



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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THIRD DIVISION

PEOPLE OF THE G.R. No. 240053
PHILIPPINES,
 Petitioner, Present:

- versus -

PERALTA, J.,
 Chairperson,
 LEONEN,
 REYES, A., JR.,
 HERNANDO, and
 INTING, JJ.

MARIA CRISTINA P. SERGIO
and JULIUS L. LACANILAO,
 Respondents.

Promulgated:

October 9, 2019

X-----MISPDC Bat.-----X

DECISION

HERNANDO, J.:

The peculiar factual circumstances surrounding the present case give rise to a novel question of law. May a prosecution witness, like Mary Jane Veloso (Mary Jane), who was convicted of drug trafficking and sentenced to death by the Indonesian Government and who is presently confined in a prison facility in Indonesia, testify by way of deposition without violating the constitutional right to confrontation of a witness by the accused?

This petition for review on *certiorari*¹ under Rule 45 of the Rules of Court assails the December 13, 2017 Decision² of the Court of Appeals in CA-G.R. SP No. 149002 which granted respondent's Petition for *Certiorari*

¹ *Rollo*, pp. 11-81.

² *Id.* at 90-107; penned by Associate Justice Ramon M. Bato, Jr. and concurred in by Associate Justices Manuel M. Barrios and Renato C. Francisco.

and Prohibition and reversed the August 16, 2016 Resolution³ of the Regional Trial Court (trial court), Branch 88, of Sto. Domingo, Nueva Ecija, granting the motion of the prosecution to take the deposition by written interrogatories of Mary Jane in Indonesia.

The Factual Antecedents

Mary Jane, Maria Cristina P. Sergio (Cristina), and Julius L. Lacanilao (Julius) were friends and neighbors in Talavera, Nueva Ecija. Taking advantage of her dire situation and susceptibility, Cristina and Julius offered Mary Jane a job as a domestic helper in Malaysia. Believing that the job was a ray of hope, Mary Jane scraped whatever meager money she had and when the amount was not even enough to pay Cristina and Julius as placement fee, she resorted to borrowing from relatives. Still, the amount gathered was insufficient prompting Mary Jane's husband to sell even their precious motorcycle. On April 21, 2010, Mary Jane, together with Cristina, eventually left the Philippines for Malaysia. However, to Mary Jane's dismay, she was informed by Cristina upon their arrival in Malaysia that the job intended for her was no longer available. After spending a few days in Malaysia, Cristina sent Mary Jane to Indonesia for a seven-day holiday with a promise that she will have a job upon her return in Malaysia. Cristina gave Mary Jane her plane ticket as well as a luggage to bring on her trip.

Upon Mary Jane's arrival at the Adisucipto International Airport in Yogyakarta, Indonesia, she was apprehended by the police officers for allegedly carrying 2.6 kilograms of heroin inside her luggage. She was accordingly charged with drug trafficking before the District Court of Sleman, Yogyakarta, Indonesia.

Mary Jane sought comfort from her family in the Philippines and informed them that she was currently detained in Indonesia. Mary Jane's family immediately confronted Cristina who instead of helping them even threatened them to keep the matter to themselves and not to divulge the same especially to the media. She even told Mary Jane's family that she is part of an international drug syndicate who would spend millions to get Mary Jane out of prison.

However, in October 2010, the District Court of Sleman, Yogyakarta, Indonesia, convicted Mary Jane of drug trafficking and sentenced her to death by firing squad. After the affirmance of her conviction by the High Court and the Supreme Court of Indonesia, Mary Jane and eight other felons who were similarly convicted of drug-related offenses were brought to a prison facility in the island of Nusakambangan, off Central Java, Indonesia, to await their execution by firing squad, which was originally scheduled on April 9, 2015 but later rescheduled to April 28, 2015. Eventually, the eight companions of

³ *Id.* at 117-129.

Mary Jane were executed by firing squad. Presently, Mary Jane is detained at the Wirogunan Penitentiary in Yogyakarta, Indonesia.

Meanwhile, in the Philippines, Cristina and Julius were arrested by the operatives of the Anti-Human Trafficking Division of the National Bureau of Investigation. Thereafter, they were charged with qualified trafficking in person in violation of Section 4(a) in relation to Sections 3(a) and 6 of Republic Act (R.A.) No. 9208, otherwise known as "*Anti-Trafficking in Persons Act of 2003*" docketed as Criminal Case No. SD (15)-3723.⁴ Cristina and Julius were likewise charged in two separate Informations with the crime of illegal recruitment as penalized under Section 6, par. (k) and (l) of R.A. No. 8042, otherwise known as "*Migrant Workers and Overseas Filipino Workers Act of 1995*," and estafa in violation of Section 2(a), Article 315 of the Revised Penal Code docketed as Criminal Case Nos. SD (15)-3724,⁵ and SD (15)3753,⁶ respectively, filed before the trial court. Upon arraignment, Cristina and Julius entered a plea of "not guilty" on all charges.

On March 31, 2015, representatives from the Philippine Drug Enforcement Agency (PDEA), the Philippine National Police (PNP) Crime Laboratory, and the Department of Foreign Affairs (DFA) went to Wirugonan Prison to interview Mary Jane. She executed a document known as "*Sinumpaang Salaysay ni Mary Jane Fiesta Veloso*."

In her *Sinumpaang Salaysay*, Mary Jane maintained her innocence and narrated how she was recruited by Cristina and Julius. She alleged that while in Malaysia, she and Cristina stayed at Sun Inn Lagoon since her supposed employer was not in Malaysia. Cristina has a boyfriend named Prince whom she conversed only by phone. Prince has a brother named "*Ike*." On April 24, 2010, Mary Jane and Cristina went to the hotel parking lot and met with "*Ike*" who was on board a white car. They then went inside the car wherein "*Ike*" handed the luggage to Cristina. When they returned to the hotel room, Cristina gave Mary Jane the luggage. Mary Jane noticed that it was unusually heavy but, upon checking, found nothing inside. She then asked Cristina why the luggage was heavy but the latter simply replied that because it was new. The luggage was the same bag she used on her trip to Indonesia. It was only after she was apprehended at the airport when Mary Jane realized that it contained prohibited drugs.

On the basis of her affidavit, the Philippine Government requested the Indonesian Government to suspend the scheduled execution of Mary Jane. It informed the Indonesian Government that the recruiters and traffickers of Mary Jane were already in police custody, and her testimony is vital in the prosecution of Cristina and Julius.

⁴ *Id.* at 214-216.

⁵ *Id.* at 217-219.

⁶ *Id.* at 220-222.

Thus, on April 28, 2015, or a few hours before the scheduled execution of Mary Jane, the President of Indonesia, His Excellency Joko Widodo, granted her an indefinite reprieve. The Cabinet Secretary of the Indonesian Government informed the public that President Widodo received reports about the on-going legal proceedings in the Philippines with respect to the case of Mary Jane, and that her recruiters were already in police custody.

Hence, pursuant to its obligations under the Treaty on Mutual Legal Assistance in Criminal Matters entered into by Southeast Asian Nations (ASEAN Mutual Legal Assistance Treaty), the Indonesian authorities deferred indefinitely the execution of Mary Jane to afford her an opportunity to present her case against Cristina, Julius, and “Ike” who were allegedly responsible for recruiting and exploiting her to engage in drug trafficking.

The Indonesian authorities however imposed the following conditions relative to the taking of Mary Jane’s testimony, *viz.*:

- (a) **Mary Jane shall remain in detention in Yogyakarta, Indonesia;**
- (b) No cameras shall be allowed;
- (c) The lawyers of the parties shall not be present; and
- (d) **The questions to be propounded to Mary Jane shall be in writing.**

Thereafter, the State filed a “*Motion for Leave of Court to Take the Testimony of Complainant Mary Jane Veloso by Deposition Upon Written Interrogatories.*”⁷ It averred that the taking of Mary Jane’s testimony through the use of deposition upon written interrogatories is allowed under Rule 23 of the Revised Rules of Court because she is out of the country and will not be able to testify personally before the court due to her imprisonment. The prosecution also pointed out that Rule 23 of the Rules of Court applies suppletorily in criminal proceedings and the use of deposition upon written interrogatories in criminal cases is not expressly prohibited under the Rules of Court. Further, it pointed out that the Supreme Court has allowed dispensation of direct testimony in open court under the Rules of Environmental Cases and the Judicial Affidavit Rule. Lastly, the OSG averred that Cristina and Julius will still have an opportunity to examine Mary Jane by propounding their own set of written interrogatories through the designated consular officer who will be taking the deposition; moreover, they were not precluded from objecting to the questions and answers.

Cristina and Julius objected to the motion asserting that the deposition should be made before and not during the trial. The depositions under Rules 23 and 25 of the Rules of Court are not designed to replace the actual

⁷ *Id.* at 223-233.

testimony of the witness in open court and the use thereof is confined only in civil cases. Also, they argued that such method of taking testimony will violate their right to confront the witness, Mary Jane, or to meet her face to face as provided under Section 14(2) of the 1987 Constitution. Finally, they claimed that the prosecution's reliance on the Rules of Procedure for Environmental Cases and the Judicial Affidavit Rule was misplaced because the affiants therein were still subject to cross-examination.

Ruling of the Regional Trial Court:

In its Resolution dated August 16, 2016, the trial court granted the prosecution's motion subject to the following conditions:

1. Considering that the Prosecution has already submitted their proposed questions in the written interrogatories, the accused, through counsel, is given a period of ten (10) days from receipt of this Resolution to submit their comment to the proposed questions on the deposition upon written interrogatories for the witness Mary Jane Veloso. Upon receipt of the Comment, the Court shall promptly rule on the objections;
2. The Court shall schedule the taking of the deposition in Yogyakarta, Indonesia, which shall be presided by the undersigned trial judge. The final questions for the deposition (after ruling on the Defense objections), shall be propounded by the Consul of the Philippines in the Republic of Indonesia or his designated representative. The answers of the deponent to the written interrogatories shall be taken verbatim by a competent staff in the Office of the Philippine Consulate in the Republic of Indonesia;
3. The transcribed copy of the answers of the deponent shall be furnished the accused, through counsel, who shall thereafter submit their proposed cross interrogatory questions to the Prosecution within ten (10) days from receipt;
4. The Prosecution is given the same period of ten (10) days from receipt of the proposed cross interrogatory questions of the Defense stating the ground for the objections. Upon receipt of the comment, the Court shall promptly rule on the objections;
5. The Court shall schedule the conduct of the cross interrogatory questions for the deposition of Mary Jane Veloso in Yogyakarta, Indonesia, which shall be presided by the undersigned trial judge. The final questions for the written cross interrogatories (after ruling on the Prosecution's objections) shall be propounded by the Consul of the Philippines in the Republic of Indonesia or his designated representative. The answers of the deponent to the written cross interrogatories shall be taken verbatim by a competent staff in the Office of the Philippine Consulate in the Republic of Indonesia;
6. Unless the Prosecution opts to conduct re-direct written interrogatories, the testimony of Mary Jane Veloso by way of deposition upon written interrogatories shall be deemed terminated. In case the Prosecution propounds re-direct written interrogatories on the deponent, the

above-mentioned procedure for the conduct of direct and cross interrogatories shall be observed.⁸

Cristina and Julius immediately filed their “*Omnibus Motion for Reconsideration and to Suspend Period of Time to File Comments to Proposed Questions for Deposition of Mary Jane Veloso.*”⁹ However, the trial court denied their Omnibus Motion in its November 3, 2016 Resolution.¹⁰

Undeterred, Cristina and Julius filed a Petition for *Certiorari* and Prohibition with Urgent Prayer for Temporary Restraining Order and/or Preliminary Injunction¹¹ before the Court of Appeals averring that the trial court judge gravely abused her discretion in the issuance of the assailed Resolutions.

Ruling of the Court of Appeals:

Finding grave abuse of discretion on the part of the trial court, the appellate court, in its assailed December 13, 2017 Decision, granted the Petition for *Certiorari* and reversed the August 16, 2016 Resolution of the trial court. It held that, contrary to the RTC’s findings, the conditional examination of witnesses in criminal proceedings are primarily governed by Rule 119 of the Rules on Criminal Procedure. According to the appellate court, the State failed to establish compelling reason to depart from such rule and to apply instead Rule 23 of the Rules on Civil Procedure which only applies in civil cases. Thus, pursuant to Rule 119, the taking of deposition of Mary Jane or her conditional examination must be made not in Indonesia but before the court where the case is pending, *i.e.*, the Regional Trial Court of Sto. Domingo, Nueva Ecija, Branch 88, and that Cristina and Julius, being the accused in the criminal proceedings, should be notified thereof so they can attend the examination.

The appellate court further reasoned that to allow the prosecution to take the deposition of Mary Jane through written interrogatories will violate the right of Cristina and Julius as the accused to confront a witness or to meet the witness face to face.

The Office of the Solicitor General (**OSG**) sought for reconsideration¹² but it was denied by the appellate court in its June 5, 2018 Resolution.¹³

Aggrieved, the OSG filed the present Petition for Review on *Certiorari* under Rule 45 of the Rules of Court before this Court alleging mainly that: (a) the Court of Appeals erred in giving due course to Cristina and Julius’s

⁸ *Id.* at 128-129.

⁹ *Id.* at 274-297.

¹⁰ *Id.* at 130-146.

¹¹ *Id.* at 387-414.

¹² *Id.* at 147-191.

¹³ *Id.* at 109-116.

petition for *certiorari* because there was another plain, speedy and adequate remedy available in the ordinary course of law; in addition, the OSG contended that the Petition for *Certiorari* should not have been given due course considering the lack of grave abuse of discretion amounting to lack of jurisdiction on the part of the trial court; and; (b) Rule 23 of the Rules of Court with respect to deposition under written interrogatories can be applied suppletorily in the taking of the testimony of Mary Jane given her extraordinary circumstances.

Meantime, spouses Cesar and Celia Veloso, parents of Mary Jane, filed a “Motion for Leave to Intervene and to Admit Attached Petition-In-Intervention.”¹⁴ They prayed to be allowed to intervene, on behalf of Mary Jane, in the instant proceeding for the purpose of protecting and preserving their daughter’s substantial and immediate interest. Attached to their motion was their Petition-in-Intervention.¹⁵

The OSG, on the other hand, submitted its Manifestation and Motion.¹⁶ It informed the Court that the trial court proceeded with the hearing of the criminal cases in accordance with A.M. No. 15-06-10-SC, or the Revised Guidelines for Continuous Trial of Criminal Cases. The prosecution has only Mary Jane to present as a witness. Hence, the OSG prays that the Court immediately resolve the instant Petition for Review and to suspend the application of A.M. No. 15-06-10-SC in the criminal proceedings before the trial court.

In this Court’s March 27, 2019 Resolution,¹⁷ it denied the motion for intervention of Mary Jane’s parents for failure to establish legal interest in the instant case that is actual and material as well as direct and immediate. The Court likewise denied the OSG’s prayer to suspend the application of A.M. No. 15-06-10-SC in the criminal proceedings before the trial court for lack of basis.

Issues

- (a) Whether the Court of Appeals erred in granting the writ of *certiorari*, and;
- (b) Whether Mary Jane’s testimony may be validly acquired through deposition by written interrogatories.

¹⁴ *Id.* at 613-618.

¹⁵ *Id.* at 619-655.

¹⁶ *Id.* at 751-757.

¹⁷ *Id.* at 765-770.

The Court's Ruling

The Court finds the petition impressed with merit.

On Procedural Matters

The OSG avers that the appellate court erred in giving due course and granting the respondents' Petition for *Certiorari* there being other plain, speedy, and adequate remedies in the ordinary course of law. It further argues that the trial court did not commit grave abuse of discretion when it granted the State's motion to allow the taking of Mary Jane's testimony by deposition through written interrogatories.

The Court agrees.

Impropriety of the writ of certiorari before the Court of Appeals

A writ of *certiorari* is limited in scope and narrow in character. It is available only to correct acts rendered without jurisdiction, in excess of jurisdiction, or with grave abuse of discretion. In other words, *certiorari* is proper to correct errors of jurisdiction, and **not errors of procedure or mistakes in the findings or conclusions of the lower court**. Thus, any alleged errors committed by the trial court within the bounds of its jurisdiction and in the exercise of its discretion are mere errors of judgment, correctible by an appeal or a petition for review under Rule 43 of the Rules of Court, and not by a petition for *certiorari*.¹⁸

The Supreme Court's pronouncement in *Cruz v. People*,¹⁹ citing *Delos Santos v. Metropolitan Bank and Trust Company*²⁰ is instructive on the scope of *certiorari*:

We remind that the writ of *certiorari* - being a remedy narrow in scope and inflexible in character, whose purpose is to keep an inferior court within the bounds of its jurisdiction, or to prevent an inferior court from committing such grave abuse of discretion amounting to excess of jurisdiction, or to relieve parties from arbitrary acts of courts (i.e., acts that courts have no power or authority in law to perform) - is not a general utility tool in the legal workshop, and cannot be issued to correct every error committed by a lower court.

In the common law, from which the remedy of *certiorari* evolved, the writ of *certiorari* was issued out of Chancery, or the King's Bench, commanding agents or officers of the inferior courts to return the record of

¹⁸ *Garcia v. Court of Appeals*, 702 Phil. 263, 279 (2013).

¹⁹ 812 Phil. 166, 172 (2017).

²⁰ 698 Phil. 1, 14-16 (2012).

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a cause pending before them, so as to give the party more sure and speedy justice, for the writ would enable the superior court to determine from an inspection of the record whether the inferior court's judgment was rendered without authority. The errors were of such a nature that, if allowed to stand, they would result in a substantial injury to the petitioner to whom no other remedy was available. If the inferior court acted without authority, the record was then revised and corrected in matters of law. The writ of certiorari was limited to cases in which the inferior court was said to be exceeding its jurisdiction or was not proceeding according to essential requirements of law and would lie only to review judicial or quasi-judicial acts.

The concept of the remedy of certiorari in our judicial system remains much the same as it has been in the common law. In this jurisdiction, however, the exercise of the power to issue the writ of certiorari is largely regulated by laying down the instances or situations in the Rules of Court in which a superior court may issue the writ of certiorari to an inferior court or officer. Section 1, Rule 65 of the Rules of Court compellingly provides the requirements for that purpose[.]

X X X X

Pursuant to Section 1, *supra*, the petitioner must show that, one, the tribunal, board or officer exercising judicial or quasi-judicial functions acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction, and, two, there is neither an appeal nor any plain, speedy and adequate remedy in the ordinary course of law for the purpose of amending or nullifying the proceeding. (Citations omitted)

It must be emphasized that the errors imputed against the trial court by Cristina and Julius in their Petition for *Certiorari* pertained only to its **appreciation** of the factual milieu, and the **application** of pertinent law and rules. Plainly, their Petition for *Certiorari* did not contain factual allegations that can support a finding of grave abuse of discretion. These alleged errors, if at all, amounted only to erroneous exercise of the lower court's judgment, an error of judgment, not an error of jurisdiction, which does not justify Cristina's and Julius's resort to a *certiorari* proceeding.

Grave abuse of discretion is defined as "capricious or whimsical exercise of judgment that is patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law."²¹ It arises when a lower court or tribunal violates and contravenes the Constitution, the law or existing jurisprudence.²² The Supreme Court explained in *Yu v. Judge Reyes-Carpio*,²³ viz.:

The term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a "capricious or whimsical exercise of

²¹ *Rodriguez v. Presiding Judge of the Regional Trial Court of Manila, Branch 17*, 518 Phil. 455, 462 (2006), citing *Zarate v. Maybank Philippines, Inc.*, 498 Phil. 825 (2005).

²² *Balangauan v. Court of Appeals*, 584 Phil. 183, 197 (2008).

²³ 667 Phil. 474, 481-482 (2011).

judgment as is equivalent to lack of jurisdiction.” The abuse of discretion must be so patent and gross as to amount to an “evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.” Furthermore, the use of a petition for certiorari is restricted only to “truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void.” From the foregoing definition, it is clear that the special civil action of certiorari under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross. x x x.

In the case at bench, respondents did not even attempt to show that the trial court abused its discretion, much less that the exercise thereof was so patent and gross and to amount to lack of jurisdiction; in fact, even the appellate court simply stated in its assailed Decision that the trial court merely **erred, and not abuse its discretion, much more grave**, in applying Rule 23 of the Rules on Civil Procedure instead of Rule 119 of the Rules on Criminal Procedure, which particularly deals with the conditional examination of a prosecution witness, like Mary Jane in this case, in criminal cases. Notably, the appellate court did not specify the circumstances in support of its conclusion that the trial court arrived at its conclusion in an arbitrary and despotic manner. On the contrary, a close examination of the trial court’s judgment shows that it was anchored on the peculiar incidents surrounding the case, and applied jurisprudence and rules which it believed were pertinent. It has in fact judiciously discussed the rationale for its decision to allow the taking of Mary Jane’s deposition through written interrogatories in this wise:

First, Sec. 15, Rule 119 of the Revised Rules of Criminal Procedure requiring prosecution witnesses who are either sick or infirm or has left the Philippines without any date of return, to deliver their testimony in open court cannot be applied to the private complainant, because her situation as a death row convict in a foreign country incapacitates her from making decisions, on her own, to take the witness stand. Such decision to testify and the manner by which her testimony is to be given depends on the Indonesian authorities before whom she was sentenced to suffer the supreme penalty of death;

Second, considering the inapplicability of Sec. 15, Rule 119 of the Revised Rules of Criminal Procedure, the Court found it appropriate to apply in a suppletory manner, Sec. 23 of the Revised Rules of Court for the taking of the private complainant’s deposition upon written interrogatories. Sec. 1, Rule 23 of the Revised Rules of Court specifically provides that the deposition of a person confined in prison may be taken only by leave of court upon such terms as the court prescribes;

Third, in the case of *People of the Philippines v. Hubert Jeffrey Webb* x x x, the Supreme Court categorically declared that “due process is not a monopoly of the defense. The State is entitled to due process as much as the accused”. To deny the motion of the Prosecution would result in a highly inequitable situation where the sole witness relied upon by the Prosecution to establish their case would be denied the opportunity to

present her case due to procedural technicalities which are beyond her control;

Fourth, the deposition sought by the Prosecution is specifically aimed at perpetuating the testimony of the private complainant, thus said deposition may be allowed at any stage of the proceedings and even on appeal pursuant to Rule 24 of the Revised Rules of Court in the separate opinion of former Chief Justice Hilario Davide in the previously cited case of *People vs. Webb*, be affirmed that depositions may be allowed in criminal cases and may be taken at any time after the commencement of the action whenever necessary or convenient, x x x;

x x x x

Fifth, the offense involved in this case, *i.e.* qualified human trafficking, is a major transnational crime committed across continents. Unlike the previously cited cases of *Cuenco* and *Go* where the offenses involved are non-index crimes (*i.e.*, estafa and other deceits), the subject suit involves a major transnational crime that cuts across borders and is a principal policy concern among nations. Thus, the Court believes that the Prosecution should not be denied the opportunity to prove its case, thus assuring the global community that the Philippines is committed to fight such modern day menace[.]²⁴

Indubitably, there was absence of any proof that the grant of the taking of deposition through written interrogatories by the trial court was made in an arbitrary, whimsical, and capricious manner. There was no patent abuse of discretion which was so gross in nature thereby amounting to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law or to act at all in contemplation of law.²⁵ What was only apparent in the instant case was that the trial court properly considered the extraordinary circumstances surrounding the plight of Mary Jane, in relation to applicable rules and jurisprudence. Suffice it to state that the Decision of the trial court was not without rhyme or reason. Clearly, there was an honest effort on the part of the trial court to support its ratiocination and conclusion based on facts and law.

As already adverted, the case at hand is unprecedented. It involves novel issues and poses difficult questions of law. It is settled jurisprudence that “[a] doubtful or difficult question of law may become the basis of good faith and, in this regard, the law always accords to public officials the presumption of good faith and regularity in the performance of official duties. x x x Any person who seeks to establish otherwise has the burden of proving bad faith or ill-motive.”²⁶ As such, no abuse of discretion, much more grave abuse of discretion, may be successfully imputed against the trial court.

In fine, this Court holds that the Court of Appeals erred in finding grave abuse of discretion on the part of the trial court and in holding that respondents’ resort to a Petition for *Certiorari* was proper.

²⁴ *Rollo*, pp. 125-127.

²⁵ *First Women’s Credit Corp. v. Perez*, 524 Phil. 305, 309 (2006).

²⁶ *Dylon v. Court of Appeals*, 409 Phil. 14, 32 (2001).

This now brings our discussion to the substantive issues.

On Substantive Matters

The OSG asserts that the presence of extraordinary circumstances, *i.e.*, Mary Jane's conviction by final judgment and her detention in a prison facility in Yogyakarta, Indonesia, while awaiting execution by firing squad; the grant by the Indonesian President of an indefinite reprieve in view of the ongoing legal proceedings against Cristina and Julius in the Philippines; and the conditions attached to the reprieve particularly that Mary Jane should remain in confinement in Indonesia, and any question propounded to her must only be in writing, are more than enough grounds to have allowed the suppletory application of Rule 23 of the Rules of Court.

The OSG's contentions are meritorious.

The Court cannot subscribe to the pronouncement by the appellate court that the State failed to show compelling reasons to justify the relaxation of the Rules and the suppletory application of Rule 23. The Court also cannot agree to its declaration that the constitutional rights of Cristina and Julius to confront a witness will be violated since safeguards were set in place by the trial court precisely to protect and preserve their rights.

Section 15, Rule 119 of the Rules of Court is inapplicable in the instant case

In its assailed Decision, the appellate court held that the deposition of Mary Jane's testimony through written interrogatories in Indonesia is not sanctioned by Section 15, Rule 119 of the Revised Rules of Criminal Procedure and that the pronouncements of the Court in *Go v. People*²⁷ and *Cuenco vda. De Manguerra v. Risos*²⁸ that Section 23 of the Rules of Civil Procedure should not be given any suppletory application. It held that "*just like a witness who is sick or infirm, Mary Jane's imprisonment in Indonesia presents a limitation on her mobility.*"²⁹ According to the Court of Appeals, Section 15, Rule 119 which applies to the taking of depositions of prosecution witnesses in criminal cases, Mary Jane's deposition must be taken before the court where the case is pending. In other words, the appellate court opines that Mary Jane's testimony must be taken before the trial court, where the cases of respondents are being heard, and not in Indonesia.

The Court begs to differ.

²⁷ 691 Phil. 440 (2012).

²⁸ 585 Phil. 490 (2008).

²⁹ *Rollo*, p. 102.

Section 15, Rule 119 of the Revised Rules of Criminal Procedure, reads:

Section 15. *Examination of witness for the prosecution.* — When it satisfactorily appears that a **witness for the prosecution is too sick or infirm to appear at the trial as directed by the court, or has to leave the Philippines with no definite date of returning**, he may forthwith be conditionally examined before the court where the case is pending. Such examination, in the presence of the accused, or in his absence after reasonable notice to attend the examination has been served on him, shall be conducted in the same manner as an examination at the trial. Failure or refusal of the accused to attend the examination after notice shall be considered a waiver. The statement taken may be admitted in behalf of or against the accused. (Emphasis Ours.)

Under the foregoing provision, in order for the testimony of the prosecution witness be taken before the court where the case is being heard, it must be shown that the said prosecution witness is either: (a) too sick or infirm to appear at the trial as directed by the order of the court, or; (b) has to leave the Philippines with no definite date of returning.

Surely, the case of Mary Jane does not fall under either category. She is neither too sick nor infirm to appear at the trial nor has to leave the Philippines indefinitely. To recall, Mary Jane is currently imprisoned in Indonesia for having been convicted by final judgment of the crime of drug trafficking, a grave offense in the said state. In fact, she was already sentenced to death and is only awaiting her execution by firing squad. Her situation is not akin to a person whose limitation of mobility is by reason of ill-health or feeble age, the grounds cited in Section 15 of Rule 119. In fact, Mary Jane's predicament does not in way pertain to a restriction in movement from one place to another but a deprivation of liberty thru detention in a foreign country with little or no hope of being saved from the extreme penalty of death by firing squad.

It thus necessarily follows that the cases of *Go v. People* and *Cuenco vda. De Manguera v. Risos* are not on all fours with the present case. The circumstances of the prosecution witnesses in the cases of *Go* and *Cuenco* demanded and justified the strict adherence to Rule 119. The witnesses in both cases anchored their allowance to testify by way of deposition on their claims that they were too sick or infirm to testify before the court. In the case of *Go*, Li Luen Pen who returned to Cambodia claimed that he was undergoing treatment for lung infection and could not travel back to the Philippines due to his illness.

Similarly, in the case of *Cuenco*, Concepcion Cuenco Vda. de Manguerra averred that she would not be able to testify before the trial court due to weak physical condition and age. Note, however, that despite the limitation in the mobility of Li Luen Pen and Concepcion, they can still

undoubted voluntarily take the witness stand and testify before the trial court should they get better or so decide.

This is not the same in the case of Mary Jane. She cannot even take a single step out of the prison facility of her own volition without facing severe consequences. Her imprisonment in Indonesia and the conditions attached to her reprieve denied her of any opportunity to decide for herself to voluntarily appear and testify before the trial court in Nueva Ecija where the cases of the respondents were pending.

Unfortunately, in denying the State's motion for deposition through written interrogatories and effectively requiring the presence of Mary Jane before the RTC of Sto. Domingo, Nueva Ecija, the Court of Appeals appeared to have strictly and rigidly applied and interpreted Section 15, Rule 119 without taking into consideration the concomitant right to due process of Mary Jane and the State as well as the prejudice that will be caused to Mary Jane or the People with its pronouncement. Considering the circumstances of Mary Jane, the Court of Appeals demanded for the impossible to happen and thus impaired the substantial rights of Mary Jane and the State. It was akin to a denial of due process on the part of Mary Jane as well as of the State to establish its case against the respondents. The peculiar circumstances obtaining in the present case made it impossible for Mary Jane to appear before the RTC of Sto. Domingo, Nueva Ecija. Just like when Mary Jane was recruited by the respondents and taken advantage of because of her poor condition, the same scenario is being repeated because the respondents are again taking advantage of Mary Jane's dire circumstances which they themselves put her in, by depriving her the opportunity to speak and obtain justice for herself. The Court of Appeals did not take into account the fact that the case of the prosecution against Cristina and Julius can only be erected through the testimony of Mary Jane herself.

Moreover, by denying the prosecution's motion to take deposition by written interrogatories, the appellate court in effect silenced Mary Jane and denied her and the People of their right to due process by presenting their case against the said accused. By its belief that it was rendering justice to the respondents, it totally forgot that it in effect impaired the rights of Mary Jane as well as the People. By not allowing Mary Jane to testify through written interrogatories, the Court of Appeals deprived her of the opportunity to prove her innocence before the Indonesian authorities and for the Philippine Government the chance to comply with the conditions set for the grant of reprieve to Mary Jane.

It is well to remind the Court of Appeals at this point that as held in *Secretary of Justice v. Lantion*,³⁰ "[t]he due process clauses in the American and Philippine Constitutions are not only worded in exactly identical language and terminology, but more importantly, they are alike in what their respective

³⁰ 379 Phil. 165 (2000).

Supreme Courts have expounded as the spirit with which the provisions are informed and impressed, the *elasticity* in their interpretation, their *dynamic* and *resilient* character which make them capable of meeting every modern problem, and their having been designed from earliest time to the present to meet the exigencies of an undefined and expanding future. The requirements of due process are interpreted in both the United States and the Philippines as not denying to the law the *capacity* for *progress* and *improvement*. Toward this effect and in order to avoid the *confines* of a *legal straitjacket*, the courts instead prefer to have the meaning of the due process clause ‘gradually ascertained by the process of inclusion and exclusion in the course of the decisions of cases as they arise’ (*Twining vs. New Jersey*, 211 U.S. 78). Capsulized, it refers to ‘the embodiment of the sporting idea of fair play’ (*Ermita-Malate Hotel and Motel Owner’s Association vs. City Mayor of Manila*, 20 SCRA 849 [1967]). It relates to certain immutable principles of justice which inhere in the very idea of free government (*Holden vs. Hardy*, 169 U.S. 366).” Thus, it behooved upon the Court of Appeals to have provided some leeway in its interpretation of the subject provision.

At this juncture, we find the discussion on the matter by Justice Florenz D. Regalado instructive and relevant, *viz.*³¹:

1. Rules 23 to 28 provide for the different modes of discovery that may be resorted to by a party to an action, *viz.*
 - a. Depositions pending action (*Rule 23*);
 - b. Depositions before action or pending appeal (*Rule 24*);
 - c. Interrogatories to parties (*Rule 25*);
 - d. Admission by adverse party (*Rule 26*);
 - e. Production or inspection of documents or things (*Rule 27*); and
 - f. Physical and mental examination of persons (*Rule 28*);

Rule 29 provides for the legal consequences for the refusal of a party to comply with such modes of discovery lawfully resorted to by the adverse party.

2. In criminal cases, the taking of the deposition of witnesses for the prosecution was formerly authorized by Sec. 7, Rule 119 for the purpose of perpetuating the evidence to be presented at the trial, without a similar provision for defense witnesses. However, in the 1985 Rules on Criminal Procedure, only the conditional examination, and not a deposition, of prosecution witnesses was permitted (*Sec. 7, Rule 119*) and this was followed in the latest revision (*Sec. 15, Rule 119*).

³¹ Regalado, Florenz D., REMEDIAL LAW COMPENDIUM, VOLUME I, 9th Edition, 2004, at 334-335.

3. Depositions are classified into:

- a. Depositions on oral examination and depositions upon written interrogatories; or
- b. Depositions *de bene esse* and depositions *in perpetuam rei memoriam*.

Depositions *de bene esse* are those taken for purposes of a pending action and are regulated by Rule 23, while depositions *in perpetuam rei memoriam* are those taken to perpetuate evidence for purposes of an anticipated action or further proceedings in a case on appeal and are now regulated by Rule 24.

4. The court may determine whether the deposition should be taken upon oral examination or written interrogatories to prevent abuse or harassment (*De los Reyes vs. CA, et al., L-27263, Mar. 17, 1975*).

***The extraordinary factual circumstances
surrounding the case of Mary Jane warrant
the resort to Rule 23 of the Rules of Court***

Is the prosecution's resort to Rule 23 of the Rules of Court in taking Mary Jane's testimony as a prosecution witness proper?

The Court rules in the affirmative.

At the outset, the Court is always guided by the principle that rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding.³² Simply put, rules of procedure should facilitate an orderly administration of justice. They should not be strictly applied causing injury to a substantive right of a party to case. This precept has been elucidated by the Supreme Court in *De Guzman v. Sandiganbayan*,³³ to wit:

[T]he rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be avoided. Even the Rules of Court envision this liberality. This power to suspend or even disregard the rules can be so pervasive and encompassing so as to alter even that which this Court itself has already declared to be final, as we are now compelled to do in this case. And this is not without additional basis. x x x

There are several instances wherein the Court has relaxed procedural rules to serve substantial justice because of any of the following reasons: (a) matters of life, liberty, honor or property; (b) the existence of special or compelling circumstances, (c) the merits of the case, (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension

³² Rules of Court, Rule 1, Section 6.

³³ 326 Phil. 182, 190 (1996).

of the rules, (e) a lack of any showing that the review sought is merely frivolous and dilatory, and (t) the other party will not be unjustly prejudiced thereby.³⁴

Nonetheless, the Court always reminds party litigants that bare invocation of “the interest of substantial justice” is not a magic phrase that will automatically oblige the Court to suspend procedural rules. To stress, “[p]rocedural rules are not to be belittled or dismissed simply because their non-observance may have prejudiced a party’s substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.”³⁵

The 2004 Treaty on Mutual Legal Assistance in Criminal Matters, also known as the ASEAN Mutual Legal Assistance Treaty, was entered into by the Southeast Asian countries namely: Brunei Darussalam, the Kingdom of Cambodia, Republic of Indonesia, Lao People’s Democratic Republic, Malaysia, the Union of Myanmar, Republic of the Philippines, Republic of Singapore, Kingdom of Thailand, and the Socialist Republic of Vietnam. The Treaty aims to improve the effectiveness of the law enforcement authorities of the state parties in the prevention, investigation and prosecution of offenses through cooperation and mutual legal assistance in criminal matters.

Article 1, paragraph 2(a) of the Treaty states that mutual legal assistance can be rendered by the state parties in case of **taking evidence or obtaining voluntary statements from persons**, among others. The legal assistance sought by the Requesting Party from the Requested Party is not without limitations. In fact, Article 3 of the ASEAN MLAT has laid down guidelines on limitations on assistance. In particular, paragraph 7 of the said Article states that the Requested Party can render legal assistance subject to certain conditions which the Requested Party must observe.

To recall, the Indonesia Government imposed the following conditions in taking the testimony of Mary Jane:

- a) **Mary Jane shall remain in detention in Yogyakarta, Indonesia;**
- b) No cameras shall be allowed;
- c) The lawyers of the parties shall not be present;

³⁴ *Malixi v. Baltazar*, G.R. No. 208224, November 22, 2017, 846 SCRA 244, 272, citing *Barnes v. Hon. Quijano Padilla*, 500 Phil. 303, 311 (2005); *Sanchez v. Court of Appeals*, 452 Phil. 665, 674 (2003).

³⁵ *Philippine Savings Bank v. Papa*, G.R. No. 200469, January 15, 2018, citing *Lazaro v. Court of Appeals*, 386 Phil. 412, 417 (2000).

d) The questions to be propounded to Mary Jane shall be in writing.

Interestingly, nowhere in the present Rules on Criminal Procedure does it state how a deposition, of a prosecution witness who is at the same time convicted of a grave offense by final judgment and imprisoned in a foreign jurisdiction, may be taken to perpetuate the testimony of such witness. The Rules, in particular, are silent as to how to take a testimony of a witness who is unable to testify in open court because he is imprisoned in another country.

Depositions, however, are recognized under Rule 23 of the Rules on Civil Procedure. Although the rule on deposition by written interrogatories is inscribed under the said Rule, the Court holds that it may be applied suppletorily in criminal proceedings so long as there is compelling reason.

In a catena of cases, the Supreme Court had relaxed the procedural rules by applying suppletorily certain provisions of the Rules on Civil Procedure in criminal proceedings.

For one, in *Caños v. Peralta*,³⁶ the Supreme Court held that the trial court judge did not abuse his discretion when it ordered the consolidation and joint trial of the criminal cases that were filed against petitioner Adela J. Caños. It reasoned, among others, that consolidation of cases is authorized under Section 1, Rule 31 of the Rules on Civil Procedure.

The same rule was applied in *Naguiat v. Intermediate Appellate Court*³⁷ and *Cojuangco, Jr. v. Court of Appeals*³⁸ wherein the Supreme Court upheld the consolidation of the criminal case and civil case that were respectively filed against the petitioners therein.

On that score, the Court finds no reason to depart from its practice to liberally construe procedural rules for the orderly administration of substantial justice.

The conditions with respect to the taking of the testimony of Mary Jane that were laid down by the Indonesian Government support the allowance of written interrogatories under Rule 23 of the Rules of Court, the pertinent provisions of which read:

Section 1. *Depositions pending action, when may be taken.* — By leave of court after jurisdiction has been obtained over any defendant or over property which is the subject of the action, or without such leave after an answer has been served, the testimony of any person, whether a party or not, may be taken, at the instance of any party, by deposition upon oral examination or written interrogatories. The attendance of witnesses may be compelled by the use of a subpoena as provided in Rule 21. Depositions

³⁶ 201 Phil. 422, 426-427 (1982).

³⁷ 247 Phil. 468 (1988).

³⁸ 280 Phil. 678 (1991).

shall be taken only in accordance with these Rules. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

Section 11. *Persons before whom depositions may be taken in foreign countries.* — In a foreign state or country, depositions may be taken (a) on notice before a secretary of embassy or legation, consul general, consul, vice-consul, or consular agent of the Republic of the Philippines; (b) before such person or officer as may be appointed by commission or under letters rogatory; or (c) the person referred to in section 14 hereof.

Section 25. *Deposition upon written interrogatories; service of notice and of interrogatories.* — A party desiring to take the deposition of any person upon written interrogatories shall serve them upon every other party with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom the deposition is to be taken. Within ten (10) days thereafter, a party so served may serve cross-interrogatories upon the party proposing to take the deposition. Within five (5) days thereafter, the latter may serve re-direct interrogatories upon a party who has served cross-interrogatories. Within three (3) days after being served with re-direct interrogatories, a party may serve recross-interrogatories upon the party proposing to take the deposition.

A strict application of the procedural rules will defeat the very purpose for the grant of reprieve by the Indonesian authorities to Mary Jane. Mary Jane's testimony, being the victim, is vital in the prosecution of the pending criminal cases that were filed against Cristina and Julius. This has been recognized by no less than the Indonesian President, His Excellency Joko Widodo, who granted the reprieve precisely to afford Mary Jane the opportunity to participate in the legal proceedings obtaining in the Philippines.

Besides, the disallowance of the written interrogatories is not in congruence with the aim of ASEAN MLAT, that is to render mutual legal assistance in criminal matters among signatory states including the Philippines. The ASEAN MLAT is enforced precisely to be applied in circumstances like in the case of Mary Jane. It recognizes the significance of cooperation and coordination among the states to prevent, investigate and prosecute criminal offenses especially if perpetuated not only in a single state just like in the case of drug and human trafficking, and illegal recruitment, the very charges that were filed against respondents.

Verily, in light of the unusual circumstances surrounding the instant case, the Court sees no reason not to apply suppletorily the provisions of Rule 23 of the Rules on Civil Procedure in the interest of substantial justice and fairness. Hence, the taking of testimony of Mary Jane through a deposition by written interrogatories is in order.

***The deposition by written interrogatories
is pursuant to Mary Jane's right to due process***

Furthermore, to disallow the written interrogatories will curtail Mary Jane's right to due process.

The benchmark of the right to due process in criminal justice is to ensure that all the parties have their day in court. It is in accord with the duty of the government to follow a fair process of decision-making when it acts to deprive a person of his liberty. But just as an accused is accorded this constitutional protection, so is the State entitled to due process in criminal prosecutions. It must likewise be given an equal chance to present its evidence in support of a charge.³⁹

Here, the trial court acted within its jurisdiction when it granted the taking of Mary Jane's deposition by written interrogatories. The grant of the written interrogatories by the Indonesian Government perceives the State's opportunity to present all its desired witnesses in the prosecution of its cases against Cristina and Julius. It is afforded fair opportunity to present witnesses and evidence it deem vital to ensure that the injury sustained by the People in the commission of the criminal acts will be well compensated and, most of all, that justice be achieved. Hence, the right of the State to prosecute and prove its case have been fully upheld and protected.

Further, the right of the State to prove the criminal liability of Cristina and Julius should not be derailed and prevented by the stringent application of the procedural rules. Otherwise, it will constitute a violation of the basic constitutional rights of the State and of Mary Jane to due process which this Court cannot disregard.

The fundamental rights of both the accused and the State must be equally upheld and protected so that justice can prevail in the truest sense of the word. To do justice to accused and injustice to the State is no justice at all. Justice must be dispensed to all the parties alike.⁴⁰ As aptly held in *Dimatulac v. Villon*⁴¹:

The judge, on the other hand, "should always be imbued with a high sense of duty and responsibility in the discharge of his obligation to promptly and properly administer justice." He must view himself as a priest, for the administration of justice is akin to a religious crusade. Thus, exerting the same devotion as a priest "in the performance of the most sacred ceremonies of religious liturgy," the judge must render service with impartiality commensurate with the public trust and confidence reposed in him. Although the determination of a criminal case before a judge lies

³⁹ *People v. Verra*, 432 Phil. 279, 282-283 (2002), citing 16B Am. Jur. 2d. § 946.

⁴⁰ *People v. Tac-an*, 446 Phil. 496, 505-506 (2003).

⁴¹ 358 Phil. 328, 365 (1998).

within his exclusive jurisdiction and competence, his discretion is not unfettered, but rather must be exercised within reasonable confines. **The judge's action must not impair the substantial rights of the accused, nor the right of the State and offended party to due process of law.**

Indeed, for justice to prevail, the scales must balance; justice is not to be dispensed for the accused alone. The interests of society and the offended parties which have been wronged must be equally considered. Verily, a verdict of conviction is not necessarily a denial of justice, and an acquittal is not necessarily a triumph of justice; for, to the society offended and the party wronged, it could also mean injustice. Justice then must be rendered even-handedly to both the accused, on one hand, and the State and offended party, on the other. (Emphasis Supplied.)

No violation of the constitutional right to confrontation of a witness

Similarly, the deposition by written interrogatories will not infringe the constitutional right to confrontation of a witness of Cristina and Julius.

The right to confrontation of a witness is one of the fundamental basic rights of an accused. It is ingrained in our justice system and guaranteed by no less than the 1987 Constitution as stated under its Article III, Section 14(2), to wit:

Section 14. (1) x x x

(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial and public trial, **to meet the witnesses face to face**, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable. (Emphasis supplied)

The right to confrontation is part of due process not only in criminal proceedings but also in civil proceedings as well as in proceedings in administrative tribunals with quasi-judicial powers.⁴² It has a two-fold purpose: (1) primarily, to afford the accused an opportunity to test the testimony of the witness by cross-examination; and (2) secondarily, to allow the judge to observe the deportment of the witness.⁴³

True, Cristina and Julius have no opportunity to confront Mary Jane face to face in light of the prevailing circumstance. However, the terms and conditions laid down by the trial court ensure that they are given ample opportunity to cross-examine Mary Jane by way of written interrogatories so

⁴² *Savory Luncheonette v. Lakas Manggagawang Pilipino*, 159 Phil. 310, 315 (1975).

⁴³ *People v. Nicolas*, 436 Phil. 462, 476-477 (2002).

as not to defeat the first purpose of their constitutional right. To recall, the trial court requires Cristina and Julius, through their counsel, to file their comment and may raise objections to the proposed questions in the written interrogatories submitted by the prosecution. The trial court judge shall promptly rule on the objections. Thereafter, only the final questions would be asked by the Consul of the Philippines in Indonesia or his designated representative. The answers of Mary Jane to the propounded questions must be written verbatim, and a transcribed copy of the same would be given to the counsel of the accused who would, in turn, submit their proposed cross interrogatory questions to the prosecution. Should the prosecution raised any objection thereto, the trial court judge must promptly rule on the same, and the final cross interrogatory questions for the deposition of Mary Jane will then be conducted. Mary Jane's answers in the cross interrogatory shall likewise be taken in verbatim and a transcribed copy thereof shall be given to the prosecution.

The second purpose of the constitutional right to confrontation has likewise been upheld. As aptly stated in the terms and conditions for the taking of deposition, the trial court judge will be present during the conduct of written interrogatories on Mary Jane. This will give her ample opportunity to observe and to examine the demeanor of the witness closely. Although the deposition is in writing, the trial court judge can still carefully perceive the reaction and deportment of Mary Jane as she answers each question propounded to her both by the prosecution and the defense.

Indubitably, the constitutional rights of Cristina and Julius are equally safeguarded. The parameters laid down by the trial court are sufficient in detail ensuring that Mary Jane will give her testimony under oath to deter lying by the threat of perjury charge. She is still subjected to cross-examination so as to determine the presence of any falsehood in her testimony. Lastly, the guidelines enable the trial court judge to observe her demeanor as a witness and assess her credibility.

Finally, it must be mentioned that a "dying declaration" is one of the recognized exceptions to the right to confrontation.⁴⁴ In the case at bar, it will not be amiss to state that Mary Jane's deposition through written interrogatories is akin to her dying declaration. There is no doubt that Mary Jane will be answering the written interrogatories under the consciousness of an impending death – or execution by a firing squad to be exact. To stress, Mary Jane has been convicted by final judgment and sentenced to death by firing squad. Mary Jane has already availed of all available legal remedies and there is no expectation that her conviction will be overturned by the Indonesian authorities. The only purpose for the grant of the reprieve was for Mary Jane to assist the prosecution in erecting its case against her recruiters and traffickers. There was nary any mention that the outcome of the legal

⁴⁴ Bernas, Joaquin, G., *The Constitution of the Republic of the Philippines, A Commentary*, Volume 1, 1987 Edition, p. 393.

proceedings here in the Philippines will have a concomitant effect in Mary Jane's conviction by the Indonesian authorities. That Mary Jane is facing impending death is undisputed considering the nature of her reprieve which is merely temporary. It is therefore not a stretch of imagination to state that Mary Jane's declarations in her deposition "are made in extremity, [she being] at the point of death, and x x x every hope of this world is gone; when every motive to falsehood is silenced and the mind is induced by the most powerful considerations to speak the truth,"⁴⁵ to vindicate oneself, and to secure justice to her detractors.


All told, the Court finds reversible error in the assailed Decision of the Court of Appeals. It erred when it gave due course to the Petition for *Certiorari* of Cristina and Julius considering that the errors ascribed therein were mere errors of judgment which do not lie in a *certiorari* proceeding. More importantly, the trial court did not gravely abuse its discretion amounting to lack or excess of jurisdiction when it granted the taking of testimony of Mary Jane by way of deposition through written interrogatories in light of the conditions of Mary Jane's reprieve and her imprisonment in Indonesia. These are compelling reasons to liberally construe the procedural rules and apply suppletorily the Rules on Civil Procedure. Yet still, the fundamental rights, not only of the State, but also of the accused Cristina and Julius have been fully and equally protected and preserved in the pursuit of justice.

WHEREFORE, the Court **GRANTS** the instant petition. The December 13, 2017 Decision of the Court of Appeals in CA-G.R. SP No. 149002 is **REVERSED** and **SET ASIDE**. The August 16, 2016 Resolution of the Regional Trial Court, Branch 88 of Sto. Domingo, Nueva Ecija, is **REINSTATED** and **AFFIRMED with MODIFICATION** that the deposition will be taken before our Consular Office and officials in Indonesia pursuant to the Rules of Court and principles of jurisdiction.


The recommendation by the Office of the Solicitor General for this Court to promulgate a set of rules for the guidance of the Bench and the Bar in transnational cases that may arise in the future, where a prosecution's vital witness in a criminal proceeding is unavailable for reasons other than those listed in Section 15, Rule 119 of the Rules of Criminal Procedure vis-a-vis the enforcement of the accused's constitutional right to confront witnesses face-to-face is **NOTED and REFERRED** to this Court's Committee on Revision of the Rules for its appropriate action.

⁴⁵ *Id.*

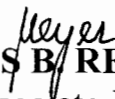
SO ORDERED.


RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Associate Justice
Chairperson


MARVIC M.V.F. LEONEN
Associate Justice


ANDRES B. REYES, JR.
Associate Justice

On official leave
HENRI JEAN PAUL B. INTING
Associate Justice

ATTESTATION

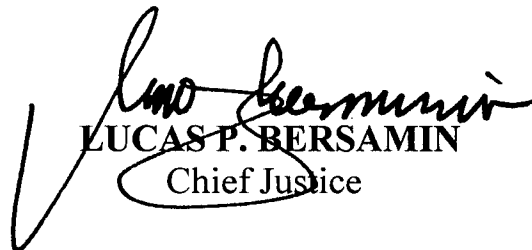
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Associate Justice
Chairperson, Third Division

CERTIFICATION

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



LUCAS P. BERSAMIN
Chief Justice