished affidavit of service attesting thereto is attached to the instant petition. The corresponding docket fees have also been paid upon the filing of this petition.

PARTIES

8. Petitioner Saturnino C. Ocampo is a duly elected member of the House of Representatives, representing Bayan Muna Party-List and serving his second term as member of the House of Representatives. He is one of the accused in the multiple murder (15 counts) case docketed as Criminal Case No. H-1581 now pending before the Regional Trial Court of Hilongos, Leyte, Branch 18. He may be served with the orders and legal processes of this Honorable Court at the address of undersigned counsel indicated below.
9. Respondent Judge Ephrem S. Abando is the presiding judge of the Regional Trial Court of Hilongos, Leyte, Branch 18 that irregularly issued the assailed Order dated

- March 6, 2007 finding probable cause against petitioner Ocampo and the corresponding warrant of arrest also dated March 6, 2007.
10. Respondent Rosulo U. Vivero was the investigating prosecutor that issued the Resolution in dispute dated February 16, 2007 finding probable cause against petitioner Ocampo.
 11. Respondent Cesar M. Merin is the officer-in-charge who approved the assailed Resolution of respondent Investigating Prosecutor Vivero.
 12. Respondent Raul Gonzalez is a nominal party-respondent in this case. He is the incumbent secretary of the Department of Justice under which agency the Office of the Provincial Prosecutor is attached. As head of the said department, he is in charge of the prosecution of trumped up cases against the perceived enemies of the state.
 13. All of the above-named public respondents may be served the orders and processes of this Honorable Court through the Office of the Solicitor General, 134 Amorsolo Street, Salcedo Village, Makati City.

STATEMENT OF MATERIAL FACTS

14. In twelve (12) substantially identical undated letters to the Provincial Prosecutor of Leyte, Police Chief Inspector Atty. George Almaden of the PNP Regional Office 8 and Judge Advocate Staff Captain Allan Tiu of the 8th Infantry Division of the Philippine Army charged petitioner along with more than seventy alleged top leaders of the CPP/NPA/NDFP (Communist Party of the Philippines/New People's Army/National Democratic Front of the Philippines) with twelve (12) counts of murder. (***Annexes "H" to "S"***)

15. Annexed to each of the twelve complaints were the affidavits of complainants' witnesses namely: a relative of the alleged victim, affidavit of Floro Tanaid and affidavits of five alleged former rebels Zacarias T. Piedad, Leonardo C. Tanaid, Glecero Roluna, Numeriano Beringuel and Veronica Tabara. (**Annexes "T" to "Z"**) In addition to these seven affidavits, and likewise annexed to the letter-complaints as "pieces of evidence," were the following eight documents: (1) Press Release No DPAO 03-2907-06 dated August 31, 2006 on Unearthed Mass Grave; (2) Memorandum Report from RD, PRO8 dated September 1, 2006 and Special Report from RD, PRO8 dated October 2, 2006; (3) Letter Request for SOCO dated August 28, 2006 and SOCO Spot Report dated August 31, 2006 and the Osteological Report Number 2006-01 to 67 re Report on the Examination of Recovered Skeletal Remains; (4) Crime Scene Sketch and measurement dated September 14, 2006; (5) Memo from TDIDM dated September 8, 2006 re Request for Evidence Processing for Mass Grave at Region 8 and Memo from C, RCLO8 dated September 8, 2006 re Request for Supplemental Evidence Processing for Mass Grave at Region 8 Mass Grave; (6) Initial Specialist Report dated September 18, 2006 with Consent Form; (7) Supplemental Medico-Legal Report dated September 25, 2006; (8) Pictures of the Mass Grave Site and the Skeletal Remains with markings. (**Annexes "AA" to "AA-14"**)
16. In substance, complainants charged petitioner as co-conspirator and principal by inducement of the crime of multiple murder allegedly planned in 1984 by the CPP

- Central Committee and allegedly implemented in Leyte in 1985 and thereafter, based on the discovery of a mass grave by the military on August 26, 2006 in Sitio Sapang Daco, Barangay Kaulisihan, Inopacan, Leyte; the sworn statement of farmer Floro Tanaid who claims to have knowledge and guided the military to the mass grave, the affidavits of five former rebels and several persons claiming to be relatives of the alleged victims;
17. On November 3, 2006, Assistant Provincial Prosecutor Rosulo Vivero issued a subpoena requiring petitioner to submit his counter-affidavit. Presumably, similar subpoenas were issued to all or some of the other respondents. On December 22, 2006, petitioner submitted his counter affidavit (**Annex "G"**) in which he stated among others, the following:
6. *The state prosecutor in charge of the multiple murder complaints against me must know, by checking court records, both under the Martial Law and after, that I had gone through charges of rebellion and subversion (1978-85) but was not found guilty even after seven years of trial under Special Military Commission No. 1.*
 7. *Furthermore, from 1990-93, I went through court trials for the charge of murder under Quezon City RTC Judge Maximiano Asuncion, for kidnapping with serious illegal detention (2 separate cases) under Quezon City RTC Judges Jaime Salazar and Tirso Velasco, and for illegal possession of firearms in pursuance of rebellion in the Makati RTC.*
 8. *The murder case and the two kidnapping cases were in connection with the alleged 'purges' by the CPP-NPA in the 1980's – much like the case filed against me in Baybay, Leyte.*
 9. *Let the records speak: the Quezon City and Makati courts have cleared me of all these charges. Thus I have been able to run for public office and got elected twice as party-list representative in Congress because I have no criminal record, no record of conviction of any crime, petty or capital.*
 10. *For this reason, I feel outraged by the filing of this multiple murder case against me in Baybay, Leyte. The repeated attempts of the military, the*

national police and the department of justice secretary to depict me as a murderer and criminal – based on fabricated charges and perjured statements of alleged witnesses – violate my high sense of justice and fair play. Have I not been made to suffer 12 years and 4 months of political detention without having been proven guilty of any crime?

X X X

26. *The victory of Bayan Muna in the electoral arena, however, has not been received positively by the Armed Forces of the Philippines (AFP), the Philippine National Police (PNP) and rabid reactionary hirelings like National Security Adviser Norberto Gonzales who have since 2002 considered our victory as ‘a threat to national security.’ The Macapagal-Arroyo government and its state security forces, over the last five years, intensified their black propaganda campaign against me, Bayan Muna and its allied organizations which they maliciously tagged as ‘front organizations’ of the CPP/NPA. The black propaganda has been accompanied by sustained extrajudicial killings and abductions, victimizing close to 800 Bayan Muna members since 2001.*

X X X

28. *I cite these detailed information to show that the filing of the multiple murder charge against this respondent, as in the filing of the rebellion charge in the Makati Regional Trial Court are motivated by ideological hatred, extreme bias, malice and malevolence on the part of the leaders of the Macapagal Arroyo government, in particular, National Security Adviser Norberto Gonzalez and his cohorts in the Inter-Agency Legal Action Group (IALAG). The filing of this case is in pursuit of the policy of the Macapagal-Arroyo government to demolish and eliminate me and BAYAN MUNA and its allied organizations from the electoral scene. It complements rampage political killing and physical elimination of perceived leftists and suspected supporters of the New People’s Army and Communist Party of the Philippines. Gonzales heads the IALAG inasmuch as he heads the National Intelligence Board to which IALAG is subordinated and from which it gets instructions.*

X X X

32. *I deny being a member of the Central Committee of the CPP/NPA/NDFP at any time as falsely imputed to me. After my arrest by the PC-INP (then a unified force) on January 14, 1976, I was effectively cut off from all political activities and affiliations, all of which have been legal in the first place. I remained in military custody until May 5, 1985, when I escaped from military detention. (Attached as **Annexes “1”** to **“1-A”** are clippings of newspaper reports attesting to my status as a political prisoner as of September 1, 1984 [Malaya] and of my escape on May 5, 1985 [Malaya]).*
33. *I was arrested for the second time on July 27, 1989 and remained in detention at Fort Bonifacio until my release on September 1, 1992. These*

facts should be contraposed to the allegations in the sworn statements that I came to Southern Leyte between 1984 and 1991.

34. *I absolutely deny having gone to any place in Leyte in 1984 or subsequently thereafter until 1991. The first time I came to Southern Leyte was in February 1993, after my release from my second arrest. I went there on a tour to visit political detainees in the provinces of Leyte and Samar islands, arranged by the Task Force Detainees of the Philippines. The first time I came to Baybay, Leyte was during the electoral campaign period prior to the May 14, 2001 congressional elections. I was hosted by then Baybay Mayor Maria Cari, now representative of the 5th district of Leyte.*
35. *It was impossible for me to be in Leyte at anytime in 1984, despite the alleged 'eyewitness' testimonies of Piedad, Roluna, and Beringuel – simply because I was in effective military custody and detained at Bicutan Rehabilitation Center, Taguig from October 1976 to May 5, 1985.*
36. *These 'eyewitness' testimonies of the three supposed witness of the PNP against me are pure and simple false and perjured statements. It is obvious that the statements were extracted under duress or tainted by promises of immunity from prosecution, leniency, and recruitment as military assets or outright bribery as the affiants were under military custody at the time they made the statements, and until today.*
- X X X
43. *Veronica Tabara's affidavit contains conjectures and conclusions devoid of any factual basis. She ambiguously concludes that I was a member of the CPP Central Committee 'during the detention of Jose Maria Sison' (paragraph 4) and thereafter makes the sweeping conclusion that I was one of those 'responsible for the mass killings/murders that transpired in the area of Samar-Leyte Regional Party and NPA organizations' (paragraph 10).*
44. *The lengthy affidavits of Piedad, Beringuel and Roluna show that they have been prepared by or at the instance of one and the same person. The allegations on their ideological education, names of persons and events mentioned therein are identical or strikingly similar in many respects – unmistakable signs that these three affidavits were prepared by the same hands and sourced from the same mind or materials. In this regard, I respectfully invite the attention of the honorable investigating prosecutor to the lengthy recollection and enumeration of names and aliases made by the affiants after more than twenty years since the alleged incident took place in paragraphs 10 and 15 of the Piedad affidavit, paragraphs 12, 15, 23, 24, 25 and 27 of the Beringuel affidavit and paragraphs 11, 18, 20, 23 and 24 of the Roluna affidavit;*

The four affiants are discredited witnesses

45. *The four above-named affiants claim to be former members of the CPP and NPA who have either surrendered or have been captured. They are now working for the military in the counter insurgency campaign. The filing of this case is an important component of such campaign.*
46. *The ‘information’ contained in the affidavits of these four witnesses could only be sourced from the intelligence officers or files of the military and further twisted or ‘adjusted’ to implicate me in the so-called mass grave discovery. In one crucial fact alone, that is: the alleged meeting I supposedly co-presided with Prudencio Calubid in 1984 in Leyte to discuss the alleged internal purge, I have shown by incontrovertible evidence that these witnesses blatantly lied and committed perjury. For this reason alone, the whole theory and case for the complainant PNP-AFP collapsed and irrefutably exposed the four ‘witnesses’ as mere tools of persecution through fabrication of evidence totally bereft of credibility.”*
19. In his counter-affidavit, petitioner prayed for the dismissal of the complaints on the following grounds:
- "47.1. *the complaint did not comply with the mandatory requirements of Rule 112, Section 3(a) and Rule 110 Section 3 of the Revised Rules of Court;*
2. *the complaint disregards the Hernandez (99 Phil. 515) ruling on the doctrine of absorption of common crimes in rebellion (Attached as **Annex “2”** is a photocopy of the Amended Information in Criminal Case 06-944 for rebellion pending before RTC Makati dated May 11, 2006);*
3. *failure of the complainant to show probable cause;*
4. *for failure to show conspiracy in light of the theory of the complainant that I am being accused as a co-conspirator in the so-called mass murder;*
5. *for failure of the complainant to prove the fact of commission of the crime or corpus delicti;*
6. *because the alleged crime has prescribed after more than twenty years since its alleged commission; and*
7. *the extra-judicial confessions/admissions of the four above-named witnesses who implicated me but who are the actual perpetrators are inadmissible as evidence against me under the doctrine of res inter alios acta nocere non debet embodied in Section 28, Rule 130 of the Revised Rules on Evidence.”*

20. In his counter-affidavit (***Annex "F"***), petitioner reserved his right to file an extended motion to dismiss based on the above grounds before the case was submitted for resolution of the public prosecutors.
21. The affidavits of witnesses submitted by the complainants particularly those of Piedad, Roluna, Beringuel, Tabara, Floro Tanaid and Leonardo Tanaid contain ambiguities, serious inconsistencies, sweeping statements and clear signs of fabrication and perjury on material points which should have been clarified in a clarificatory hearing as expressly requested by the petitioner. Respondent Prosecutor Vivero did not act on petitioner's request for a clarificatory hearing. In fact, the records show that during the entire period from the time the complaint-letters were sent to him by the PNP until he issued his assailed resolution dated February 16, 2007, respondent Prosecutor Vivero neither set a hearing for preliminary investigation nor required any of the parties or witnesses to appear before him. None of the witnesses for the complainants was examined by respondent Prosecutor Vivero on the contents of their affidavits, except Zacarias Piedad who supposedly executed a Supplemental Affidavit on January 12, 2007. This affidavit surfaced under mysterious circumstances and was "discovered" by petitioner's counsel among the court records only after the issuance of the warrant of arrest against petitioner on March 6, 2007. The petitioner was not furnished with a copy of this supplemental affidavit. Petitioner was not given notice of the inclusion or insertion into the records a part of the evidence for the complainants.

No hearing for preliminary investigation was set by respondent Vivero to receive this affidavit. For that matter, no hearing was ever set by respondent Vivero either for clarificatory purposes as expressly requested by petitioner or for any other purpose.

22. On February 16, 2007, while there were still pending incidents before him, and before the case against the petitioner can be considered submitted for resolution, respondent Prosecutor Vivero issued his assailed resolution which was subsequently approved by respondent Prosecutor Merin as “officer-in-charge.”

22.1. Petitioner’s undersigned counsel received a copy of the assailed resolution (**Annex “D”**) by registered mail posted on March 6, 2007 (the same day the warrant of arrest was issued) only on March 12, 2007.

22.2. The questioned resolution explicitly states that the four principal witnesses against petitioner (Glecero Poluna, Zacarias Piedad, Leonardo Tanaid and Numeriano Beringuel) have been “dropped as respondents x x x to be utilized as state-witnesses in as much as their testimonies are very vital to the success of the prosecution of the case. (*Underscoring is ours*, p. 4, Resolution, **Annex “D”**)

22.3. The respondent prosecutor’s resolution also explicitly stated that these witnesses have been dropped as respondents in this case and utilized as

state witnesses because without their testimonies the prosecution of the case will certainly be a failure. (*Underscoring is ours*, p.2 last paragraph)

- 22.4. Strangely, the resolution is silent on witness Veronica Tabara who admitted in her supplemental affidavit (**Annex "Z"**) that she was a member of the Central Committee of the CPP, first as an alternate member in 1982 and, later, as a regular member in 1985 or during the period when the alleged internal purge and mass killings being imputed to petitioner Ocampo were committed.
23. Significantly, these five witnesses, whose testimonies, according to the resolution, are "very vital to the success of the prosecution of the case" and without which "the prosecution of the case will certainly be a failure" all executed extra-judicial confessions and admissions in which they confessed/admitted that they were ranking officers or members of the CPP/NPA and participated in the implementation of the alleged internal purge of the CPP/NPA in Leyte in 1984, 1985- 1991.
- 23.1. Leonardo Tanaid admitted that he was an NPA platoon leader (Q. & A. No. 6, **Annex "W"** and "**W-1**") who brought the victims to the arresting and investigating team (AIT) composed of Glicerio Roluna, Romulo Roluna, Policarpo Opo and three others (Q. & A. No. 10, **Annex "W"** and "**W-1**");

- 23.2. Numeriano Beringuel admitted that he was a member of the arresting team headed by a certain alias NAMO who arrested and brought to Mt. Sapang Dako, Inopacan, Leyte in 1985 more than 33 victims (Q. & A. Nos. 24 and 27, **Annex “X”** and **“X-1”**);
- 23.3. Zacarias Piedad admitted that he joined the NPA in 1979 and in 1985 to 1987 he acted as a security officer of the Investigation Group before whom 41 victims were brought in Mt. Sapang Dako, Kaulisihan, Inopacan, Leyte for investigation and execution (Q & A No. 6, 15 and 20, **Annex “V”** and **“V-1”**);
- 23.4. Glicerio Roluna confessed that he was the leader of the “Execution Group” who allegedly implemented the orders to execute suspected spies and traitors of the CPP/NPA in Leyte in 1985, among whom were more than 36 persons listed in paragraph 23 of his extra-judicial confession (**Annex “Y”**);
and
- 23.5. Veronica Tabara, as earlier stated, admitted in her Supplemental Affidavit that she was a member of the CPP Central Committee when the latter, as the highest decision-making organ of the CPP, allegedly ordered the internal purge and mass killings in Leyte in 1985.
24. On February 28, 2007 respondent prosecutors filed the Information (**Annex “C”**) in Branch 18, Regional Trial Court in Hilongos Leyte presided by the honorable

respondent Judge Ephrem S. Abando. The case has been docketed as Criminal Case No. H-1581 for 15 counts of multiple murder. The information listed the following 15 alleged victims of multiple murder: (1) Juanita Aviola, (2) Concepcion Aragon, (3) Gregorio Eras, (4) Teodoro Recones, Jr., (5) Restituto Ejoc, (6) Rolando Vasquez, (7) Junior Milyapis, (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.

25. However, no supporting forensic evidence or any substantial evidence has been proffered by the complainants PNP and AFP to prove that the bodies of the fifteen alleged victims or, for that matter, anyone of them, were among the skeletal remains allegedly found in the mass graves in Sitio Sapang Dako, Kaulisihan, Inopacan Leyte. On the contrary, the Initial Specialist Report of the forensic team of the Medico-Legal Division of the PNP Crime Laboratory which was tasked to examine the skeletal remains concluded that “absolute identification could not be made at this time” and recommended studies, activities and examinations x x x to confirm identity and determine the time window of death including “1. DNA analysis of compact bone, especially mitochondrial DNA analysis; 2. Cleansing and drying of bones to preserve it longer and prepare them for subsequent serologic and chemical analyses to determine the age of bone and time of death, like Benzidine Test, Coomb’s Test and Amino Acid Chromatography; and 3. Soil sample analyses to include soil pH and possible carbon dating.” As of the filing of the Information no

follow-up forensic examination as suggested in the Initial Specialist Report to determine the identities of the skeletal remains has been conducted.

26. Section 4, Rule 112 of the Revised Rules of Criminal Procedure provides:

Resolution of investigating prosecutor and its review. – If the investigating prosecutor finds cause to hold the respondent for trial, he shall prepare the resolution and information. He shall certify under oath in the information that he, or as shown by the record, an authorized officer, has personally examined the complainant and his witnesses; that there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof; that the accused was informed of the complaint and of the evidence submitted against him; and that he was given an opportunity to submit controverting evidence.

Contrary to the explicit mandatory requirements of this rule, the information merely contains the following insufficient certification:

“THIS IS TO CERTIFY that a Preliminary Investigation has been conducted on this case; that there is sufficient ground to engender a well-founded belief that the offense charged has been committed and that the accused are probably guilty thereof.”

1. Likewise, contrary to the explicit requirements of said rule that no information shall be filed by an investigating prosecutor without the prior written authority or approval of the provincial prosecutor, the information was approved by a certain “officer-in-charge,” by the name of respondent Prosecutor Cesar M. Merin.
27. On March 6, 2007, respondent Judge Ephrem S. Abando issued a warrant of arrest (**Annex “B”**) without bail against the petitioner for fifteen counts of multiple murder.

- 27.1. The Constitution explicitly requires the judge to personally determine the existence of probable cause before issuing a warrant of arrest (Article III, Section 2). Section 6, Rule 112 of the Revised Rules of Criminal Procedure, on the other hand, explicitly provides that the judge “should personally evaluate the resolution of the prosecutor and its supporting evidence. On March 6, 2007, respondent judge issued a court order finding probable cause against the petitioner but without stating the reasons why probable cause exists to warrant the issuance of a warrant of arrest without bail, which clearly shows that the respondent judge failed to comply with the above-cited provisions of the Constitution and the rules and perfunctorily agreed with and ministerially approved the resolution of the respondent public prosecutors.
28. Parenthetically, petitioner has been charged with rebellion in Criminal Case No. 06-944 of the Makati Regional Trial Court (*Annex “2” of Annex “F”*). Together with some of his co-accused in said case, petitioner sought relief by means of a petition for certiorari and prohibition before this Honorable Court in GR No. 172074-76. A status quo order was issued by this Honorable Court effectively restraining all further proceedings in the lower court.

29. Petitioner has likewise been charged by the PNP and AFP with three separate cases for murder in the Office of Provincial Prosecutor of Nueva Ecija, docketed as IS Nos. 06L-4101, 4102 and 4103 (*Annexes "JJ"*).
30. Petitioner, the party-lists Bayan Muna, Anakpawis and Gabriela and his colleagues in the House of Representatives are facing disqualification and nullification of accreditation suits in the Commission in Elections, purportedly initiated by two private parties but are in reality being prosecuted by top cabinet officials and military/police officers of the current dispensation who are the real parties in interest.
31. Petitioner has been the target of criminalization, demonization and various forms of harassment, surveillance, persecution and black propaganda and continues to be threatened with physical attack or neutralization, a military euphemism for extra-judicial execution.

GROUNDS IN SUPPORT OF THE PETITION

I

The respondent judge committed grave abuse of discretion amounting to lack or excess of jurisdiction in finding probable cause and issuing the warrant of arrest against the petitioner without complying with the requirements of Article III, Section 2 of the Constitution; while the respondents public prosecutors likewise committed grave abuse of discretion amounting to lack or excess of jurisdiction in finding probable cause against the petitioner despite the following substantive and procedural flaws and legal infirmities:

I-A

The extra-judicial confessions/admissions of witnesses Zacarias Piedad, Leonardo Tanaid, Numeriano Beringuel, Glicerio Roluna and Veronica Tabara are inadmissible under the doctrine of *res inter alios acta nocere non debet* embodied in Section 28 of Rule 130 of the Rules of Court.

I-B

The extra-judicial confessions/admissions of said witnesses are binding only upon them. The exception set forth in Section 30 of Rule 130 on admission by co-conspirator does not apply.

I-C

Contrary to the requirement that the conspiracy must first be proved by evidence other than the admission itself, there is absolutely no evidence to establish the alleged conspiracy between the petitioner and the five witnesses who claim to be the actual perpetrators of the crime.

The extra-judicial confessions/admissions of the five witnesses, made in 2006 or more than 20 years after the incident, clearly show that such confessions/admissions were made when the witnesses were no longer engaged in carrying out the alleged conspiracy.

I-D

Even assuming *arguendo* their admissibility, the extra-judicial confessions/admissions deserve no credence because of clear hallmarks of fabrication and perjury.

I-E

After more than twenty years since the incident, only forensic evidence can establish the identities of the alleged victims. No forensic evidence has been proffered by the complainants PNP and AFP to prove that the bodies of the fifteen alleged victims or, for that matter, anyone of them, were among the skeletal remains found in the mass graves. For this reason, and assuming *arguendo* that the contents of the affidavits of the victims' relatives are true, the crime committed is kidnapping under Article 267 of the Revised Penal Code which, after more than twenty years, has already prescribed.

I-F

The filing of the rebellion case against petitioner in the Makati Regional Trial Court (*People vs. Ocampo, et. al.*, Criminal Case No. 06-944), which includes the alleged CPP/NPA internal purge among the acts of rebellion imputed to the petitioner, bars the filing of this case pursuant to the political offense doctrine of absorption of common crimes (*People vs. Hernandez, et al.*, 99 Phil. 514, 1956) and the constitutional protection against double jeopardy.

I-G

Probable cause to believe that petitioner is responsible for the crime is wholly absent in the light of the available albeit voluminous records of the case, and the incredible and/or inadmissible sworn statements of the five afore-named witnesses.

I-H

The filing of the instant case against the petitioner smacks of malicious persecution and is seriously tainted with political motives.

II

The respondents violated the fundamental right to due process of petitioner and committed grave abuse of discretion amounting to lack or excess of jurisdiction in the conduct of the preliminary investigation and in the issuance of the warrant of arrest through the following irregular, invalid and unlawful acts:

II-A

The complaints filed by the PNP/AFP officers did not comply with the mandatory requirements of Rule 112, Section 3 (a) and Rule 110, Section 3 of the Revised Rules of Court. The sworn statements of the relatives of the victims could not have been the complaints for multiple murder contemplated in the above-cited rules particularly because the identities of their relatives have not been established by forensic or any substantial evidence.

II-B

Respondent Public Prosecutor Vivero failed to comply with the mandatory requirements of Rule 112, Section 4 of the Rules of Court requiring him to certify under oath in the information that he, or as shown by the record, an authorized officer, has personally examined the complainant and his witnesses; that there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof; that the accused was informed of the complaint and of the evidence submitted against him; and that he was given an opportunity to submit controverting evidence.

The information likewise suffers from a fatal defect for failure to comply with the requirement that no information may be filed by the investigating prosecutor without the prior written authority or approval of the provincial prosecutor.

II-C

Respondents public prosecutors deliberately deprived the petitioner of his right to file a motion for reconsideration and/or appeal the assailed resolution by delaying the service and posting of a copy of the resolution by registered mail upon petitioner's counsel until after the filing of the information and the issuance of the warrant of arrest.

II-D

Respondents public prosecutors issued the assailed Resolution despite the pendency and the imperative of conducting a clarificatory hearing as requested by petitioner to clarify ambiguities, serious inconsistencies on material points, sweeping statements and clear signs of fabrication and perjury in the sworn statements of the five complainants' witnesses.

II-E

Respondent Public Prosecutor Vivero, in collusion with Police Chief Inspector Atty. George Almaden, surreptitiously admitted as evidence and inserted into the records the supplemental affidavit of Zacarias Piedad dated January 13, 2007 without giving notice to, furnishing a copy to the petitioner or setting a hearing for the reception of the aforesaid supplemental affidavit.

ARGUMENTS AND DISCUSSION

I

The respondent judge committed grave abuse of discretion amounting to lack or excess of jurisdiction in finding probable cause and issuing the warrant of arrest against the petitioner without complying with the requirements of Article III, Section 2 of the Constitution; while the respondents public prosecutors likewise committed grave abuse of discretion amounting to lack or excess of jurisdiction in finding probable cause against the petitioner despite the following substantive and procedural flaws and legal infirmities:

The extra-judicial confessions of witnesses Zacarias Piedad, Leonardo Tanaid, Numeriano Beringuel, Glycerio Roluna and Veronica Tabara are inadmissible under the Doctrine of Res Inter Alios Acta Alteri Nocere Non Debet embodied in Section 28, Rule 130, Rules of Court.

32. Respondents public prosecutors categorically admitted in their Resolution (*Annex "D"*) that without the testimonies of Piedad, Tanaid, Beringuel and Roluna "the prosecution of this case will be a failure." The prosecutors added that such "testimonies are very vital to the success of the prosecution of this case." For purposes of the application of Section 28, Rule 130, Veronica Tabara's testimony is of similar nature and import as the testimonies of these four witnesses. Undoubtedly, the case for the prosecution rests solely on the testimonies of Piedad, Tanaid, Beringuel, Roluna and Tabara. Without their testimonies, the case for the prosecution will fall flat on its face.

33. Section 28, Rule 130 of the Rules of Court which enshrines in our legal system the doctrine of *res inter alios acta alteri nocere non debet* ordains that the rights of a party cannot be prejudiced by an act, declaration or omission of another, and that, therefore, an extrajudicial confession or admission is binding only upon the confessant and is not admissible against others. In the case of *People vs. Tena* (215 SCRA 43 [1992]), the Honorable Supreme Court said:

Not unexpectedly, therefore, it is this extrajudicial confession on which Solita Sena centers his attack in the present appellate proceedings, assigning as errors on the part of the lower court the admission in evidence of the extrajudicial confession of Adelberto Camota and his conviction on the sole basis thereof.

But as is made clear by the Solicitor General in his "Manifestation in Lieu of Appellee's Brief," the matter of that confession's competency need not be delved into as the issue of accused-appellant's guilt or innocence may be resolved by application of the doctrine *res inter alios acta alteri nocere non debet*. Actually, the issue is not so much the admissibility in evidence of the extrajudicial confession, but rather, even conceding its admissibility, its use against persons other than the confessant, e.g., herein accused-appellant.

Use of Camota's extrajudicial confession is precluded by Section 25 (now Section 28), of Rule 130 of the Rules of Court, viz:

Section 28. Admission by third party. – The rights of a party cannot be prejudiced by an act, declaration, or omission of another, except as hereinafter provided.

The reason for the rule is that:

On a principle of good faith and mutual convenience, a man's own acts are binding upon himself, and are evidence against him. So are his conduct and declarations. Yet it would not only be rightly inconvenient, but also manifestly unjust, that a man should be bound by the acts of mere unauthorized strangers; and if a party ought not to be bound by the acts of strangers, neither ought their acts or conduct be used as evidence against him. (*People vs. Tena*, 215 SCRA 43 [1992])

The extrajudicial confessions of said witnesses are binding only upon them. The exception set forth in Section 30 of Rule 130 does not apply in the case at bar.

34. While the *res inter alios acta* rule admits of certain exceptions, one of which is found in Section 30, Rule 130 of the Rules of Court on admission regarding co-conspirator, such exception does not apply to the present case. As held in ***People vs. Tena*** and reiterated in ***People vs. Surigawan*** (228 SCRA 458 [1993]), the following criteria must be met before the exception under Section 30 can apply: (1) that the conspiracy be first proved by evidence other than the admission itself; (2) the admission relates to the common object; and (3) it has been made while the declarant was engaged in carrying out the conspiracy.

35. In ***People vs. Surigawan*** (*supra*), the Court said:

The error of the trial court is compounded by the use of similar uncounselled confessions made by the other accused to convict accused-appellant Surigawan. Cited by the trial court to bolster its ruling is Section 30 of Rule 130 which provides:

The act or declaration of a conspirator relating to the conspiracy and during its existence, may be given in evidence against the co-conspirator after the conspiracy is shown by evidence other than such act or declaration.

Again, the inapplicability of this provision is plain to the eye. For this provision to apply, the following requisites must be satisfied:

- a. that the conspiracy be first proved by evidence other than the admission itself.;
- b. that the admission relates to the common object; and,
- c. that it has been made while the declarant was engaged in carrying out the conspiracy.

In the case at bar, the alleged conspiracy among the accused was not priorly established by separate and independent evidence. Nor was it shown that the extrajudicial confessions of the other

accused (Exhibits "B", "F" and "J") were made while they were engaged in carrying out the conspiracy. In truth, the confessions were made after the conspiracy has ended and after the consummation of the crime. These confessions cannot be used against the accused-appellant without doing violence against his constitutional right to be confronted with the witnesses against him and to cross-examine them.

Without the uncounselled confession of the accused-appellant and the extrajudicial confessions of the other accused, no shred of evidence remains to establish the guilt of accused-appellant Surigawan beyond reasonable doubt. (*People vs. Surigawan*, 228 SCRA 458, 464-465 [1993])

Contrary to the requirement that the conspiracy must first be proved by evidence other than the admission itself, there is absolutely no evidence to establish the alleged conspiracy between the petitioner and the five witnesses who claim to be the actual perpetrators of the crime.

36. Excluding the inadmissible confessions or admissions of Tanaid, Beringuel, Roluna, Piedad and Tabara who all claim to be co-conspirators, the other affidavits and the entire records are utterly devoid of any evidence that would separately and independently prove conspiracy between petitioner and these witnesses.

37. It has been consistently held by this Honorable Court that:

The same degree of proof required for establishing the crime is likewise required to support a finding of conspiracy. In other words, conspiracy must be shown to exist as convincingly as the commission of the offense itself in order to uphold the fundamental principle that no one shall be found guilty of a crime except upon proof beyond reasonable doubt. (*Pecho vs. People*, 262 SCRA 518, September 27, 1996)

38. Conspiracy must be real and not presumptive (*U.S. vs. Figueras*, 2 Phil 491), and must be proved as the crime itself independent from the confession. (*People vs. Chaw Yaw Shun*, 23 SCRA 127, 144)
39. In *People vs. Ortiz* (G.R. No. 111723, January 27, 1997), the Supreme Court emphasized that “proofs, not mere conjectures or assumptions should be proffered by the prosecution which would show that the accused had taken part in the planning, preparation and participation in the alleged conspiracy to kill the victim. Otherwise ‘a careless use of the conspiracy theory (can) sweep into jail even innocent persons who may only have been made unwitting tools by the criminal minds really responsible for the crime.’”
40. In similar cases, this Honorable Court reversed the conviction of an accused alleged to be the principal by inducement or mastermind, whose wrongful conviction by the lower court was based on an extrajudicial confession of the accused. In *People vs. Plaza* (140 SCRA 277 [1985]), this Honorable Court held that:

Independent evidence of conspiracy must first be given before the admission of a conspirator may be received against his co-conspirator. In this case, there is absolutely no evidence adduced by the prosecution to establish conspiracy among Plaza and the Napal brothers in the killing of Jose Luna, Sr. other than the latter's statements. It is submitted, therefore, that while the confessions/admissions of the Napal brothers may be received against them, they are not, however, admissible against their co-defendant Plaza as to whom said statements are hearsay evidence for he (Plaza) had no opportunity to cross-examine them (the Napal brothers).

In short, the extra-judicial confessions/statements of the Napal brothers are inadmissible against Plaza first, because as earlier

stated they lack the indispensable requisite of corroboration by other evidence and, second, because during the trial the Napal brothers not only denied that their co-accused Plaza participated in the killing of Luna but went on to repudiate their statements as having been extracted from them through the use of force, violation [*N.B. should be "violence"*] and intimidation." (Brief, pp. 43-47.) (***People vs. Plaza***, 140 SCRA 277, 287-291 [1985])

41. In the subsequent case of ***People vs. Pamon*** (217 SCRA 501 [1993]), the Court emphatically reiterated the ruling in ***People vs. Plaza*** which stressed:

We cannot sustain the trial court's reasoning that if the confession is not admissible against the accused, it will not also be admissible against those who had been implicated therein. But, if it is admissible against the former, then it will also be admissible against the latter. This simply ignores the doctrine: RES INTER ALIOS ACTA ALTERI NOCERI NON DEBET. (***People vs. Pamon***, 217 SCRA 501, 515-516 [1993])

The extra-judicial confessions/admissions of the five witnesses, made in 2006 or more than 20 years after the incident, clearly show that such confessions/admissions were made when the witnesses were no longer engaged in carrying out the alleged conspiracy.

42. It should be pointed out that the five witnesses executed their confessions/admissions only in 2006, or more than 20 years after the crime was committed and when they were no longer engaged in the alleged conspiracy. No one of these five witnesses gave any explanation why they decided to make these confessions or admissions only now.

***The extrajudicial confessions /admissions
deserve no credence because of clear
hallmarks of fabrication and perjury.***

The Constitutional duty of the Court in criminal litigations is not only to acquit the innocent after trial but to insulate, from the start, the innocent from unfounded charges. For the Court is aware of the strains of a criminal accusation and the stresses of litigation which should not be suffered by the clearly innocent. The filing of an unfounded criminal information in court exposes the innocent to severe distress especially when the crime is not bailable. Even an acquittal of the innocent will not fully bleach the dark and deep stains left by a baseless accusation for reputation once tarnished remains tarnished for a long length of time. The expense to establish innocence may also be prohibitive and can be more punishing especially to the poor and the powerless. Innocence ought to be enough and the business of the Court is to shield the innocent from senseless suits right from the start.¹

43. The peculiar facts obtaining in this case warrant the Honorable Court to set aside the finding of probable cause made by the respondent Judge and the respondent public prosecutors to prevent the misuse and abuse of prosecutorial powers and to protect the orderly administration of justice.
44. It is well to state at the outset that this case is simply a recycled case maliciously filed with the sole motive of persecuting Congressman Satur Ocampo.
45. This is not the first time that the Philippine National Police falsely claimed to have discovered a mass grave site in connection with the alleged purges made by the CPP/NPA and presented false and perjured witnesses.

¹ **Dissenting Opinion, Justice Renato Puno. Roberts, Jr. vs. Court of Appeals, 254 SCRA 307, March 5, 1996.**

46. On July 18, 2000, a Complaint ² for multiple murder was filed by 1Lt. Rembert R. Baylosis of the 43rd Infantry Battalion, 8th ID, PA in Baybay Leyte, against 25 alleged NPA members who were allegedly involved in the killings of suspected military spies and in burying the dead bodies of their alleged victims in Brgy. Monterico, Baybay, Leyte. Among the 25 individuals charged were Jaime Soledad, Gliceria Roluna, Romulo Roluna, Policarpo Opo, & Floro Tanaid for acts allegedly committed as follows:

That sometime in the months of June, August and September 1985, in Brgy. Monterico, Municipality of Baybay, Province of Leyte, the above-named accused and their companions whose names are not yet identified as of this date, conspiring, confederating together and mutually helping and siding one another, with intent to kill and with treachery, evident premeditation and abuse of superior strength, did then and there willfully, unlawfully and feloniously shot to death the following persons and thereafter buried such persons in Brgy. Monterico, Baybay, Leyte:

- | | |
|-----------------------------|--------------------------|
| a. Domingo Eras | h. Locloc Eras |
| b. Gregorio Eras | i. Tito Tronueva |
| c. Leonardo Eras | j. Carlos Tronueva |
| d. Ronico Catibo | k. Marcial Abenoja |
| e. Modesto Ceda | l. Juanita Aviola |
| f. Concepcion Aragon | m. Salvador Aviola |
| g. Sgt. Eddie Gargantes | n. Nicolas Cativo |
| | o. Generosa Cativo |

47. Interestingly, five (5) of the alleged victims (i.e. **Domingo Eras, Gregorio Eras, Leonardo Eras, Juanita Aviola and Concepcion Aragon**) of purging by the CPP/NPA whose skeletal remains were allegedly found in Brgy. Monterico, Baybay

² A copy of the Complaint docketed as R3813-A dated July 18, 2000 is hereto attached as Annex "CC."

on **June 27, 2000** were the same alleged victims whose skeletal remains were also allegedly found in Mt. Sapang Dako, Inopacan, Leyte on **August 26, 2006**.

48. Pursuant to the abovementioned complaint, an *Information*³ for Multiple Murder was filed on June 4, 2001 by **Asst. Provincial Prosecutor Rosulo Vivero** (one of the respondents in this petition) with the Regional Trial Court, Branch 14 in Baybay Leyte in the case entitled ***People of the Philippines vs. Jaime Soledad et al.***, docketed as Crim. Case No. B-2001-06-51. The Information specifically provides as follows:

X X X

That sometime in the months of June, August and September 1985 in Brgy. Monterico, Municipality of Baybay, Province of Leyte and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, conspiring, confederating and helping one another, with treachery and evident premeditation and with the use of their superior strength, willfully, unlawfully and feloniously shot to death with the use of unlicensed firearms the following persons: Domingo Eras, Gregorio Eras, Leonardo Eras, Ronico Catibo, Modesto Ceda, Locloc Eras, , Tito Tronueva, Carlos Tronueva, , Marcial Abenoja, Juanito Aviola, Salvador Aviola, Nicolas Cativo and Generosa Catibo, and thereafter buried above-named victims in Brgy. Monterico, Baybay, Leyte.

CONTRARY TO LAW.

Baybay, Leyte. June 4, 2001.

ROSULO U. VIVERO
Assistant Provincial Prosecutor

X X X

³ **A copy of the Information dated June 4, 2001 is hereto attached as Annex “GG.”**

49. It is significant to note that one of the witnesses presented by the complainant PNP in the aforesaid complaint was **Zacarias Piedad Sr.**, who is also one of the principal witnesses of the PNP in this case. Thus, in the Affidavit ⁴ of Zacarias Piedad dated July 18, 2000, which was used in support of the charge of multiple murder in Crim. Case No. B-2001-06-51, he made the following allegations:

X X X

2. *That I had been a member of the underground movement/NPA since 1981 up to September 1999. I surrendered to the government on September 2, 1999.*
3. *That sometime **before June 20, 1985**, in the NPA camp located in **Brgy. Monterico, Baybay, Leyte**, I saw and heard **JAIME SOLEDAD AKA ANTON/CYRIL**, ordered to kill the following persons who were suspected military informers to implement the CPP/NPA project called "**Anti-VD Campaign**"; and sometime in the months of June, August and September 1985, the following persons were **killed** and **buried** in **Brgy. Monterico, Baybay, Leyte**:*

| | |
|--------------------------------|---------------------------|
| a. Domingo Eras | h. <i>Locloc Eras</i> |
| b. Gregorio Eras | i. <i>Tito Tronueva</i> |
| c. Leonardo Eras | j. <i>Carlos Tronueva</i> |
| d. <i>Ronico Catibo</i> | k. <i>Marcial Abenoja</i> |
| e. <i>Modesto Ceda</i> | l. Juanita Aviola |
| f. Concepcion Aragon | m. <i>Salvador Aviola</i> |
| g. <i>Sgt. Eddie Gargantes</i> | n. <i>Nicolas Cativo</i> |
| | o. <i>Generosa Cativo</i> |

4. *That I saw the following persons implement such order of JAIME SOLEDAD ALYAS ANTON/CYRIL by killing such persons in paragraph 3 of this affidavit; and I saw that JAIME SOLEDAD himself participated in the killing.*

X X X

5. *That I do not know the addresses of such killers stated in paragraph 4 of this affidavit because the revelation of addresses of the members of the CPP/NPA among themselves would be prohibited by the NPA law;*
6. *That I am executing this affidavit to attest the truth of the foregoing facts.*

⁴ **A photocopy of the Affidavit is hereto attached as ANNEX "CC-1."**

50. During the preliminary examination on Zacarias Piedad Sr. conducted by the Judge of the Municipal Trial Court, Piedad made the following answers to specific questions:

X X X

Q. --- *Are you aware if there were killings of civilians conducted by the NPA under Soledad?*

A. --- *Yes, sir.*

Q. --- *Why did you know them?*

A. --- ***Before the killings I saw them having a meeting treating matters concerning the cleansing of the organization.***

COURT:

Q. --- *What do you mean by that?*

A. --- *Because according to them the organization in Leyte there were Deep Penetration agents who joined the organization.*

Q. --- *You were one of those who attended that meeting?*

A. --- ***I was one of their security men.***

Q. --- *And what precisely were taken up or the result during that meeting by the group of Soledad?*

Q. --- *The meeting was about the implementation of the Anti-VD campaign, meaning that anti-virus disease which refers to those who penetrated the organization.*

Q. --- *You mean they will be liquidated?*

A. --- *Yes, sir.*

COURT:

Q --- *So what was the precise decision they make in that meeting?*

A --- *Their decision was that all that they found among the VD will be liquidated.*

Q. --- Do you know specifically some persons who were apparently members of their so-called VD during that meeting?

A. --- I can mention their names.

Q. --- **Can you remember who were those persons they named to be liquidated?**

A. --- I cannot remember all but I will try to recall some.

Q. --- You please try to recall and tell the Court who were they?

A. --- **Domingo Eras, Leonardo Eras, Gregorio Eras, Tito Tronueva, Carlos Tronueva, Modesto Ceda, Generoso Cativo, Juanita Aviola, Salvador Aviola, Locloc Eras, Concepcion Aragon, Eddie Gargantes, as of now those were all that I can remember.**

COURT:

Q. --- Of those persons you have named, do you know them personally?

A. --- Yes, sir, because they were also from Brgy. Monterico.

Q. --- And they were also members of the NPA movement?

A. --- They were members of the Barangay Association of the NPA.

X X X

COURT:

Q. --- **All these persons you have named were liquidated?**

A. --- **Yes, sir.**

Q. --- Including this Marcial Abenoja?

A. --- Yes, sir.

Q. --- **Who liquidated them?**

A. --- **The group of Policarpo Opo, as what I heard he was being authorized to liquidate these people.**

Q. --- Where did you hear the group of Opo being authorized to liquidate these persons you have named?

A. --- That time when it was implemented.

Q. --- **You mean during the meeting?**

A. --- Yes, sir.

Q. --- **You said you were the security in that meeting, could you tell the court how many persons were there attending that meeting, if you know?**

A. --- *I cannot remember how many of them, but there were several who attended and I can recall some.*

Q. --- *Could you not approximately tell their number?*

A. --- **There were only about 12 or 15 persons who attended that meeting.**

Q. --- *Where was the meeting held?*

A. --- **In the NPA Camp beyond Brgy. Monterico.**

Q. --- *When was that, if you could recall?*

A. --- **That was during the first week of June 1985.**

Q. --- **Will you please name some of those you can recall who attended the meeting?**

Q. --- **Jaime Soledad, Teofilo Orillo, Policarpo Opo, Glecerio Roluna, Sergio Roluna, Romulo Roluna, Julita Barbadino, Rolando Paniamogan, Vicvic Orioke, Clarita soledad, Manic Mejia and some of them I don't know their names, only code name.**

X X X

Q. --- *In this affidavit you have named some persons particularly in paragraph 3 which alleged that these persons implemented the order of Jaime Soledad of killing them, will you please remember those names and tell the court how you were able to recall those persons to be the one who were ordered to be liquidated since only few of them were named by you?*

A. --- *I knew them because for a long time we were together and some people called them by their names.*

Q. --- *What I want to know is you named some persons who implemented the alleged order of liquidation by Soledad, but you could not name them all, but in your affidavit it seems there are more people named in that affidavit to the persons you actually named now in this investigation, how were you able to list those people there in the affidavit?*

A. --- *It is because during the tactical investigation it took a long time for me to think over, but in this investigation now I could not remember all of them right away, but if I will be given 3 days I can name all these persons in the affidavit.*

Q. --- ***Of the persons you named in the affidavit particularly par. 3 the persons allegedly liquidated, have you actually seen them at the time they were killed.***

A. --- ***I have not seen them actually liquidated or killed.***

Q. --- *But how were you able to conclude that these people you have named in the affidavit were already dead because they were liquidated?*

A. --- ***It was during the liquidation, I was assigned in Burauen that is why when I returned back to Monterico those people I mentioned in par. 3 were no longer in Brgy. Monterico.***

Q. --- *Is it not possible also that they were assigned to other places like you far from Monterico?*

A. --- *No, they were not assigned.*

Q. --- *How did you know that they were not assigned you are not an assigning officer of the NPA movement?*

X x x

A. --- ***It was very clear that they were already dead because in fact they were already exhumed.***

Q. --- *You mean all those persons you named in par. 3 who were reported being killed were exhumed?*

A. --- *Yes, sir.*

Q. --- ***Why, where were they buried?***

A. --- ***They were buried at a distance of about 2 kms. To the forest of Brgy. Monterico.***

Q. --- *Their bodies were exhumed from one burial place?*

A. --- *They were buried separately but in the same burial ground.*

Q. --- ***You were there when they were exhumed?***

A. --- **Yes, sir, in fact I was one of those who actually exhumed.**

Q. --- **Did you know who pointed out the location of this burial ground where people liquidated by NPA were buried?**

A. --- Yes, sir.

Q. --- *Who?*

A. --- **Farmers in Brgy. Monterico, there were several of them who pointed out to the authorities that these people were buried in that place.**

X X X

51. After issuing the above-quoted Affidavit and making statements during the preliminary examination of the case, Piedad retracted his aforesaid statements in an Affidavit dated March 16, 2003⁵ alleging the following:

X X X

1. *That I am the same Zacarias Piedad Sr., who executed an affidavit in connection with the case against Jaime Soledad, Antonieta Pegoria and others now pending at the Court of Baybay;*
2. *That I hereby declare that I do not know Antonieta Pegoria nicknamed Baby and I know her only now that we are in the provincial jail of Baybay, and what I knew as Baby is tall and slim, but not Pegoria;*
3. ***That I did not see any killing against anybody anytime in my life, much less in Monterico at any time;***
4. ***That I confirm that I executed my affidavit while I was in the custody of the military in Sogod, Southern Leyte;***
5. *That I executed this affidavit of my own free will and no one forced or intimidated me in signing this affidavit nor was I promised any consideration in the future;*

X X X

52. During the trial of Crim. Case No. B-2001-06-51, the prosecution presented two witnesses. After the prosecution's presentation of evidence, the defense moved to

⁵ **A photocopy of the Affidavit is hereto attached as Annex "HH"**

file demurrer to evidence. The Trial Court granted the demurer to evidence in a Decision ⁶ dated January 10, 2005, the pertinent portions of which provide as follows:

X X X

A painstaking look into the records of the case will reveal that none of the elements of the crime of murder was sufficiently established by the prosecution. There were no eyewitnesses offered to prove a blow by blow account of what actually transpired. There is no showing that accused killed the victims as indicated in the information. Neither were the victims sufficiently identified. The mere presentation of witnesses to prove the conduct of an exhumation will not necessarily prove identity of the victims. Simply stated, the fact of death and cause of death of the supposed victims is not ascertained by the prosecution.

*In effect, the prosecution has utterly failed to establish the guilt of the accused beyond reasonable doubt because no iota of evidence is present. **Under such circumstance the Court will even venture to pronounce that there is no probable cause to warrant the indictment of the accused.***

X X X

53. Now, in pursuance of a deliberate, concerted and malicious plan to persecute and harass accused Congressman Satur Ocampo, the PNP recycled the dismissed Criminal Case No. B-2001-06-51 and resurrected its readily available false witness Zacarias Piedad Sr. and fabricated the instant case.
54. Respondent Assistant Provincial Prosecutor Rosulo Vivero should be held administratively, civilly and criminally liable for allowing the filing of this clearly fabricated criminal case. Respondent Vivero is the same public prosecutor who heard the complaint and issued the Information for Multiple Murder in Criminal Case No. B-2001-06-51. Thus, he is fully aware that this case is merely a recycled case of Criminal Case No. B-2001-06-51.

⁶ **A photocopy of the Decision is hereto attached as Annex "II."**

55. First, it should not have escaped respondent Vivero's eye that five (5) of the alleged victims of the CPP/NPA purge (i.e. **Domingo Eras, Gregorio Eras, Leonardo Eras, Juanita Aviola and Concepcion Aragon – relatives of the complainants in this case**) whose skeletal remains were allegedly found in Brgy. Monterico, Baybay, Leyte on June 27, 2000 were the same victims allegedly killed and whose skeletal remains were allegedly subsequently found on August 26, 2006 in Mt. Sapang Dako, Inopacan, Leyte. These are two different localities; hence, the alleged skeletal remains could not have been found in both localities *unless* after the alleged exhumation of the skeletal remains in Brgy. Monterico, Baybay, Leyte on June 27, 2000, the same were moved and transferred to Mt. Sapang Dako, Inopacan, Leyte on August 26, 2006.
56. Secondly, respondent Vivero is very much aware that Zacarias Piedad Sr. was also the principal witness in Criminal Case No. B-2001-06-51; that he made highly contradicting statements in his affidavits and that he retracted all the statements and affidavits he made in Criminal Case No. B-2001-06-51. It should have pricked the curiosity of respondent Vivero why Zacarias Piedad Sr. disregarded his recantations and revived his earlier accusations (in Criminal Case No. B-2001-06-51) with substantial modifications to support the instant case. At the very least, respondent Vivero could have called a clarificatory hearing in this case.

57. Despite respondent Vivero's personal knowledge of the nature of the testimony of Zacarias Piedad in Criminal Case No. B-2001-06-51 and in the instant case, the respondent public prosecutor in his questioned resolution even considered the testimonies of Piedad and the three other principal witnesses in this case "very vital to the success of the prosecution of the case." Instead of considering Piedad a false and perjured witness, the respondent public prosecutor dropped him as one of the respondents to be utilized as a state witness because for the respondent public prosecutor without Piedad's testimony "the prosecution of the case will certainly be a failure."
58. Thirdly, respondent Vivero is similarly aware that Criminal Case No. B-2001-06-51 was dismissed in a Decision dated January 10, 2005; the trial court held that there is no showing that the accused killed the victims as indicated in the information; neither were the victims sufficiently identified; and the prosecution failed to ascertain the fact of death and the cause of death of the alleged victims. The trial court even stated that **"under such circumstance, the Court will even venture to pronounce that there is no probable cause to warrant the indictment of the accused."**
59. The respondents should have followed this conclusion of the trial court in Criminal Case No. B-2001-06-51 as it applies to this case.

60. A meticulous reading of the documents and affidavits submitted by the PNP in this case reveal clear hallmarks of fabrication and perjury. Thus –

Affidavit of Zacarias Piedad dated September 14, 2006

The Affidavit contains the following:

- 60.a. He was allegedly a former member of the CPP/NPA/NDF having been recruited into the movement in 1979 in Barangay Monterico, Baybay, Leyte;
- 60.b. In **1984**, he was allegedly assigned as a security to the highest leaders of the CPP/NPA in Leyte. **In that year**, the CPP/NPA leaders in Leyte allegedly convened the various leaders of the front.
- 60.c. As a security, he allegedly attended the said meeting where the alleged Order of the CPP Central Committee to cleanse the party organization because it has been allegedly infiltrated by military spies was discussed;
- 60.d. In said meeting, Piedad allegedly saw the members of the CPP Central Committee namely: @ Satur Ocampo and Prudencio Calubid who spoke with the high leaders of the movement in Leyte;
- 60.e. The said meeting was allegedly presided by Satur Ocampo and Calubid and the implementation of the alleged directive of the CPP/NPA

Central Committee to arrest, investigate and execute anyone who will be proven as military spies;

60.f. In that meeting, it was allegedly agreed that the launching of Operation VD will be implemented, and a special unit named as the "Arresting and Investigation Team was allegedly formed.

60.g. Piedad was allegedly one of those placed in the security of the Investigation Group. **In 1985 until 1987**, the following persons were allegedly individually and separately brought by the Arresting Group to Mt. Sapang Dako, Inopacan, Leyte.

| | | |
|-----------------------|--------------------------|-----------------|
| Domingo Eras | Concepcion Aragon | Domingo Napoles |
| Juanita Aviola | Teodoro Recones | Ciriaco Daniel |
| Leonardo Eras | Rolando Vasquez | Ereberto Prado |
| Restituto Ejoc | Junior Milyapis | Crispin Prado |
| Gregorio Eras | Pablo Daniel | |
| Zacarias Casil | Romeo Tayabas | |

h. As one of the guards of the Investigation Group, Piedad allegedly saw the persons individually and separately investigated by Lloren from 1985 up to 1987. After a short investigation, they were allegedly sentenced to death and that he allegedly witnessed the execution of each of the persons he named by the group of Glecerio Roluna. **They were killed using only a knife.**

61. **In 1985**, SATUR OCAMPO allegedly visited Mt. Sapang Dako, Inopacan Leyte while **Juanita Aviola** was allegedly being investigated. **Piedad allegedly witnessed that Satur Ocampo personally supervised the said investigation and he himself ordered Lloren's group to impose upon Juanita Aviola the**

death sentence. Glicerio Roluna executed Juanita Aviola in front of Satur Ocampo by stabbing her with balikhaw.

62. There were allegedly many other civilians who did not support the movement who were allegedly arrested, investigated and killed in front of Piedad and buried in Mt. Sapang Dako, Inopacan, Leyte. This was done allegedly in order to implement the directive of the Central Committee which was allegedly personally carried out by Satur Ocampo as a member of the Central Committee.
63. It is well to reiterate the points made by accused Satur Ocampo in his counter-affidavit showing the falsities in Piedad's allegations. Thus -

X X X

32. I deny being a member of the Central Committee of the CPP/NPA/NDFP at any time as falsely imputed to me. After my arrest by the PC-INP (then a unified force) on January 14, 1976, I was effectively cut off from all political activities and affiliations, all of which have been legal in the first place. I remained in military custody until May 5, 1985, when I escaped from military detention. (Attached as **ANNEX "1"** is a clipping of a newspaper report attesting to my status as a political prisoner as of September 1, 1984 (Malaya) and of my escape on May 5, 1985 (Malaya).
33. I was arrested for the second time on July 27, 1989 and remained in detention at Fort Bonifacio until my release on September 1, 1992. These facts should be contraposed to the allegations in the sworn statements that I came to Southern Leyte between 1984 and 1991.
34. I absolutely deny having gone to any place in Leyte in 1984 or subsequently thereafter until 1991. The first time I came to Southern Leyte was in February 1993, after my release from my second arrest. I went there on a tour to visit political detainees in the provinces of Leyte and Samar islands, arranged by the Task Force Detainees of the Philippines. The first time I came to Baybay, Leyte was during the electoral campaign period prior to the May 14, 2001 congressional elections. I was hosted by then Baybay Mayor Maria Cari, now representative of the 5th district of Leyte.

35. It was impossible for me to be in Leyte at anytime in 1984, despite the alleged “eyewitness” testimonies of Piedad, Roluna, and Beringuel – simply because I was in effective military custody and detained at Bicutan Rehabilitation Center, Taguig from October 1976 to May 5, 1985.

X X X

64. The fact that accused Ocampo was in military custody at the time of the alleged meetings clearly reveals the falsity of the accusations against him. Unfortunately, the respondents disregarded this vital information and used the strong arm of their prosecutorial powers against herein accused.
65. Realizing the difficulty of explaining his clearly false claims, Zacarias Piedad surreptitiously filed a Supplemental Affidavit on January 12, 2007, after the accused has already submitted his counter-affidavit and without furnishing the accused a copy of the said Supplemental Affidavit.

Supplemental Affidavit of Zacarias Piedad dated January 12, 2007

The Supplemental Affidavit contains the following:

- 65.a. Piedad allegedly committed a mistake in stating the date of the meeting mentioned in paragraph 10 of his Affidavit dated September 14, 2006.
- 65.b. Allegedly, the meeting mentioned in paragraph 10 happened on **June 1985 not 1984.**
- 65.c. Similarly, in paragraphs 11, 12 and 13 in his Affidavit dated September 14, 2006, the events he allegedly mentioned in the said paragraphs were allegedly in the meeting in an NPA camp in Southern

Leyte in **June 1985** that was allegedly attended by Satur Ocampo, Prudencio Calubid and top members of the CPP/NPA in Leyte.

65.d. Piedad allegedly got to know Satur Ocampo in June 1985 meeting since he was allegedly introduced to him by Prudencio Calubid.

65.e. That the photograph that was included in the counter-affidavit of Satur Ocampo; that the Satur in the photograph and the Satur he allegedly met in June 1985 are allegedly one and the same.

66. The foregoing Supplemental Affidavit only shows Piedad's propensity to lie.

67. It is well to stress that in his Affidavit dated July 18, 2000, which he submitted in Crim. Case No. B-2001-06-51, Piedad made the following allegations:

X X X

4. *That sometime **before June 20, 1985**, in the NPA camp located in **Brgy. Monterico, Baybay, Leyte**, I saw and heard **JAIME SOLEDAD AKA ANTON/CYRIL**, ordered to kill the following persons who were suspected military informers to implement the CPP/NPA project called "**Anti-VD Campaign**"; and sometime in the months of June, August and September 1985, the following persons were **killed** and **buried** in **Brgy. Monterico, Baybay, Leyte**:*

| | |
|--------------------------------|--------------------------|
| a. Domingo Eras | h. Locloc Eras |
| n. Gregorio Eras | i. Tito Tronueva |
| o. Leonardo Eras | j. Carlos Tronueva |
| p. Ronico Catibo | k. Marcial Abenoja |
| q. Modesto Ceda | l. Juanita Aviola |
| r. Concepcion Aragon | m. Salvador Aviola |
| s. Sgt. Eddie Gargantes | n. Nicolas Cativo |
| | o. Generosa Cativo |

X X X X

68. It bears stressing that Piedad never mentioned the name of accused Satur Ocampo in any of his affidavits and statements which he submitted in Crim. Case No. B-2001-06-51; he never mentioned the name of accused Satur Ocampo as among those who allegedly attended the meetings and participated in the alleged killings of the alleged victims. In fact, Piedad pointed at a certain Jaime Soledad who is also one of the accused in this case as the one who allegedly ordered to kill Juanita Aviola and the other alleged victims.

69. Thus, as argued by accused Ocampo in his counter-affidavit "the allegation made by Piedad that I personally supervised the investigation of one Juanita Aviola, ordered and even witnessed her execution is ridiculous, patently false and smacks of unmitigated malice. It is intended to demonize me, to spawn hatred towards me among the Aviola family, relatives and friends. Worse, it could be a maneuver to set me up for physical attack by the killer squads of the state security forces and blame such attack on the avenging relatives of Aviola."

70. Interestingly, however, during the preliminary examination of the case (Crim. Case No. B-2001-06-51), in answer to the query of the Court, Piedad made the following statements:

X X X

Q. --- Of the persons you named in the affidavit particularly par. 3 the persons allegedly liquidated, have you actually seen them at the time they were killed.

A. --- I have not seen them actually liquidated or killed.

Q. --- But how were you able to conclude that these people you have named in the affidavit were already dead because they were liquidated?

A. --- It was during the liquidation, I was assigned in Burauen that is why when I returned back to Monterico those people I mentioned in par. 3 were no longer in Brgy. Monterico.

X x x

71. Respondent Vivero is very much aware of the foregoing allegations made by Piedad in his affidavit dated July 18, 2000 because he was the public prosecutor who heard and issued a Resolution in the aforesaid Crim. Case No. B-2001-06-51.

72. Moreover, there are also substantial discrepancies in the allegations of Piedad. He alleged to have seen the alleged victims being killed using unlicensed firearms. On the other hand, he mentioned in his affidavit submitted in this case that the alleged victims were killed using only a knife.

73. All these should have raised the curiosity of the respondent public prosecutors. Unfortunately, the respondent public prosecutors turned a blind eye, shirked from their duty and accepted as gospel truth the allegations made by Piedad despite the obvious falsities in his allegations.

Affidavit of Numeriano Beringuel dated October 2006

74. The Affidavit contains the following:

- 74.a. That Beringuel was allegedly recruited as a member of the New People's Army (NPA) in 1975 in Southern Leyte; that he allegedly became a member of "Squad Gener", a Sandatahang Yunit Propaganda (SYP);
- 74.b. That in 1980, the Central Committee of the Communist Party of the Philippines (CPP) allegedly issued a warning that military spies had infiltrated the movement; that allegedly pursuant to this, the CPP Regional Committee in Leyte was allegedly strictly directed to arrest, investigate and impose the proper death sentence on anyone proven to be a traitor and spy against the revolutionary movement;
- 74.c. That this order was allegedly directly issued upon the CPP Regional Committee in Leyte for its immediate implementation in every unit of the party; that Beringuel allegedly personally knows accused Congressman Satur Ocampo as one of the alleged CPP Central Committee members who issued the alleged order;
- 74.d. Before the end of 1984, the Leyte Regional Committee allegedly called a general meeting that was held in a place in Baybay, Leyte.
- 74.e. Discussed in the said meeting was the alleged launching of "Operation VD" in order to implement the alleged directive of the CPP/NPA Central Committee to arrest, investigate and execute anyone who will be proven to be military spies.
- 74.f. A special unit called "Arresting and Investigation Team or AIT" was allegedly created to implement Operation VD; the following subgroups were also allegedly formed: the Intel Group, Arresting Group, Investigation Group, and the Execution Group.

74.g. Beringuel was allegedly a member of the arresting group; in 1985, Beringuel and the other members of the arresting group allegedly arrested the following individuals:

Domingo Eras Concepcion Aragon
Juanita Aviola Teodoro Recones
Leonardo Eras Domingo Napoles
Restituto Ejoc Ciriaco Daniel
Gregorio Eras Romeo Tayabas
Zacarias Casil

74.h. As one of the guards of the Investigation Group, Beringuel allegedly saw the persons whom he allegedly named being individually and separately investigated by Lloren from 1985 up to 1987.

74.i. After a short investigation, they were sentenced with death and Beringuel allegedly witnessed the individual executions of the persons named in the list of Glecerio Roluna. **They were killed through a knife only.**

75. Similarly, as reiterated by accused Ocampo he is not a member of the Central Committee of the CPP/NPA/NDFP at any time as falsely imputed to him. After his arrest by the PC-INP (then a unified force) on January 14, 1976, he was effectively cut off from all political activities and affiliations, all of which have been legal in the first place and remained in military custody until May 5, 1985. He therefore could not have participated in the alleged meetings of the CPP in 1980 or during the period of his detention as claimed by Beringuel.

Affidavit of Floro M. Tanaid dated September 14, 2006

76. The Affidavit contains the following:

- 60.h. Floro Tanaid was allegedly a farmer tilling a piece of land located in Mt. Kainsikan near the boundary of Brgy. Monterico, Baybay, Leyte and Brgy. Caulisihan, Inopacan, Leyte.
- 60.i. In April 1985 at around 9:00 am, Floro Tanaid personally saw more or less 15 individuals whose hands were tied by ropes and who were likewise bound to each other by a long rope; of the more or less 15 individuals, Tanaid allegedly knew four (4) namely, Franco, Daniel, Domingo Daniel, Berto Esguerra who were all residents of Brgy. San Juan, Mahaplag, Leyte and Isais Laguardia.
- 60.j. Floro Tanaid also identified the alleged NPA members who allegedly did the abductions, namely: Glicerio Roluna, Policarpo Opo, Rolulo Roluna, Arnulfo Opo, and Rolando Paniamogan;
- 60.k. Tanaid allegedly observed that those armed men led the 15 individuals towards the mountain in Sapang Dako, which is the boundary of the towns of Hindang, Baybay, Inopacan and Mahaplag, Leyte.
- 60.l. Since that day, the said 15 individuals were allegedly no longer heard of and were never seen again.
- 60.m. In 1985 at around 4:30 pm, the same NPA group took away Domingo Eras and Leonardo Eras and they were never heard of since then;
- 60.n. In June 1986, Tanaid allegedly trekked through the peak of Mt. Sapang Dako going to the mountain in Budlingin; she allegedly noticed fresh diggings in rows and she strongly believed that these were the graves where the individuals who were forcibly taken away by the NPA were buried.

- 60.o. Last August 25, 2006, at around 9am, while in the farm, a group of government soldiers allegedly passed by his farm; the soldiers talked to him and he met Lt. Saya-ang; after a long conversation, he was allegedly able to get Tanaid's sympathy and trust. Tanaid allegedly immediately told him about the horrors that he witnessed the past 20 years;
77. It is well to state that none of the names of the alleged victims-relatives of herein complainants was mentioned by Tanaid as among those who were allegedly brought to Mt. Sapang Dako. Thus, her testimony cannot be used as proof of the alleged fact of death of the alleged victims mentioned in this complaint.
78. It should be noted too that Tanaid claimed that in June 1986, Tanaid allegedly trekked through the peak of Mt. Sapang Dako going to the mountain in Budlingin; that she allegedly noticed fresh diggings in rows and she strongly believed that these were the graves where the individuals who were forcibly taken away by the NPA were buried.
79. It is well to stress that the alleged abduction and killings of the supposed victims as alleged by Piedad, Roluna and Beringuel were done in 1985. Thus, the alleged fresh diggings which Floro Tanaid allegedly saw in June 1986 could not have been the "graves where the individuals who were forcibly taken away by the NPA were buried." If the alleged killings of the supposed victims-relatives of the complainants were done in 1985, their bodies would have certainly decomposed and could not have just been buried in June 1986 as alleged by Floro Tanaid.

80. Interestingly, Floro Tanaid was one of the accused in Crim. Case No. B-2001-06-51, a criminal case of multiple murder concerning the alleged killings of some of the alleged victims in this case. It is therefore quite surprising that Floro tanaid is now being utilized as a witness.

Affidavit of Leonardo Tanaid dated September 14, 2006

81. The Affidavit contains the following:
- 81.a. From 1982, Leonardo allegedly joined the New People's Army until 1989 and was selected as a platoon leader in the Southern Leyte Front Command;
- 81.b. In 1985, the CPP Central Committee allegedly ordered the Anti-VD campaign;
- 81.c. At around 4pm on June 12, 1985, during the feast day of Barangay San Antonio, Hilongos, Leyte, the Special Team AIT arrested 17 individuals 3 of whom Leonardo knew as Alias Rosky, alias API and Alias Horato and one Lucino Milano; Leonardo was tasked to bring the arrested persons before AIT members Glecerio Roluna, Romulo Roluna, Policarpio Opo, Alias Linde, alias Reggie and alias Jerio. The three (Alias Rosky, alias API and Alias Horato) were allegedly subsequently killed and the rest were also killed the following day.
82. Similarly, none of the names of the alleged victims-relatives of herein complainants was mentioned by Leonardo Tanaid as among those allegedly killed by alleged NPA members. Thus, his testimony cannot be used as proof of the fact and cause of death of the alleged victims mentioned in this complaint.

Affidavit of Glicerio Roluna dated September 14, 2006

83. The Affidavit contains the following:

83.a. That in 1980, the Central Committee of the Communist Party of the Philippines (CPP) allegedly issued a warning that military spies had infiltrated the movement; that allegedly pursuant to this, the CPP Regional Committee in Leyte was allegedly strictly directed to arrest, investigate and impose the proper death sentence on anyone proven to be a traitor and spy against the revolutionary movement;

83.b. That this order was allegedly directly issued upon the CPP Regional Committee in Leyte for its immediate implementation in every unit of the party; that Roluna allegedly personally knows accused Congressman Satur Ocampo as one of the alleged CPP Central Committee members who issued the alleged order;

83.c. Before the end of 1984, the Leyte Regional Committee allegedly called a general meeting that was held in a place in Baybay, Leyte.

83.d. Discussed in the said meeting was the alleged launching of "Operation VD" in order to implement the alleged directive of the CPP/NPA Central Committee to arrest, investigate and execute anyone who will be proven to be military spies.

83.e. A special unit called "Arresting and Investigation Team or AIT" was allegedly created to implement Operation VD; the following subgroups were also allegedly formed: the Intel Group, Arresting Group, Investigation Group, and the Execution Group.

83.f. Roluna was allegedly the head of the execution group who executed the alleged victims herein in 1985 by means of a knife.

84. It bears stressing that the respondents allowed Roluna who admitted to the killings to be used a state witness despite the fact that he is the most guilty. His claim that accused Ocampo is a member of the central committee of the CPP should not be given any credence. As thoroughly explained by accused Ocampo . After his arrest by the PC-INP (then a unified force) on January 14, 1976, he was effectively cut off from all political activities and affiliations, all of which have been legal in the first place and remained in military custody until May 5, 1985. He therefore could not have participated in the alleged meetings of the CPP in 1980 or during the period of his detention as claimed by Roluna.

After more than twenty years since the alleged Incident, only forensic evidence can establish the identities of the alleged victims. No forensic evidence has been proffered by the complainants PNP and AFP to prove that the bodies of the fifteen alleged victims or for that matter, anyone of them, were among the skeletal remains found in the mass graves. For this reason, and assuming arguendo that the contents of the affidavits of the victims' relatives are true, the crime committed is kidnapping under Article 272 of the Revised Penal Code which, after more than twenty years, has already prescribed.

85. To reiterate, the Initial Specialist report of the forensic team of the Medico-Legal Division of the PNP Crime Laboratory which was tasked to examine the skeletal remains concluded that “absolute identification could not be made at this time” and

recommended studies, activities and examinations x x x to confirm identity and determine the time window of death including “1. DNA analysis of compact bone, especially mitochondrial DNA analysis; 2. Cleansing and drying of bones to preserve it longer and prepare them for subsequent serologic and chemical analyses to determine the age of bone and time of death, like Benzidine test, Coomb’s Test and amino Acid Chromatography; and 3. Soil sample analyses to include soil pH and possible carbon dating.”

86. As of the filing of Information no follow-up forensic examination as suggested in the Initial Specialist Report to determine the identities of the skeletal remains has been conducted. The mere presentation of witnesses to prove the conduct of an exhumation will certainly not prove identity of the victims.

The filing of the rebellion case against petitioner in the Makati Regional Trial Court (People vs. Ocampo, et. al., Criminal Case No. 06-944) bars the filing of this case pursuant to the political offense doctrine of absorption of common crimes (People vs. Hernandez, et al., 99 Phil. 514, 1956) and the constitutional protection against double jeopardy.

83. Worthy of note in this case are the following undisputed facts which can be taken judicial notice of by this Honorable Court:

1. On May 12, 2006, the government through the Department of Justice filed a case for rebellion against petitioner and 44 other accused based on

perjurious affidavits of professional witnesses and recycled military documents. This case, which is a rehash of the one initially thrown out by the Regional Trial Court of Makati, Branch 137, was re-filed and is now docketed as Criminal Case No. 06-944 and is pending before Branch 150 of the same court. The re-filed Information in said case alleges events from 1969 up to the present and claims that petitioner herein, among others, attended a meeting in 1992 allegedly for the purpose of discussing “the launching of insurrection in several parts of the country, improvement of collection of funds and removal of disloyal members of the CPP/NPA/NDF.” The proceedings in the afore-mentioned case have been suspended by virtue of a status quo order issued by the Honorable Supreme Court.

2. Sometime in November 2006, petitioner Ocampo was charged with the crime of multiple murder before the Office of the Provincial Prosecutor of Leyte, which case is now the subject matter of the instant petition.

3. On February 14, 2007, petitioner Ocampo received a subpoena from the Office of the Provincial Prosecutor of Nueva Ecija. It was only then that he discovered he is being charged for three counts of murder in I.S. Nos. 06L-4101, 4102 and 4103. These three cases charge herein petitioner for “conspiracy and planning, wherein Satur Ocampo, Liza Maza, Teddy Casiño, Rafael Mariano and other named respondents participated by

directing, approving and implementing the liquidation of Akbayan organizers/supporters x x x.”

All three cases enumerated above impute to petitioner Ocampo crimes committed allegedly in his capacity as a member of the CPP-NPA.

84. We respectfully submit that the filing of said case as well as the subsequent ones contravene the doctrine of political offense enunciated in the landmark case of ***People vs. Hernandez, et al.*** (99 Phil. 515). Speaking through Justice Concepcion, the High Court in that case declared unequivocally:

One of the means by which rebellion may be committed, in the words of said Article 135, is by “engaging in war against the forces of the government” and “committing serious violence” in the prosecution of said “war.” These expressions imply everything that war connotes, namely; resort to arms, x x x restraint of liberty, damage to property, physical injuries and loss of life x x x. Being within the purview of “engaging in war” and “committing serious violence,” said resort to arms, with the resulting impairment or destruction of life and property, constitutes not two or more offense, but only *one* crime – that of rebellion plain and simple. Thus, for instance, it has been held that “the crime of treason may be committed ‘by executing *either a single or similar intentional overt acts*, different or similar but distinct, and *for that reason, it may be considered one single continuous offense.*”⁷

Inasmuch as the acts specified in said article 135 constitute, we repeat, one single crime, it follows necessarily that said acts offer no occasion for the application of Article 48, which requires therefor the commission of, at least, two crimes.

85. The *Hernandez* decision was reiterated in the case of ***People vs. Geronimo, et al.*** (100 Phil. 90) where the Supreme Court, through Justice J.B.L. Reyes, held:

⁷ Citing ***Guinto vs. Veluz*** (77 Phil. 801, 44 O.G. 909) and ***People vs. Pacheco*** (93 Phil. 521).

x x x It follows, therefore, that any or all acts described in article 135, when committed as a means to or in furtherance of the subversive ends described in article 134, become absorbed in the crime of rebellion, and cannot be regarded or penalized as distinct crimes in themselves. In law they are part and parcel of the rebellion itself, and cannot be considered as giving rise to a separate crime x x x.

86. Hence, the accused, as in the case of herein petitioner, cannot be charged with and prosecuted for common crimes separate from the crime of rebellion when the common crimes were allegedly performed as a necessary means to commit rebellion, in connection therewith and in furtherance thereof.
87. Citing *People vs. Labra* (81 Phil. 377; 46 O.G. Supp. No. 1, p. 159), the *Hernandez* ruling, which to date remains a binding doctrine, explained the rationale for the principle of absorption of crimes in rebellion, thus:

x x x The killing of Tomas Abella cannot be considered as legal ground for convicting appellant of any crime other than treason. The essential elements of a given crime cannot be disintegrated in different parts, each one stand as a separate ground to convict the accused of a different crime or criminal offense. The elements constituting a given crime are integral and inseparable parts of a whole. In the contemplation of the law, they cannot be used for double or multiple purposes. They can only be used for the sole purpose of showing the commission of the crime of which they form part. The factual complexity of the crime of treason does not endow it with the functional ability of worm multiplication or amoeba reproduction. Otherwise, the accused will have to face as many prosecutions and convictions as there are elements in the crime of treason, in open violation of the constitutional prohibition against double jeopardy. (*Underscoring is ours*)

88. Clearly, accused (herein petitioner) cannot be prosecuted for rebellion and at the same time face prosecution for common crimes such as murder allegedly committed as a necessary means, in connection with and in furtherance of rebellion, lest his constitutionally protected right against double jeopardy be defiled and put to naught.
89. Moreover, to rule otherwise would, as *Geronimo* (supra) explained, lead to undesirable results: x x x (3) violate the fundamental rule of criminal law that all doubts should be resolved in favor of the accused: "*in dubiis reus est absolvendus*"; "*nullum crimen, nulla poena, sine lege.*"
90. From the foregoing, the rebellion case against petitioner Ocampo which is pending before the Regional Trial Court of Makati City has effectively barred the subsequent filing and prosecution of common crimes allegedly committed as a necessary means, in connection therewith and in furtherance of rebellion. The respondents, therefore, gravely abused their discretion amounting to lack or excess of jurisdiction in proceeding with the filing and prosecution of Criminal Case No. H-1581 despite the applicability in said case of the doctrine of absorption of common crimes with rebellion.

Probable cause to believe that petitioner is responsible for the crime is wholly absent in the light of the available albeit voluminous records of the case, and the incredible and/or inadmissible sworn statements of the five afore-named witnesses.

91. The evidence submitted in support of the complaint are clearly inadmissible and without probative value; the evidence submitted do not warrant a finding of probable cause.
92. It should be stressed that a careful evaluation of the evidence submitted by the prosecution clearly reveals that there is no basis for the charge of multiple murder against petitioner Ocampo and that the evidence submitted by the prosecution in support of the Information are perjured statements and inadmissible as far as the criminal charge is concerned.
93. Petitioner does not seek for the trial court to evaluate the evidence based on proof establishing guilt beyond reasonable doubt. The petitioner simply asks that the factual circumstances and the evidence be sincerely evaluated in the trial court's determination of probable cause.
94. As defined by existing jurisprudence, probable cause signifies a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man's belief that the person accused is guilty of the offense with which he is charged.⁸ The determination of probable cause must be resolved according to the facts of each case.
95. While petitioner Ocampo meticulously evaluated the evidence based on the facts alleged in the Information to show that there is no probable cause to charge the

petitioner for the alleged offense of multiple murder, the trial court never took the pains of pointing to such facts and evidence, it used as basis for its finding of probable cause.

96. Verily, while the public prosecutors may have submitted an almost two-inch thick set of documents supposedly to impress and convince the trial court that there is probable cause against petitioner Ocampo; however, as clearly shown above, the evidence submitted before the Court are hollow and empty – that is, in legal parlance, inadmissible evidence. The trial court therefore committed grave abuse of discretion in finding probable cause based on such types of evidence.

The filing of the instant case against the petitioner smacks of malicious persecution and is seriously tainted with political motives.

97. Petitioner is the founding President of Bayan Muna, a duly accredited party-list organization which topped the 2001 and 2004 party-list elections and continues to rank number one among all other party-list organizations which will participate in the forthcoming May 14, 2007 elections, according to the most recent surveys. Based on their platform of governance, their track record in Congress and their public advocacies, petitioner and Bayan Muna have given articulate voice and genuine representation for the marginalized poor in Philippine society. Petitioner was an erstwhile ally of President Gloria Macapagal-Arroyo, having steadfastly

- supported EDSA II and the impeachment trial against former President Joseph Estrada which catapulted her to the presidency. Before long, petitioner's commitment to the struggle for genuine fundamental reforms and human rights placed him in direct collision with the present dispensation, particularly the national security officials, the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP).
98. As aptly stated by petitioner in his counter-affidavit, the victory of Bayan Muna in the electoral arena has not been received positively by the AFP, the PNP and rabid reactionary hirelings like National Security Adviser Norberto Gonzales who have since 2002 considered petitioner's electoral victory as a "threat to national security." The Macapagal-Arroyo government and its state security forces, over the past five years, have intensified their black propaganda campaign against petitioner, Bayan Muna and its allied organizations which they maliciously tagged as "front organizations" of the Communist Party of the Philippines/New Peoples Army (CPP/NPA). The black propaganda has been accompanied by sustained extra-judicial killings and abductions, victimizing hundreds of Bayan Muna members since 2001.
99. The intention to demolish Bayan Muna as an electoral participant and consistent winner is best demonstrated by the inane but vicious proposal of National Security Adviser Norberto Gonzales for the Commission on Elections (COMELEC) to affix in

- the accreditation of Bayan Muna and its allied political parties in the party-list elections the description “communist front organization.”
100. Clearly, the filing of this case for multiple murder in the Hilongos Regional Trial Court, the rebellion case in the Makati Regional Trial Court, the three separate charges for murder in the Nueva Ecija Provincial Prosecutor’s Office, the two disqualification cases in the Commission on Elections are motivated by ideological hatred, extreme bias, malice and malevolence on the part of the leaders of the Macapagal-Arroyo government, in particular, National Security Adviser Norberto Gonzales and his cohorts in the Inter-Agency Legal Action Group (IALAG). The filing of this case is in pursuit of the policy of the Macapagal-Arroyo government to demolish and eliminate petitioner and Bayan Muna and its allied organizations from the electoral scene. It complements rampage political killings and physical elimination of perceived leftists and suspected supporters of the New People’s Army and the Communist Party of the Philippines. Gonzales heads the IALAG inasmuch as he heads the National Intelligence Board to which IALAG is subordinated and from which it gets instructions. (Attached as **Annexes “KK”** to **“KK-3”** are photocopies of relevant news clippings)

II

The respondents violated the fundamental right to due process of petitioner and committed grave abuse of discretion amounting to lack or excess of jurisdiction in the conduct of the preliminary investigation and in the issuance of the warrant arrest through the following irregular, invalid and unlawful acts:

101. The complaints filed by the PNP/AFP officers did not comply with the mandatory requirements of Rule 112, Section 3 (a) and Rule 110, Section 3 of the Revised Rules of Court. The sworn statements of the relatives of the victims could not have been the complaints for multiple murder contemplated in the above-cited rules particularly because the identities of their relatives have not been established by forensic evidence.

102. Respondent Public Prosecutor Vivero failed to comply with the mandatory requirements of Rule 112, Section 4 of the Rules of Court requiring him to certify under oath that he, or as shown by the record, an authorized officer has personally examined the complainant and his witnesses; that there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof; that the accused was informed of the complaint and of the evidence submitted against him; and that he was given an opportunity to submit controverting evidence. The information likewise suffers from the fatal defect of failure to comply with the requirement that no information may be filed by the investigating prosecutor without the prior written authority or approval of the provincial prosecutor.

103. Respondents public prosecutors deliberately deprived the petitioner of his right to file a motion for reconsideration and/or appeal the erroneous resolution by delaying the service and posting of the copy of the Resolution by registered mail upon

petitioner's counsel until after the filing of the information and the issuance of the warrant of arrest by the respondent judge.

104. Respondents public prosecutors issued the assailed Resolution despite the pendency and the imperative of conducting a clarificatory hearing as requested by petitioner to clarify ambiguities, serious inconsistencies on material points, sweeping statements and clear signs of fabrication and perjury in the sworn statements of the complainants' witnesses.

105. Respondent public prosecutor Vivero, in collusion with Police Chief Inspector Atty. George Almaden, surreptitiously admitted as evidence and inserted into the records the supplemental affidavit of Zacarias Piedad dated January 13, 2007 without giving notice and furnishing a copy to the petitioner or setting a hearing for the reception of the aforesaid supplemental affidavit.

Complaints filed by the PNP and AFP are not valid complaints.

106. Rule 110, Section 3 of the Rules of Court defines a complaint as a "**sworn written statement charging a person with an offense, subscribed by the offended party, any peace officer or other public officer charged with the enforcement of the law violated.**" (*Underscoring is ours*) Rule 112, Section 3 requires, among others that "the affidavits shall be subscribed and sworn to before any prosecutor or government official authorized to administer oath, or, in their absence or unavailability, before a notary public, each of whom must certify that he personally

examined the affiants and that he is satisfied that they voluntarily executed and understood their affidavits.”

107. What purports to be the complaints in this case are twelve substantively identical undated letters to the Provincial Prosecutor Teresita Lopez of Leyte thru “Hon. Rosulo O. Vivero, Prosecutor, Baybay, Leyte” signed by Police Chief Inspector George Almaden representing the PNP and JAGO Captain Allan Tiu representing the Philippine Army.

108. We respectfully submit that these letters do not meet the stringent requirements of a valid sworn and subscribed complaint under Section 3 of Rule 110. Such defect is fatal because it constitutes a gross violation of a basic rule in criminal procedure that infringe upon petitioner’s constitutional right to due process. It is not a mere procedural flaw because a valid complaint is the very basis and foundation for the conduct of a preliminary investigation.

Rule 110, Section 3 of the Revised Rules of Criminal Procedure defines a complaint as ‘a sworn written statement charging a person with an offense subscribed by the offended party, any peace officer or other public officer charged with the enforcement of the law violated.’ Rule 112, Section 3 (a) likewise requires that for purposes of preliminary investigation, the complaint and its accompanying affidavits and supporting documents be ‘sworn to before any fiscal, state prosecutor or government official authorized to administer an oath, or in their presence or unavailability, a notary public, who must certify that he personally examined the affiants and that he is satisfied that they voluntarily executed and understood their affidavits.’ The requirement is mandatory. Judge Monserate’s oversight is deplorable. (*Oparto vs. Monserate*, A.M. No. MTJ-96-1109, April 16, 2001)

109. As earlier stated, we respectfully submit that the affidavits of the alleged victims could not be the complaint contemplated in Section 3 of Rule 110 for the simple reason that no one among them has been able to establish by forensic or any substantial evidence that the bodies of their relatives were among the skeletal remains allegedly found in the mass grave.

Public Prosecutor Vivero's Certification failed to comply with the requirements of Section 4, Rule 112 of the Rules of Court.

110. Section 4 of Rule 112 provides:

If the investigating prosecutor finds cause to hold the respondent for trial, he shall prepare the resolution and information. He shall certify under oath in the information that he, or as shown by the record, an authorized officer, has personally examined the complainant and his witnesses; that there is reasonable ground to believe that a crime has been committed and the accused is probably guilty thereof; that the accused was informed of the complaint and of the evidence submitted against him; and that he was given an opportunity to submit controverting evidence. Otherwise, he shall recommend the dismissal of the complaint.

No complaint or information may be filed or dismissed by an investigating prosecutor without the prior written authority or approval of the provincial or city prosecutor or chief state prosecutor or the ombudsman or his deputy.

111. This rule explicitly requires that if the investigating prosecutor finds probable cause to hold the respondent for trial, he shall:

1. certify under oath in the information that he, or as shown by the record, an authorized officer, has personally examined the complainant and his witnesses;

2. that there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof; and
 3. that the accused was informed of the complaint and the evidence submitted against him and that he was given the opportunity to submit controverting evidence.
112. This rule further requires the respondent investigating prosecutor to secure the prior written authority or approval of the provincial prosecutor to file the information.
113. Contraposed against these mandatory requirements, the certification of respondent Prosecutor Vivero merely states:

“THIS IS TO CERTIFY that a Preliminary Investigation has been conducted on this case; that there is sufficient ground to engender a well founded belief that the offense charged has been committed, and that the accused are probably guilty thereof.”

This certification falls short of the explicit requirements of Section 4 of Rule 112 because: (1) it did not certify under oath that respondent Prosecutor Vivero as investigating prosecutor, by himself or as shown by the record, has personally examined the complainant and his witnesses; (2) neither did the certification certify under oath that the petitioner was informed of the complaint and of the evidence submitted against him and that the petitioner was given the opportunity to submit controverting evidence; and furthermore, (3) the information shows on its face that it was filed without the prior written authority or approval of the Provincial Prosecutor.

114. We respectfully submit that the failure of respondent Prosecutor Vivero to comply with the requirements of Section 4, Rule 112 was not a mere oversight. It was because he could not have made such certification to comply with the rule without rendering himself liable for perjury:

114.1. He has not personally examined the complainants, officers of the PNP and AFP, and their witnesses. He never summoned or required them to appear before him, much less held or set a hearing for preliminary investigation;

114.2. The petitioner was never fully informed of the complaint and of the evidence submitted against him nor given full opportunity to submit controverting evidence; and

114.3. Quite strangely, respondent Prosecutor Vivero's station and assignment is Baybay, Leyte where Branch 14 of the Leyte Regional Trial Court presided by the Hon. Absalon Fulache sits. The Leyte Provincial Prosecutor's Office has a separate branch in Hilongos, Leyte where Branch 18 of the Leyte Regional Trial Court sits and where Criminal Case No. H-1581 was filed. The twelve complaints were addressed to Provincial Prosecutor Teresita Lopez, thru respondent Prosecutor Rosulo Vivero, showing that the latter was explicitly requested by the complainants PNP and AFP officers to conduct the preliminary investigation. The Information was approved by

respondent Prosecutor Cesar Merin who signed as officer-in-charge without indicating the office or the branch of which he was the “officer-in-charge” without stating the basis of his authority to approve the filing of the Information. These facts and circumstances placed in the context of our discussion on the hallmarks of falsification and perjury and the manipulation in the filing of the multiple murder case in the lower court clearly show that there was collusion among the key players and stakeholders who railroaded the filing of the case and the issuance of the warrant of arrest against the petitioner.

Petitioner was denied of his right to file a motion for reconsideration or to appeal assailed Resolution.

115. The assailed Resolution of respondent Prosecutor Vivero is dated February 16, 2007 and approved by respondent Prosecutor Merin on February 21, 2007. The Information was filed on February 28, 2007 and the warrant of arrest was issued on March 6, 2007. Petitioner’s counsel received a copy of the Resolution by registered mail by respondent judge on March 12, 2007. In short, respondent prosecutors delayed the service of the assailed Resolution by nineteen days counted from the date of approval by respondent Merin on February 21, 2007 until actual receipt by petitioner via registered mail.

116. We respectfully submit that the delay in furnishing the petitioner a copy of the assailed resolution was deliberate and intended to deprive petitioner of his legal

remedies to file a motion for reconsideration, a petition for review in the Office of the Secretary of Justice and/or a petition for certiorari and prohibition in the appellate courts. The scheme deprived petitioner of his right to due process.

Witness Zacarias Piedad's supplemental affidavit dated January 12, 2007.

117. Zacarias Piedad is one of the vital witnesses for the prosecution. After petitioner had shown by incontrovertible evidence in his counter-affidavit that petitioner could not have attended a meeting of the CPP Central Committee members and leaders in Inopacan, Leyte in 1984, as alleged in Piedad's original affidavit, Piedad executed a Supplemental Affidavit dated January 12, 2007. This Supplemental Affidavit was admitted in evidence and inserted into the records of the case by respondent Prosecutor Vivero, in collusion with complainant Police Chief Inspector George Almaden. Almaden is the signatory to the twelve complaint letters in behalf of the PNP together with JAGO Captain Allan Tiu of the AFP. The admission in evidence and insertion into the records of the supplemental affidavit of Piedad were done surreptitiously, without notice to the petitioner and without giving petitioner a copy of the Supplemental Affidavit. No hearing was set by respondent Prosecutor Vivero for the reception of the Supplemental Affidavit despite the pending request by the petitioner for a clarificatory hearing (***Annex "E"***) to clarify the ambiguities, serious inconsistencies on material points, sweeping statements and clear hallmarks of fabrication and perjury in the sworn statements of the prosecution witnesses.

**ALLEGATIONS IN SUPPORT OF THE PRAYER FOR
ISSUANCE OF TEMPORARY RESTRAINING ORDER
AND WRIT OF PRELIMINARY INJUNCTION**

118. Petitioner repleads the foregoing allegations in support of his prayer for the issuance of a temporary restraining order and a writ of preliminary injunction – to enjoin the Regional Trial Court, Branch 18, Hilongos, Leyte from proceeding with the case while the instant petition is pending.
119. Petitioner has clear and unmistakable right to due process. This is guaranteed by the *Constitution*.
120. To deny the petitioner the injunctive writ would be to cause him graver and irreparable injury. For due process is timeless. It is a precious fundamental right that secures and protects, under a rule of law, the life and liberty of a person from the oppression of power. Clearly, it is priceless. A cherished fixture in the bill of rights, its encompassing guarantee will not be diminished by abusive even careless discretion.

PRAYER

WHEREFORE, petitioner Saturnino Ocampo respectfully prays of this Honorable Court that judgment be rendered granting the instant petition by annulling and setting aside the order of the respondent judge dated March 6, 2007 finding probable cause and ordering the issuance of a warrant of arrest against the petitioner and commanding the respondents to desist permanently from further proceeding in the case of *People of the Philippines vs. Jose Maria Sison, et al.*, Criminal Case No. H-1581 of the Regional Trial Court, Branch 18, Hilongos, Leyte.

And by way of immediate incidental relief, petitioner prays for an order from the Honorable Supreme Court to release petitioner Saturnino Ocampo unconditionally from the custody of the Philippine National Police or to the protective custody of the Speaker of the House Representatives or any religious or humanitarian institution.

In the meantime, petitioner prays for a temporary restraining/writ of preliminary injunction to restrain respondents from conducting further proceedings while the instant petition is pending.

Petitioner prays for other reliefs and remedies which may be just and equitable under the premises.

Makati City for the City of Manila. March 15, 2007.

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HON. JUDGE EPHREM S. ABANDO

Regional Trial Court, Branch 18
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