Republic of the Philippines
Supreme Court
Baguio

SECOND DIVISION

IN THE MATTER OF THE PETITION FOR HABEAS CORPUS OF DATUKAN MALANG SALIBO,	**G.R. No. 197597**
	Present:
	CARPIO, *J., Chairperson,*
DATUKAN MALANG SALIBO,	BRION,
Petitioner,	DEL CASTILLO,
	MENDOZA, and
	LEONEN, *JJ.*
-versus-	
WARDEN, QUEZON CITY JAIL ANNEX, BJMP BUILDING, CAMP BAGONG DIWA, TAGUIG CITY and all other persons acting on his behalf and/or having custody of DATUKAN MALANG SALIBO,	**Promulgated:**
Respondents.	08 APR 2015

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DECISION

LEONEN, *J.*:

Habeas corpus is the proper remedy for a person deprived of liberty due to mistaken identity. In such cases, the person is not under any lawful process and is continuously being illegally detained.

This is a Petition for Review[1] on Certiorari of the Court of Appeals Decision[2] reversing the Decision[3] of the Regional Trial Court, Branch 153,

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1 *Rollo*, pp. 3-60.

Pasig City (Taguig Hall of Justice) granting Datukan Malang Salibo's Petition for Habeas Corpus.

From November 7, 2009 to December 19, 2009, Datukan Malang Salibo (Salibo) and other Filipinos were allegedly in Saudi Arabia for the Hajj Pilgrimage.[4] "While in Saudi Arabia, . . . Salibo visited and prayed in the cities of Medina, Mecca, Arpa, Mina and Jeddah."[5] He returned to the Philippines on December 20, 2009.[6]

On August 3, 2010, Salibo learned that police officers of Datu Hofer Police Station in Maguindanao suspected him to be Butukan S. Malang.[7]

Butukan S. Malang was one of the 197 accused of 57 counts of murder for allegedly participating in the November 23, 2009 Maguindanao Massacre. He had a pending warrant of arrest issued by the trial court in *People of the Philippines v. Datu Andal Ampatuan, Jr., et al.*[8]

Salibo presented himself before the police officers of Datu Hofer Police Station to clear his name. There, he explained that he was not Butukan S. Malang and that he could not have participated in the November 23, 2009 Maguindanao Massacre because he was in Saudi Arabia at that time.[9]

To support his allegations, Salibo presented to the police "pertinent portions of his passport, boarding passes and other documents"[10] tending to prove that a certain Datukan Malang Salibo was in Saudi Arabia from November 7 to December 19, 2009.[11]

The police officers initially assured Salibo that they would not arrest him because he was not Butukan S. Malang.[12]

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2 Id. at 65–82. The Decision was penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Rosmari D. Carandang (Chair) and Samuel H. Gaerlan of the Ninth Division.

3 Id. at 129–138. The Decision was penned by Judge Briccio C. Ygaña of Branch 153 of the Regional Trial Court, Pasig City.

4 Id. at 183.

5 Id. at 184.

6 Id.

7 Id.

8 Crim. Case Nos. Q-09-16214872, Q-09-162216-31, and Q-10-162662-66. The cases are currently pending in the sala of Judge Jocelyn Solis-Reyes. *See Re: Petition for Radio and Television Coverage of the Multiple Murder Cases against Mindanao Governor Ampatuan, et al.*, 667 Phil. 128, 131 (2011) [Per J. Carpio-Morales, En Banc].

9 *Rollo*, pp. 184–185.

10 Id. at 185.

11 Id.

12 Id.

Afterwards, however, the police officers apprehended Salibo and tore off page two of his passport that evidenced his departure for Saudi Arabia on November 7, 2009. They then detained Salibo at the Datu Hofer Police Station for about three (3) days.[13]

The police officers transferred Salibo to the Criminal Investigation and Detection Group in Cotabato City, where he was detained for another 10 days. While in Cotabato City, the Criminal Investigation and Detention Group allegedly made him sign and affix his thumbprint on documents.[14]

On August 20, 2010, Salibo was finally transferred to the Quezon City Jail Annex, Bureau of Jail Management and Penology Building, Camp Bagong Diwa, Taguig City, where he is currently detained.[15]

On September 17, 2010, Salibo filed before the Court of Appeals the Urgent Petition for Habeas Corpus[16] questioning the legality of his detention and deprivation of his liberty.[17] He maintained that he is not the accused Butukan S. Malang.[18]

In the Resolution[19] dated September 21, 2010, the Court of Appeals issued a Writ of Habeas Corpus, making the Writ returnable to the Second Vice Executive Judge of the Regional Trial Court, Pasig City (Taguig Hall of Justice).[20] The Court of Appeals ordered the Warden of the Quezon City Jail Annex to file a Return of the Writ one day before the scheduled hearing and produce the person of Salibo at the 10:00 a.m. hearing set on September 27, 2010.[21]

Proceedings before the trial court

On September 27, 2010, the jail guards of the Quezon City Jail Annex brought Salibo before the trial court. The Warden, however, failed to file a Return one day before the hearing. He also appeared without counsel during the hearing.[22]

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13 Id.
14 Id.
15 Id. at 185–186.
16 Id. at 182–197.
17 Id. at 190.
18 Id.
19 Id. at 199–201.
20 Id. at 200.
21 Id.
22 Id. at 132.

Thus, the trial court canceled the hearing and reset it to September 29, 2010 at 2:00 p.m.[23]

On September 28, 2010, the Warden filed the Return of the Writ. However, during the September 29, 2010 hearing on the Return, the Warden appeared with Atty. Romeo L. Villante, Jr., Legal Officer/Administering Officer of the Bureau of Jail Management and Penology.[24]

Salibo questioned the appearance of Atty. Romeo L. Villante, Jr. on behalf of the Warden and argued that only the Office of the Solicitor General has the authority to appear on behalf of a respondent in a habeas corpus proceeding.[25]

The September 29, 2010 hearing, therefore, was canceled. The trial court reset the hearing on the Return to October 1, 2010 at 9:00 a.m.[26]

The Return was finally heard on October 1, 2010. Assistant Solicitors Noel Salo and Isar Pepito appeared on behalf of the Warden of the Quezon City Jail Annex and argued that Salibo's Petition for Habeas Corpus should be dismissed. Since Salibo was charged under a valid Information and Warrant of Arrest, a petition for habeas corpus was "no longer availing."[27]

Salibo countered that the Information, Amended Information, Warrant of Arrest, and Alias Warrant of Arrest referred to by the Warden all point to Butukan S. Malang, not Datukan Malang Salibo, as accused. Reiterating that he was not Butukan S. Malang and that he was in Saudi Arabia on the day of the Maguindanao Massacre, Salibo pleaded the trial court to order his release from detention.[28]

The trial court found that Salibo was not "judicially charged"[29] under any resolution, information, or amended information. The Resolution, Information, and Amended Information presented in court did not charge Datukan Malang Salibo as an accused. He was also not validly arrested as there was no Warrant of Arrest or Alias Warrant of Arrest against Datukan Malang Salibo. Salibo, the trial court ruled, was not restrained of his liberty under process issued by a court.[30]

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23 Id.
24 Id.
25 Id. at 132–133.
26 Id. at 133.
27 Id.
28 Id. at 133–135.
29 Id. at 137.
30 Id. at 137–138.

The trial court was likewise convinced that Salibo was not the Butukan S. Malang charged with murder in connection with the Maguindanao Massacre. The National Bureau of Investigation Clearance dated August 27, 2009 showed that Salibo has not been charged of any crime as of the date of the certificate.[31] A Philippine passport bearing Salibo's picture showed the name "Datukan Malang Salibo."[32]

Moreover, the trial court said that Salibo "established that [he] was out of the country"[33] from November 7, 2009 to December 19, 2009. This fact was supported by a Certification[34] from Saudi Arabian Airlines confirming Salibo's departure from and arrival in Manila on board its flights.[35] A Flight Manifest issued by the Bureau of Immigration and Saudi Arabian Airlines Ticket No. 0652113 also showed this fact.[36]

Thus, in the Decision dated October 29, 2010, the trial court granted Salibo's Petition for Habeas Corpus and ordered his immediate release from detention.

Proceedings before the Court of Appeals

On appeal[37] by the Warden, however, the Court of Appeals reversed and set aside the trial court's Decision.[38] Through its Decision dated April 19, 2011, the Court of Appeals dismissed Salibo's Petition for Habeas Corpus.

Contrary to the trial court's finding, the Court of Appeals found that Salibo's arrest and subsequent detention were made under a valid Information and Warrant of Arrest.[39] Even assuming that Salibo was not the Butukan S. Malang named in the Alias Warrant of Arrest, the Court of Appeals said that "[t]he orderly course of trial must be pursued and the usual remedies exhausted before the writ [of habeas corpus] may be invoked[.]"[40] According to the Court of Appeals, Salibo's proper remedy was a Motion to Quash Information and/or Warrant of Arrest.[41]

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31 Id. at 136–137 and 175.
32 Id. at 136 and 164.
33 Id. at 135.
34 Id. at 140.
35 Id. at 136.
36 Id. at 131 and 136.
37 Id. at 204–206.
38 Id. at 81.
39 Id. at 76–77.
40 Id. at 79.
41 Id. at 77.

Salibo filed a Motion for Reconsideration,[42] which the Court of Appeals denied in the Resolution[43] dated July 6, 2011.

Proceedings before this court

On July 28, 2011,[44] petitioner Salibo filed before this court the Petition for Review (With Urgent Application for a Writ of Preliminary Mandatory Injunction). Respondent Warden filed a Comment,[45] after which petitioner Salibo filed a Reply.[46]

Petitioner Salibo maintains that he is not the Butukan S. Malang charged with 57 counts of murder before the Regional Trial Court, Branch 221, Quezon City. Thus, contrary to the Court of Appeals' finding, he, Datukan Malang Salibo, was not duly charged in court. He is being illegally deprived of his liberty and, therefore, his proper remedy is a Petition for Habeas Corpus.[47]

Petitioner Salibo adds that respondent Warden erred in appealing the Decision of the Regional Trial Court, Branch 153, Pasig City before the Court of Appeals. Although the Court of Appeals delegated to the trial court the authority to hear respondent Warden on the Return, the trial court's Decision should be deemed a Decision of the Court of Appeals. Therefore, respondent Warden should have directly filed his appeal before this court.[48]

As for respondent Warden, he maintains that petitioner Salibo was duly charged in court. Even assuming that he is not the Butukan S. Malang named in the Alias Warrant of Arrest, petitioner Salibo should have pursued the ordinary remedy of a Motion to Quash Information, not a Petition for Habeas Corpus.[49]

The issues for our resolution are:

First, whether the Decision of the Regional Trial Court, Branch 153, Pasig City on petitioner Salibo's Petition for Habeas Corpus was appealable to the Court of Appeals; and

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42 Id. at 87–124.
43 Id. at 84–86. The Resolution was penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Rosmari D. Carandang (Chair) and Samuel H. Gaerlan of the Ninth Division.
44 Id. at 3.
45 Id. at 277–298.
46 Id. at 327–346.
47 Id. at 16–42.
48 Id. at 42–50.
49 Id. at 291–292.

Second, whether petitioner Salibo's proper remedy is to file a Petition for Habeas Corpus.

We grant the Petition.

I

Contrary to petitioner Salibo's claim, respondent Warden correctly appealed before the Court of Appeals.

An application for a writ of habeas corpus may be made through a petition filed before this court or any of its members,[50] the Court of Appeals or any of its members in instances authorized by law,[51] or the Regional Trial Court or any of its presiding judges.[52] The court or judge grants the writ and requires the officer or person having custody of the person allegedly restrained of liberty to file a return of the writ.[53] A hearing on the return of the writ is then conducted.[54]

The return of the writ may be heard by a court apart from that which issued the writ.[55] Should the court issuing the writ designate a lower court to which the writ is made returnable, the lower court shall proceed to decide the petition of habeas corpus. By virtue of the designation, the lower court "acquire[s] the power and authority to determine the merits of the [petition for habeas corpus.]"[56] Therefore, the decision on the petition is a decision appealable to the court that has appellate jurisdiction over decisions of the lower court.[57]

In *Saulo v. Brig. Gen. Cruz, etc*,[58] "a petition for habeas corpus was filed before this Court . . . [o]n behalf of . . . Alfredo B. Saulo [(Saulo)]."[59] This court issued a Writ of Habeas Corpus and ordered respondent Commanding General of the Philippine Constabulary to file a Return of the Writ. This court made the Writ returnable to the Court of First Instance of Manila.[60]

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50 CONST., art. VIII, sec. 5(1); RULES OF COURT, Rule 102, sec. 2.
51 Batas Blg. 129 (1981), sec. 9(1); RULES OF COURT, Rule 102, sec. 2.
52 Batas Blg. 129 (1981), sec. 21(1);RULES OF COURT, Rule 102, sec. 2.
53 RULES OF COURT, Rule 102, sec. 6.
54 RULES OF COURT, Rule 102, sec. 12.
55 RULES OF COURT, rule 102, sec. 6; *See Medina v. Gen. Yan*, 158 Phil. 286, 296 (1974) [Per J. Fernandez, En Banc]; *See also Saulo v. Brig. Gen. Cruz, etc.*, 109 Phil. 378, 382 (1960) [Per J. J. B. L. Reyes, En Banc].
56 *Medina v. Gen. Yan*, 158 Phil. 286, 298 (1974) [Per J. Fernandez, En Banc].
57 *See Medina v. Gen. Yan*, 158 Phil. 286, 298–299 (1974) [Per J. Fernandez, En Banc]. *See also Saulo v. Brig. Gen. Cruz, etc.*, 109 Phil. 378, 382 (1960) [Per J. J.B.L. Reyes, En Banc].
58 109 Phil. 378 (1960) [Per J. J.B.L. Reyes, En Banc].
59 Id. at 379.
60 Id.

After hearing the Commanding General on the Return, the Court of First Instance denied Saulo's Petition for Habeas Corpus.[61]

Saulo appealed before this court, arguing that the Court of First Instance heard the Petition for Habeas Corpus "not by virtue of its original jurisdiction but merely delegation[.]"[62] Consequently, "this Court should have the final say regarding the issues raised in the petition, and only [this court's decision] . . . should be regarded as operative."[63]

This court rejected Saulo's argument and stated that his "logic is more apparent than real."[64] It ruled that when a superior court issues a writ of habeas corpus, the superior court only resolves whether the respondent should be ordered to show cause why the petitioner or the person in whose behalf the petition was filed was being detained or deprived of his or her liberty.[65] However, once the superior court makes the writ returnable to a lower court as allowed by the Rules of Court, the lower court designated "does not thereby become merely a recommendatory body, whose findings and conclusion[s] are devoid of effect[.]"[66] The decision on the petition for habeas corpus is a decision of the lower court, not of the superior court.

In *Medina v. Gen. Yan*,[67] Fortunato Medina (Medina) filed before this court a Petition for Habeas Corpus. This court issued a Writ of Habeas Corpus, making it returnable to the Court of First Instance of Rizal, Quezon City. After trial on the merits, the Court of First Instance granted Medina's Petition for Habeas Corpus and ordered that Medina be released from detention.[68]

The Office of the Solicitor General filed a Notice of Appeal before the Court of Appeals.[69]

Atty. Amelito Mutuc, counsel for Medina, filed before the Court of Appeals a "Motion for Certification of Appeal to the Supreme Court." The Court of Appeals, however, denied the Motion.[70]

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61 Id. at 380–381.
62 Id. at 382.
63 Id.
64 Id.
65 Id.
66 Id.
67 158 Phil. 286 (1974) [Per J. Fernandez, En Banc].
68 Id. at 290.
69 Id.
70 Id.

This court ruled that the Court of Appeals correctly denied the "Motion for Certification of Appeal to the Supreme Court," citing *Saulo* as legal basis.[71] The Court of First Instance of Rizal, in deciding Medina's Petition for Habeas Corpus, "acquired the power and authority to determine the merits of the case[.]"[72] Consequently, the decision of the Court of First Instance of Rizal on Medina's Petition for Habeas Corpus was appealable to the Court of Appeals.[73]

In this case, petitioner Salibo filed his Petition for Habeas Corpus before the Court of Appeals. The Court of Appeals issued a Writ of Habeas Corpus, making it returnable to the Regional Trial Court, Branch 153, Pasig City. The trial court then heard respondent Warden on his Return and decided the Petition on the merits.

Applying *Saulo* and *Medina*, we rule that the trial court "acquired the power and authority to determine the merits"[74] of petitioner Salibo's Petition. The decision on the Petition for Habeas Corpus, therefore, was the decision of the trial court, not of the Court of Appeals. Since the Court of Appeals is the court with appellate jurisdiction over decisions of trial courts,[75] respondent Warden correctly filed the appeal before the Court of Appeals.

II

Called the "great writ of liberty[,]"[76] the writ of habeas corpus "was devised and exists as a speedy and effectual remedy to relieve persons from unlawful restraint, and as the best and only sufficient defense of personal freedom."[77] The remedy of habeas corpus is extraordinary[78] and summary[79] in nature, consistent with the law's "zealous regard for personal liberty."[80]

Under Rule 102, Section 1 of the Rules of Court, the writ of habeas corpus "shall extend to all cases of illegal confinement or detention by which any person is deprived of his liberty, or by which the rightful custody

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71 Id. at 294–297.
72 Id. at 298.
73 Id. at 298299.
74 *Medina v. Gen. Yan*, 158 Phil. 286, 298 (1974) [Per J. Fernandez, En Banc].
75 Batas Blg. 129 (1981), sec. 9(3).
76 *Morales, Jr. v. Enrile*, 206 Phil. 466, 495 (1983) [Per J. Concepcion, Jr., En Banc].
77 *Villavicencio v. Lukban*, 39 Phil. 778, 788 (1919) [Per J. Malcolm, En Banc].
78 *De Villa v. Director, New Bililbid Prisons*, 485 Phil. 368, 381 (2004) [Per J. Ynares-Santiago, En Banc]; *Calvan v. Court of Appeals*, 396 Phil. 133, 144 (2000) [Per J. Vitug, Third Division].
79 *Mangila v. Pangilinan*, G.R. No. 160739, July 17, 2013, 701 SCRA 355, 360 [Per J. Bersamin, First Division], *citing Caballes v. Court of Appeals*, 492 Phil. 410, 422 (2005) [Per J. Callejo, Sr., Second Division]; *Saulo v. Brig. Gen. Cruz, etc.*, 105 Phil. 315, 320–321 (1959) [Per J. Concepcion, En Banc], *citing* 25 Am. Jur., p. 245.
80 *Villavicencio v. Lukban*, 39 Phil. 778, 789 (1919) [Per J. Malcolm, En Banc].

of any person is withheld from the person entitled thereto."[81] The primary purpose of the writ "is to inquire into all manner of involuntary restraint as distinguished from voluntary, and to relieve a person therefrom if such restraint is illegal."[82] "Any restraint which will preclude freedom of action is sufficient."[83]

The nature of the restraint of liberty need not be related to any offense so as to entitle a person to the efficient remedy of habeas corpus. It may be availed of as a post-conviction remedy[84] or when there is an alleged violation of the liberty of abode.[85] In other words, habeas corpus effectively substantiates the implied autonomy of citizens constitutionally protected in the right to liberty in Article III, Section 1 of the Constitution.[86] Habeas corpus being a remedy for a constitutional right, courts must apply a conscientious and deliberate level of scrutiny so that the substantive right to liberty will not be further curtailed in the labyrinth of other processes.[87]

In *Gumabon, et al. v. Director of the Bureau of Prisons*,[88] Mario Gumabon (Gumabon), Blas Bagolbagol (Bagolbagol), Gaudencio Agapito (Agapito), Epifanio Padua (Padua), and Paterno Palmares (Palmares) were convicted of the complex crime of rebellion with murder. They commenced serving their respective sentences of *reclusion perpetua*.[89]

While Gumabon, Bagolbagol, Agapito, Padua, and Palmares were serving their sentences, this court promulgated *People v. Hernandez*[90] in 1956, ruling that the complex crime of rebellion with murder does not exist.[91]

Based on the *Hernandez* ruling, Gumabon, Bagolbagol, Agapito, Padua, and Palmares filed a Petition for Habeas Corpus. They prayed for their release from incarceration and argued that the *Hernandez* doctrine must retroactively apply to them.[92]

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81 RULES OF COURT, Rule 102, sec. 1.

82 *Villavicencio v. Lukban*, 39 Phil. 778, 790 (1919) [Per J. Malcolm, En Banc].

83 Id.

84 *See Gumabon, et al. v. Director of the Bureau of Prisons*, 147 Phil. 362 (1971) [Per J. Fernando, En Banc], *Conde v. Rivera and Unson*, 45 Phil. 650 (1924) [Per J. Malcolm, En Banc], and *Ganaway v. Quillen*, 42 Phil. 805 (1922) [Per J. Malcolm, En Banc].

85 *Villavicencio v. Lukban*, 39 Phil. 778 (1919) [Per J. Malcolm, En Banc]; *Rubi v. Provincial Board of Mindoro*, 39 Phil. 660 (1919) [Per J. Malcolm, En Banc].

86 CONST., art. III, sec. 1 provides:
Section 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

87 *See Gumabon, et al. v. Director of the Bureau of Prisons*, 147 Phil. 362 (1971) [Per J. Fernando, En Banc].

88 147 Phil. 362 (1971) [Per J. Fernando, En Banc].

89 Id. at 364.

90 99 Phil. 515 (1956) [Per J. Concepcion, En Banc].

91 *Gumabon, et al. v. Director of the Bureau of Prisons*, 147 Phil. 362, 364 (1971) [Per J. Fernando, En Banc].

92 Id. at 364–365.

This court ruled that Gumabon, Bagolbagol, Agapito, Padua, and Palmares properly availed of a petition for habeas corpus.[93] Citing *Harris v. Nelson*,[94] this court said:

> [T]he writ of habeas corpus is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action. . . . The scope and flexibility of the writ — its capacity to reach all manner of illegal detention — its ability to cut through barriers of form and procedural mazes — have always been emphasized and jealously guarded by courts and lawmakers. The very nature of the writ demands that it be administered with the initiative and flexibility essential to insure that miscarriages of justice within its reach are surfaced and corrected.[95]

In *Rubi v. Provincial Board of Mindoro*,[96] the Provincial Board of Mindoro issued Resolution No. 25, Series of 1917. The Resolution ordered the Mangyans removed from their native habitat and compelled them to permanently settle in an 800-hectare reservation in Tigbao. Under the Resolution, Mangyans who refused to establish themselves in the Tigbao reservation were imprisoned.[97]

An application for habeas corpus was filed before this court on behalf of Rubi and all the other Mangyans being held in the reservation.[98] Since the application questioned the legality of deprivation of liberty of Rubi and the other Mangyans, this court issued a Writ of Habeas Corpus and ordered the Provincial Board of Mindoro to make a Return of the Writ.[99]

A Writ of Habeas Corpus was likewise issued in *Villavicencio v. Lukban*.[100] "[T]o exterminate vice,"[101] Mayor Justo Lukban of Manila ordered the brothels in Manila closed. The female sex workers previously employed by these brothels were rounded up and placed in ships bound for Davao. The women were expelled from Manila and deported to Davao without their consent.[102]

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93 Id. at 372.
94 22 L Ed 2d 281 (1969).
95 *Gumabon, et al. v. Director of the Bureau of Prisons*, 147 Phil. 362, 367–368 (1971) [Per J. Fernando, En Banc].
96 39 Phil. 660 (1919) [Per J. Malcolm, En Banc].
97 Id. at 667–668.
98 Id. at 666.
99 Id. at 720. This court, however, denied the Petition for Habeas Corpus. It ruled that Resolution No. 25 validly displaced the Mangyans from their native habitat in order to "begin the process of civilization" (Id. at 712).
100 39 Phil. 778, 782 (1919) [Per J. Malcolm, En Banc].
101 Id. at 780.
102 Id. at 780–781.

On application by relatives and friends of some of the deported women, this court issued a Writ of Habeas Corpus and ordered Mayor Justo Lukban, among others, to make a Return of the Writ. Mayor Justo Lukban, however, failed to make a Return, arguing that he did not have custody of the women.[103]

This court cited Mayor Justo Lukban in contempt of court for failure to make a Return of the Writ.[104] As to the legality of his acts, this court ruled that Mayor Justo Lukban illegally deprived the women he had deported to Davao of their liberty, specifically, of their privilege of domicile.[105] It said that the women, "despite their being in a sense lepers of society[,] are nevertheless not chattels but Philippine citizens protected by the same constitutional guaranties as are other citizens[.]"[106] The women had the right "to change their domicile from Manila to another locality."[107]

The writ of habeas corpus is different from the final decision on the petition for the issuance of the writ. It is the writ that commands the production of the body of the person allegedly restrained of his or her liberty. On the other hand, it is in the final decision where a court determines the legality of the restraint.

Between the issuance of the writ and the final decision on the petition for its issuance, it is the issuance of the writ that is essential. The issuance of the writ sets in motion the speedy judicial inquiry on the legality of any deprivation of liberty. Courts shall liberally issue writs of habeas corpus even if the petition for its issuance "on [its] face [is] devoid of merit[.]"[108] Although the privilege of the writ of habeas corpus may be suspended in cases of invasion, rebellion, or when the public safety requires it,[109] the writ itself may not be suspended.[110]

III

It is true that a writ of habeas corpus may no longer be issued if the person allegedly deprived of liberty is restrained under a lawful process or order of the court.[111] The restraint then has become legal,[112] and the remedy

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103 Id. at 782.
104 Id. at 799.
105 Id. at 785–786.
106 Id. at 786.
107 Id.
108 *Gumabon, et al. v. Director of the Bureau of Prisons*, 147 Phil. 362, 367 (1971) [Per J. Fernando, En Banc], *citing Ganaway v. Quillen*, 42 Phil. 805 (1922) [Per J. Malcolm, En Banc].
109 CONST., art. III, sec. 15 provides:
Section 15. The privilege of the writ of habeas corpus shall not be suspended except in cases of invasion or rebellion when the public safety requires it.
110 *Morales, Jr. v. Minister Enrile, et al.*, 206 Phil. 466, 495 (1983) [Per J. Concepcion, Jr., En Banc].
111 *See In Re: Petition for Habeas Corpus of Villar v. Director Bugarin*, 224 Phil. 161, 170 (1985) [Per C.J. Makasiar, En Banc], *Celeste v. People*, 142 Phil. 308, 312 (1970) [Per J. Fernando, En Banc],

of habeas corpus is rendered moot and academic.[113] Rule 102, Section 4 of the Rules of Court provides:

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

In *Ilagan v. Hon. Ponce Enrile*,[114] elements of the Philippine Constabulary-Integrated National Police arrested Atty. Laurente C. Ilagan (Atty. Ilagan) by virtue of a Mission Order allegedly issued by then Minister of National Defense, Juan Ponce Enrile (Minister Enrile). On the day of Atty. Ilagan's arrest, 15 from the Integrated Bar of the Philippines Davao Chapter visited Atty. Ilagan in Camp Catitipan, where he was detained.[115]

Among Atty. Ilagan's visitors was Atty. Antonio Arellano (Atty. Arellano). Atty. Arellano, however, no longer left Camp Catitipan as the military detained and arrested him based on an unsigned Mission Order.[116]

Three (3) days after the arrest of Attys. Ilagan and Arellano, the military informed the Integrated Bar of the Philippines Davao Chapter of the impending arrest of Atty. Marcos Risonar (Atty. Risonar). To verify his arrest papers, Atty. Risonar went to Camp Catitipan. Like Atty. Arellano, the military did not allow Atty. Risonar to leave. He was arrested based on a Mission Order signed by General Echavarria, Regional Unified Commander.[117]

Santiago v. Director of Prisons, 77 Phil. 927, 930–931 (1947) [Per J. Tuason, En Banc], *Quintos v. Director of Prisons*, 55 Phil. 304, 306 (1930) [Per J. Malcolm, En Banc], and *Carrington v. Peterson*, 4 Phil. 134, 138 (1905) [Per J. Johnson, En Banc].

112 *In the Matter of the Petition for Habeas Corpus of Harvey v. Hon. Santiago*, 245 Phil. 809, 816 (1988) [Per J. Melencio-Herrera, Second Division], *citing Cruz v. Gen. Montoya*, 159 Phil. 601, 604–605 (1975) [Per J. Fernando, Second Division].

113 *Integrated Bar of the Philippines v. Hon. Ponce Enrile*, 223 Phil. 561, 580 (1985) [Per J. Melencio-Herrera, En Banc]; *In the Matter of the Petition for Habeas Corpus of Harvey v. Hon. Santiago*, 245 Phil. 809, 816 (1988) [Per J. Melencio-Herrera, Second Division], *citing Beltran v. P.C. Capt. Garcia*, 178 Phil. 590, 594 (1979) [Per Acting C.J. Fernando, En Banc].

114 *Integrated Bar of the Philippines v. Hon. Ponce Enrile*, 223 Phil. 561 (1985) [Per J. Melencio-Herrera, En Banc].

115 Id. at 573.

116 Id.

117 Id.

The Integrated Bar of the Philippines, the Free Legal Assistance Group, and the Movement of Attorneys for Brotherhood, Integrity and Nationalism filed before this court a Petition for Habeas Corpus in behalf of Attys. Ilagan, Arellano, and Risonar.[118]

This court issued a Writ of Habeas Corpus and required Minister Enrile, Armed Forces of the Philippines Acting Chief of Staff Lieutenant General Fidel V. Ramos (General Ramos), and Philippine Constabulary-Integrated National Police Regional Commander Brigadier General Dionisio Tan-Gatue (General Tan-Gatue) to make a Return of the Writ.[119] This court set the hearing on the Return on May 23, 1985.[120]

In their Return, Minister Enrile, General Ramos, and General Tan-Gatue contended that the privilege of the Writ of Habeas Corpus was suspended as to Attys. Ilagan, Arellano, and Risonar by virtue of Proclamation No. 2045-A.[121] The lawyers, according to respondents, allegedly "played active roles in organizing mass actions of the Communist Party of the Philippines and the National Democratic Front."[122]

After hearing respondents on their Return, this court ordered the temporary release of Attys. Ilagan, Arellano, and Risonar on the recognizance of their counsels, retired Chief Justice Roberto Concepcion and retired Associate Justice Jose B.L. Reyes.[123]

Instead of releasing Attys. Ilagan, Arellano, and Risonar, however, Minister Enrile, General Ramos, and General Tan-Gatue filed a Motion for Reconsideration.[124] They filed an Urgent Manifestation/Motion stating that Informations for rebellion were filed against Attys. Ilagan, Arellano, and Risonar. They prayed that this court dismiss the Petition for Habeas Corpus for being moot and academic.[125]

The Integrated Bar of the Philippines, the Free Legal Assistance Group, and the Movement of Attorneys for Brotherhood, Integrity and Nationalism opposed the motion. According to them, no preliminary investigation was conducted before the filing of the Information. Attys. Ilagan, Arellano, and Risonar were deprived of their right to due process. Consequently, the Information was void.[126]

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118 Id. at 572.
119 Id. at 561 and 573.
120 Id. at 573.
121 Id.
122 Id.
123 Id. at 574.
124 Id.
125 Id. at 575.
126 Id.

This court dismissed the Petition for Habeas Corpus, ruling that it became moot and academic with the filing of the Information against Attys. Ilagan, Arellano, and Risonar in court:[127]

> As contended by respondents, the petition herein has been rendered moot and academic by virtue of the filing of an Information against them for Rebellion, a capital offense, before the Regional Trial Court of Davao City and the issuance of a Warrant of Arrest against them. The function of the special proceeding of *habeas corpus* is to inquire into the legality of one's detention. Now that the detained attorneys' incarceration is by virtue of a judicial order in relation to criminal cases subsequently filed against them before the Regional Trial Court of Davao City, the remedy of *habeas corpus* no longer lies. The Writ had served its purpose.[128] (Citations omitted)

This court likewise dismissed the Petitions for habeas corpus in *Umil v. Ramos*.[129] Roberto Umil, Rolando Dural, Renato Villanueva, Amelia Roque, Wilfredo Buenaobra, Atty. Domingo Anonuevo, Ramon Casiple, Vicky A. Ocaya, Deogracias Espiritu, and Narciso B. Nazareno were all arrested without a warrant for their alleged membership in the Communist Party of the Philippines/New People's Army.[130]

During the pendency of the habeas corpus proceedings, however, Informations against them were filed before this court. The filing of the Informations, according to this court, rendered the Petitions for habeas corpus moot and academic, thus:[131]

> It is to be noted that, in all the petitions here considered, criminal charges have been filed in the proper courts against the petitioners. The rule is, that if a person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or judge, and that the court or judge had jurisdiction to issue the process or make the order, or *if such person is charged before any court*, the writ of habeas corpus will not be allowed.[132] (Emphasis in the original)

In such cases, instead of availing themselves of the extraordinary remedy of a petition for habeas corpus, persons restrained under a lawful process or order of the court must pursue the orderly course of trial and exhaust the usual remedies.[133] This ordinary remedy is to file a motion to quash the information or the warrant of arrest.[134]

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127 Id. at 576.
128 Id.
129 G.R. No. 81567, July 9, 1990, 187 SCRA 311 [Per Curiam, En Banc].
130 Id. at 317–331.
131 Id. at 332.
132 Id.
133 *Caballes v. Court of Appeals*, 492 Phil. 410, 422 (2005) [Per J. Callejo, Sr., Second Division].
134 *Integrated Bar of the Philippines v. Hon. Ponce Enrile*, 223 Phil. 561, 577 (1985) [Per J. Melencio-Herrera, En Banc]; *Bernarte v. Court of Appeals*, 331 Phil. 643, 657 (1996) [Per J. Romero, Second Division].

At any time before a plea is entered,[135] the accused may file a motion to quash complaint or information based on any of the grounds enumerated in Rule 117, Section 3 of the Rules of Court:

> SEC. 3. *Grounds*.—The accused may move to quash the complaint or information on any of the following grounds:
>
> (a) That the facts charged do not constitute an offense;
>
> (b) That the court trying the case has no jurisdiction over the offense charged;
>
> (c) That the court trying the case has no jurisdiction over the person of the accused;
>
> (d) That the officer who filed the information had no authority to do so;
>
> (e) That it does not conform substantially to the prescribed form;
>
> (f) That more than one offense is charged except when a single punishment for various offenses is prescribed by law;
>
> (g) That the criminal action or liability has been extinguished;
>
> (h) That it contains averments which, if true, would constitute a legal excuse or justification; and
>
> (i) That the accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent.

In filing a motion to quash, the accused "assails the validity of a criminal complaint or information filed against him [or her] for insufficiency on its face in point of law, or for defects which are apparent in the face of the information."[136] If the accused avails himself or herself of a motion to quash, the accused "hypothetical[ly] admits the facts alleged in the information."[137] "Evidence aliunde or matters extrinsic from the information are not to be considered."[138]

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135 RULES OF COURT, Rule 117, sec. 1.

136 *People v. Odtuhan*, G.R. No. 191566, July 17, 2013, 701 SCRA 506, 512 [Per J. Peralta, Third Division].

137 Id.

138 Id.

"If the motion to quash is based on an alleged defect of the complaint or information which can be cured by amendment, the court shall order [the] amendment [of the complaint or information]."[139] If the motion to quash is based on the ground that the facts alleged in the complaint or information do not constitute an offense, the trial court shall give the prosecution "an opportunity to correct the defect by amendment."[140] If after amendment, the complaint or information still suffers from the same defect, the trial court shall quash the complaint or information.[141]

IV

However, *Ilagan*[142] and *Umil* do not apply to this case. Petitioner Salibo was not arrested by virtue of any warrant charging him of an offense. He was not restrained under a lawful process or an order of a court. He was illegally deprived of his liberty, and, therefore, correctly availed himself of a Petition for Habeas Corpus.

The Information and Alias Warrant of Arrest issued by the Regional Trial Court, Branch 221, Quezon City in *People of the Philippines v. Datu Andal Ampatuan, Jr., et al.* charged and accused Butukan S. Malang, not Datukan Malang Salibo, of 57 counts of murder in connection with the Maguindanao Massacre.

Furthermore, petitioner Salibo was not validly arrested without a warrant. Rule 113, Section 5 of the Rules of Court enumerates the instances when a warrantless arrest may be made:

> SEC. 5. *Arrest without warrant; when lawful*.—A peace officer or a private person may, without a warrant, arrest a person:
>
> (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
>
> (b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and
>
> (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is

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139 RULES OF COURT, Rule 117, sec. 4.
140 RULES OF COURT, Rule 117, sec. 4.
141 RULES OF COURT, Rule 117, sec. 4.
142 *Integrated Bar of the Philippines v. Hon. Ponce Enrile*, 223 Phil. 561 (1985) [Per J. Melencio-Herrera, En Banc].

> temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.
>
> In cases falling under paragraphs (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with section 7 of Rule 112.

It is undisputed that petitioner Salibo presented himself before the Datu Hofer Police Station to clear his name and to prove that he is not the accused Butukan S. Malang. When petitioner Salibo was in the presence of the police officers of Datu Hofer Police Station, he was neither committing nor attempting to commit an offense. The police officers had no personal knowledge of any offense that he might have committed. Petitioner Salibo was also not an escapee prisoner.

The police officers, therefore, had no probable cause to arrest petitioner Salibo without a warrant. They deprived him of his right to liberty without due process of law, for which a petition for habeas corpus may be issued.

The arrest of petitioner Salibo is similar to the arrest of Atty. Risonar in the "disturbing"[143] case of *Ilagan.*[144] Like petitioner Salibo, Atty. Risonar went to Camp Catitipan to verify and contest any arrest papers against him. Then and there, Atty. Risonar was arrested without a warrant. In his dissenting opinion in *Ilagan,*[145] Justice Claudio Teehankee stated that the lack of preliminary investigation deprived Atty. Risonar, together with Attys. Ilagan and Arellano, of his right to due process of law — a ground for the grant of a petition for habeas corpus:[146]

> The majority decision holds that the filing of the information without preliminary investigation falls within the exceptions of Rule 112, sec. 7 and Rule 113, sec. 5 of the 1985 Rules on Criminal Procedure. Again, this is erroneous premise. The fiscal misinvoked and misapplied the cited rules. *The petitioners are not persons "lawfully arrested without a warrant."* The fiscal could not rely on the stale and inoperative PDA of January 25, 1985. Otherwise, the rules would be rendered nugatory, if all that was needed was to get a PDA and then serve it at one's whim and caprice when the very issuance of the PDA is premised on its imperative urgency and necessity as declared by the President himself. The majority decision then relies on *Rule 113, Sec. 5*

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143 ISAGANI A. CRUZ, CONSTITUTIONAL LAW 292 (2007 ed.).

144 *Integrated Bar of the Philippines v. Hon. Ponce Enrile,* 223 Phil. 561 (1985) [Per J. Melencio-Herrera, En Banc].

145 *Integrated Bar of the Philippines v. Hon. Ponce Enrile,* 223 Phil. 561 (1985) [Per J. Melencio-Herrera, En Banc].

146 J. Teehankee, Dissenting Opinion in *Integrated Bar of the Philippines v. Hon. Ponce Enrile,* 223 Phil. 561, 622 (1985) [Per J. Melencio-Herrera, En Banc].

> which authorizes arrests without warrant by a citizen or by a police officer who witnessed the arrestee *in flagrante delicto, viz. in the act of committing the offense*. Quite obviously, the arrest was not a citizen's arrest nor were they caught in flagrante delicto violating the law. In fact, this Court in promulgating the 1985 Rules on Criminal Procedure have tightened and made the rules more strict. Thus, the Rule now requires that an offense "has in fact *just* been committed." *This connotes immediacy in point of time* and excludes cases under the old rule where an offense "has *in fact* been committed" no matter how long ago. Similarly, *the arrestor must have "personal knowledge of facts* indicating that the [arrestee] has committed it" (instead of just "reasonable ground to believe that the [arrestee] has committed it" under the old rule). Clearly, then, *an information could not just be filed against the petitioners without due process and preliminary investigation*.[147] (Emphasis in the original, citation omitted)

Petitioner Salibo's proper remedy is not a Motion to Quash Information and/or Warrant of Arrest. None of the grounds for filing a Motion to Quash Information apply to him. Even if petitioner Salibo filed a Motion to Quash, the defect he alleged could not have been cured by mere amendment of the Information and/or Warrant of Arrest. Changing the name of the accused appearing in the Information and/or Warrant of Arrest from "Butukan S. Malang" to "Datukan Malang Salibo" will not cure the lack of preliminary investigation in this case.

A motion for reinvestigation will not cure the defect of lack of preliminary investigation. The Information and Alias Warrant of Arrest were issued on the premise that Butukan S. Malang and Datukan Malang Salibo are the same person. There is evidence, however, that the person detained by virtue of these processes is not Butukan S. Malang but another person named Datukan Malang Salibo.

Petitioner Salibo presented in evidence his Philippine passport,[148] his identification card from the Office on Muslim Affairs,[149] his Tax Identification Number card,[150] and clearance from the National Bureau of Investigation[151] all bearing his picture and indicating the name "Datukan Malang Salibo." None of these government-issued documents showed that petitioner Salibo used the alias "Butukan S. Malang."

Moreover, there is evidence that petitioner Salibo was not in the country on November 23, 2009 when the Maguindanao Massacre occurred.

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147 Id.
148 *Rollo*, pp. 164–166.
149 Id. at 168.
150 Id. at 175.
151 Id.

A Certification[152] from the Bureau of Immigration states that petitioner Salibo departed for Saudi Arabia on November 7, 2009 and arrived in the Philippines only on December 20, 2009. A Certification[153] from Saudi Arabian Airlines attests that petitioner Salibo departed for Saudi Arabia on board Saudi Arabian Airlines Flight SV869 on November 7, 2009 and that he arrived in the Philippines on board Saudi Arabian Airlines SV870 on December 20, 2009.

V

People of the Philippines v. Datu Andal Ampatuan, Jr., et al. is probably the most complex case pending in our courts. The case involves 57 victims[154] and 197 accused, two (2) of which have become state witnesses.[155] As of November 23, 2014, 111 of the accused have been arraigned, and 70 have filed petitions for bail of which 42 have already been resolved.[156] To require petitioner Salibo to undergo trial would be to further illegally deprive him of his liberty. Urgency dictates that we resolve his Petition in his favor given the strong evidence that he is not Butukan S. Malang.

In ordering petitioner Salibo's release, we are prejudging neither his guilt nor his innocence. However, between a citizen who has shown that he was illegally deprived of his liberty without due process of law and the government that has all the "manpower and the resources at [its] command"[157] to properly indict a citizen but failed to do so, we will rule in favor of the citizen.

Should the government choose to prosecute petitioner Salibo, it must pursue the proper remedies against him as provided in our Rules. Until then, we rule that petitioner Salibo is illegally deprived of his liberty. His Petition for Habeas Corpus must be granted.

WHEREFORE, the Petition for Review on Certiorari is **GRANTED**. The Court of Appeals Decision dated April 19, 2011 is **REVERSED** and **SET ASIDE**. Respondent Warden, Quezon City Jail Annex, Bureau of Jail Management and Penology Building, Camp Bagong Diwa, Taguig, is

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152 Id. at 139.

153 Id. at 140.

154 *Re: Petition for Radio and Television Coverage of the Multiple Murder Cases against Mindanao Governor Ampatuan, et al.*, 667 Phil. 128, 131 (2011) [Per J. Carpio-Morales, En Banc].

155 Chief Justice Maria Lourdes P.A. Sereno, SERENO SPEECH | *On Maguindanao Massacre: The culture of impunity and the counter-culture of hope* <http://www.interaksyon.com/article/99760/sereno-speech--on-maguindanao-massacre-the-culture-of-impunity-and-the-counter-culture-of-hope> (visited March 11, 2015).

156 Id.

157 J. Teehankee, Dissenting Opinion in *Integrated Bar of the Philippines v. Hon. Ponce Enrile*, 223 Phil. 561, 616 (1985) [Per J. Melencio-Herrera, En Banc].

ORDERED to immediately **RELEASE** petitioner Datukan Malang Salibo from detention.

The Letter of the Court of Appeals elevating the records of the case to this court is hereby **NOTED.**

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

ARTURO D. BRION
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

ATTESTATION

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

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice