

Republic of the Philippines  
Supreme Court  
Manila

EN BANC

**RE: NEWS REPORT OF  
MR. JOMAR CANLAS  
IN THE MANILA TIMES ISSUE  
OF 8 MARCH 2016**

**A.M. No. 16-03-10-SC**

Present:

BERSAMIN, *C.J.*,  
CARPIO,  
PERALTA,  
PERLAS-BERNABE,  
LEONEN,  
CAGUIOA,  
REYES, A., JR.,  
GISMUNDO,  
REYES, J., JR.,\*  
HERNANDO,  
CARANDANG,  
LAZARO-JAVIER,  
INTING, and  
ZALAMEDA, *JJ.*

Promulgated:

October 15, 2019

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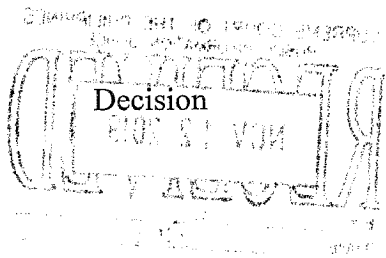
**DECISION**

**CARPIO, J.:**

On 8 March 2016, The Manila Times published, both on its printed and online publication, an article written by its senior reporter, Jomar Canlas (Canlas). The article reads in full:

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\* On leave.



JUSTICES OFFERED ₱50-million bribe  
To disqualify Poe – sources

Justices of the Supreme Court (SC) were offered ₱50 million each to disqualify Senator Grace Poe from running as a presidential candidate in the May elections, well-placed sources at the High Court said on Monday.

The bribery attempt was disclosed on the eve of an en banc session where SC justices were expected to vote on the disqualification case against the senator.

The sources told *The Manila Times* two attempts were made to buy off the votes of the magistrates, both by persons “very close” to President Benigno Aquino 3<sup>rd</sup> and Manuel “Mar” Roxas 2<sup>nd</sup>, the standard bearer of the Liberal Party (LP).

The first to offer, the sources said, came from a female lawyer who is supportive of Roxas’ presidential candidacy. The lawyer, a former Malacañang official, now works at a private law office. The sources said the law firm is behind the special operation to disqualify Poe.

“The offer was ₱50 million for each justice who will disqualify Poe,” one of the sources said. “The justices refused (the offer),” he added.

The source said the offer was relayed to one of the justices appointed by Aquino.

Another source said that a member of the ruling LP dangled the same offer to a senior justice, who also declined it.

The source said a lawmaker and his “partner,” a former businessman close to Aquino and Roxas, were behind the second attempt to bribe the justices.

*The Manila Times* tried to interview several justices but they refused to discuss the bribery attempt.

But a magistrate who asked not to be identified stressed that the tribunal will not bow to any pressure to decide on the case in exchange for cash.

The bribery offer was compared to what happened during the Senate impeachment trial for Chief Justice Renato Corona, who eventually lost his office.

Senator Jose “Jinggoy” Estrada said there was an offer of ₱50 million for each senator who would convict Corona, who was later impeached.

Justices of the high tribunal will tackle the disqualification case against Poe today, the last day for the magistrates to submit their dissenting or concurring opinions to the draft written by Associate Justice Mariano del Castillo.

If no voting is held today, it is likely to resume on Wednesday during a special en banc session the tribunal has set.

Sources had told *The Manila Times* that del Castillo pushed for the disqualification of Poe because she failed to meet the residency requirement for those presidential candidates.



The justices said the Commission on Elections did not commit grave abuse of discretion when it disqualified Poe, thus, he said the temporary restraining order issued by the SC stopping the poll body from dropping Poe from the list of presidential candidates should be lifted.<sup>1</sup>

In its 15 March 2016 Resolution, the Court, citing that “certain statements and innuendoes in Mr. Jomar Canlas' news report tend, directly or indirectly, to impede, obstruct, or degrade the administration of justice, within the purview of Section 3(d), Rule 71 of the 1997 Rules on Civil Procedure[,]” directed Canlas to explain, within five days from receipt of the resolution, why no sanction should be imposed on him for indirect contempt of court.

Canlas moved for extensions of time to submit his explanation, which the Court granted. On 22 April 2016, Canlas submitted his explanation, alleging that the disqualification cases against Grace Poe (Poe) have generated national interest and any attempt to bribe Justices to influence their decision is a matter of public interest and is a legitimate subject for any journalist. He added that he was moved by a sense of civic duty, and he was prodded by his responsibility as a newspaperman. Thus, he proceeded “to expose and denounce what he perceived [as] an insidious attempt to sway the justices in their decision over the case.”<sup>2</sup> Canlas alleged that he never made any accusation or criticism against the Court or any of the Justices, but he only reported about the failed attempts to bribe certain Justices and how the attempts were rebuffed.

Canlas also stated that he made several attempts to secure an interview with, and get the side of, the Justices but he was unsuccessful. Still, he reported the comment of a Justice who refused to be named that the Court “will not bow to any pressure to decide on the case in exchange for cash.”<sup>3</sup> According to him, the article paints an image of the Court that is incorruptible and which cannot be swayed or influenced by anyone even by those in powerful positions. Canlas added that, assuming the article may have unintentionally caused unflattering innuendoes about the Court, for which he “sincerely apologizes,” his intention was to let the public know about the failed attempts. His action was done with good motives and for justifiable ends. Canlas alleged that it is important to consider good faith or the lack of it in the disposition of this case.


The legitimate exercise of freedom of speech and of the press is a protected Constitutional right. Section 4, Article III of the 1987 Constitution provides:

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<sup>1</sup> The article was published on the front page and on page 2 of The Manila Times and can be accessed at <http://www.manilatimes.net/justices-offered-p50-million-bribe/249079/> (visited 30 June 2016).

<sup>2</sup> *Rollo*, p. 11.

<sup>3</sup> *Id.* at 12.



SECTION 4. No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.

In *In the Matter of the Allegations Contained in the Columns of Mr. Macasaet Published in Malaya dated September 18, 19, 20 and 21, 2007*,<sup>4</sup> the Court once again recognized the role of the mass media in a democratic government. In that case, the Court stated:

The mass media in a free society uphold the democratic way of life. They provide citizens with relevant information to help them make informed decisions about public issues affecting their lives. Affirming the right of the public to know, they serve as vehicles for the necessary exchange of ideas through fair and open debate. As the fourth Estate in our democracy, they vigorously exercise their independence and vigilantly guard against infringement. Over the year, the Philippine media have earned the reputation of being the “freest and liveliest” in Asia.

Members of the Philippine media have assumed the role of a watchdog and have been protective and assertive of this role. They demand accountability of government officials and agencies. They have been adversarial when they relate with any of the three branches of government. They uphold the citizen’s right to know, and make public officials, including judges and justices, responsible for their deeds and misdeeds. Through their watchdog function, the media motivate the public to be vigilant in exercising the citizen’s right to an effective, efficient and corrupt-free government.<sup>5</sup>

The freedom of speech and of the press, however, is not absolute. In *Zaldivar v. Sandiganbayan*,<sup>6</sup> this Court ruled:

x x x. [F]reedom of speech and of expression, like all constitutional freedoms, is not absolute and that freedom of expression needs on occasion to be adjusted to and accommodated with the requirements of equally important public interest. One of these fundamental public interests is the maintenance of the integrity and orderly functioning of the administration of justice. There is no antimony between free expression and the integrity of the system of administering justice. For the protection and maintenance of freedom of expression itself can be secured only within the context of a functioning and orderly system of dispensing justice, within the context, in other words, of viable independent institutions for delivery of justice which are accepted by the general community.<sup>7</sup>

Once again, we are confronted with the issue of balancing the role of the media *vis-à-vis* judicial independence.


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<sup>4</sup> 583 Phil. 391 (2008).

<sup>5</sup> Id. at 433.

<sup>6</sup> 248 Phil. 542 (1988).

<sup>7</sup> Id. at 579.



The Court has used two formulas to balance the constitutional guarantee of free speech and of the press and judicial independence. As early as 1957, this Court sustained the view that:

Two theoretical formulas had been devised in the determination of conflicting rights of similar import in an attempt to draw the proper constitutional boundary between freedom of expression and independence of the judiciary. These are the "clear and present danger" rule and the "dangerous tendency" rule. The first, as interpreted in a number of cases, means that the evil consequence of the comment or utterance must be "extremely serious and the degree of imminence extremely high" before the utterance can be punished. The danger to be guarded against is the "substantive evil" sought to be prevented. And this evil is primarily the "disorderly and unfair administration of justice." This test establishes a definite rule in constitutional law. It provides the criterion as to what words may be published. Under this rule, the advocacy of ideas cannot constitutionally be abridged unless there is a clear and present danger that such advocacy will harm the administration of justice.

x x x x

Thus, speaking of the extent and scope of the application of this rule, the Supreme Court of the United States said "Clear and present danger of substantive evils as a result of indiscriminate publications regarding judicial proceedings justifies an impairment of the constitutional right of freedom and press only if the evils are extremely serious and the degree of imminence extremely high. x x x. A public utterance or publication is not to be denied the constitutional protection of freedom of speech and press merely because it concerns a judicial proceeding still pending in the courts, upon the theory that in such a case it must necessarily tend to obstruct the orderly and fair administration of justice.[""]

x x x x

The "dangerous tendency" rule, on the other hand, has been adopted in cases where extreme difficulty is confronted in determining where the freedom of expression ends and the right of courts to protect their independence begins. There must be a remedy to borderline cases and the basic principle of this rule lies in that the freedom of speech and of the press, as well as the right to petition for redress of grievance, while guaranteed by the constitution, are not absolute. They are subject to restrictions and limitations, one of them being the protection of the courts against contempt (*Gilbert vs. Minnesota*, 254 U.S. 325).

This rule may be epitomized as follows: If the words uttered created a dangerous tendency which the state has a right to prevent, then such words are punishable. It is not necessary that some definite or immediate acts of force, violence, or unlawfulness be advocated. It is sufficient that such acts be advocated in general terms. Nor is it necessary that the language used be reasonably calculated to incite persons to acts of force, violence, or unlawfulness. It is sufficient if the natural tendency and probable effect of

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the utterance be to bring about the substantive evil which the legislative body seeks to prevent. (*Gitlow vs. New York*, 268 U.S. 652)<sup>8</sup>

The substantive evil sought to be prevented to warrant the restriction upon freedom of expression or of the press must be serious and the degree of imminence extremely high.<sup>9</sup> In the application of the clear and present danger test in relation to freedom of the press, good faith or absence of intent to harm the courts is a valid defense.<sup>10</sup> Here, Canlas claimed that his article was written with good motives and for justifiable ends.

We do not agree. Canlas reported about alleged attempts to buy off the Justices in the Poe cases. The offer was allegedly ₱50 million for each vote to disqualify Poe. Canlas claimed that he tried to get the side of the Justices on the alleged attempts but he was unsuccessful. He did not elaborate on his attempts to verify the story. However, he quoted an unnamed Justice who allegedly said that the Court will not bow to any pressure in deciding the case in exchange for money. Canlas claimed that his article painted the Court in a good light as it showed that the Court is incorruptible. We do not find his explanation acceptable.

First, the Court notes that the statement of the unnamed Justice did not confirm the allegation of bribery; the unnamed Justice only stated that the Court will not allow itself to be pressured by anyone. Second, the legitimacy of the news article is misleading and has not been sufficiently established. Third, a reading of the article shows its intention to sensationalize. The news article reports of grave accusations that were not shown to have been verified. It imputed bribery charges against a female lawyer, who was a former Malacañang lawyer and who supported the candidacy of Mar Roxas; a member of the Liberal Party; and a businessman, who is close to Roxas and President Benigno Aquino III. It gave a false impression against the Justices who did not vote in favor of Poe. It compared the bribery attempts to the one that allegedly occurred during the impeachment of Chief Justice Renato C. Corona. The article, in full, emphasizes the bad that overshadows the short disclaimer that the Justices refused the bribe. Again, because of the close voting in the Poe cases, the article created a doubt in the minds of the readers, against some of the Justices and in the process, the Court as a whole.


In *In Re Emil P. Jurado*,<sup>11</sup> where Jurado was cited for contempt for publishing serious accusations against members of the Judiciary without ascertaining their veracity, the Court expressed that –

<sup>8</sup> *Cabansag v. Fernandez*, 102 Phil. 152, 161-163 (1957). See also Dissenting Opinion of Justice Carpio in the Macasaet case, 583 Phil. 391, 473-474 (2008).

<sup>9</sup> *Bridges v. California*, 314 U.S. 252 (1941).

<sup>10</sup> Dissenting Opinion of Justice Carpio, in the Macasaet case, 583 Phil. 391, 477 (2008), citing *People v. Godoy*, 312 Phil. 977 (1995).

<sup>11</sup> 313 Phil. 119 (1995).




[F]alse reports about a public official or other person are not shielded from sanction by the cardinal right to free speech enshrined in the Constitution. Even the most liberal view of free speech has never countenanced the publication of falsehoods, specially the persistent and unmitigated dissemination of patent lies. The U.S. Supreme Court, while asserting that “[u]nder the First Amendment there is no such thing as a false idea,” and that “[h]owever pernicious an opinion may seem, we depend for its correction not on the conscience of judges and juries but on the competition of other ideas” (citing a passage from the first Inaugural Address of Thomas Jefferson), nonetheless made the firm announcement that “there is no constitutional value in false statements of facts,” and “the erroneous statement of fact is not worthy of constitutional protection [although] x x x nevertheless inevitable in free debate.” “Neither the intentional lie nor careless error,” it said, “materially advances society’s interest in ‘unhibited, robust, and wide-open’ debate on public issues. *New York Times Co. v. Sullivan*, 376 US, at 270, 11 L Ed 2d 686, 95 ALR2d 1412. They belong to that category of utterances which ‘are no[t] essential part of any exposition of ideas, and are of such slight social value as a step to the truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.’ *Chaplinsky v. New Hampshire*, 315 US 568, 572, 86 L Ed 1031, 62 S Ct 766 (1942).”<sup>12</sup>

The Court is not immune from criticisms, and it is the duty of the press to expose all government agencies and officials and to hold them responsible for their actions. However, the press cannot just throw accusations without verifying the truthfulness of their reports. The perfunctory apology of Canlas does not detract from the fact that the article, directly or indirectly, tends to impede, obstruct, or degrade the administration of justice.

In lieu of a monetary fine on Canlas, we are severely reprimanding him to stress that a person’s reputation is priceless, and so are the reputations of the Justices of this Court.

**WHEREFORE**, the Court finds Jomar Canlas **GUILTY** of Indirect Contempt of Court in accordance with Section 3(d), Rule 71 of the Rules of Court, and hereby **SEVERELY REPRIMANDS** him with a **STERN WARNING** that a repetition of the same or similar act in the future shall merit a more severe sanction.

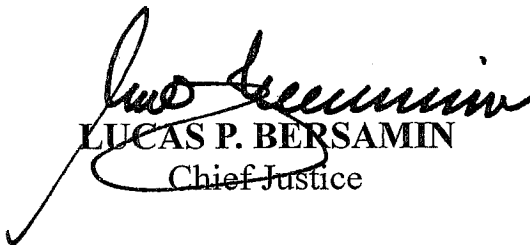
**SO ORDERED.**

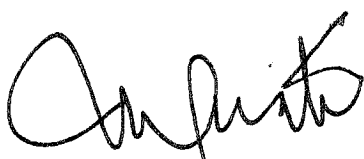
  
**ANTONIO T. CARPIO**  
Associate Justice


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<sup>12</sup> Id. at 193-194.

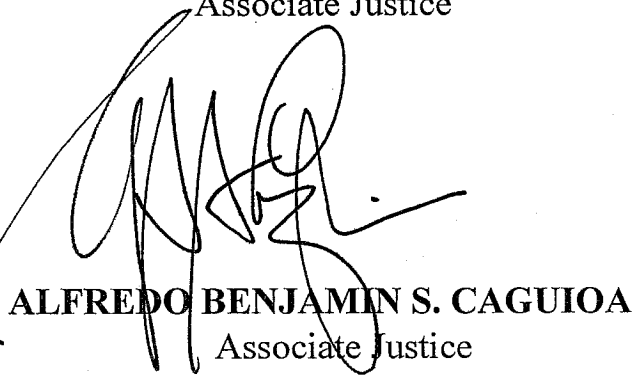
**WE CONCUR:**


  
**LUCAS P. BERSAMIN**  
Chief Justice

  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice


  
**MARVIC M.V.F. LEONEN**  
Associate Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

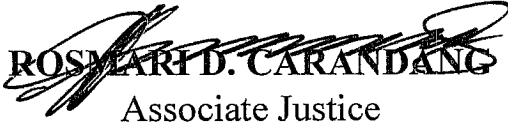
  
**ANDRES B. REYES, JR.**  
Associate Justice


  
**ALEXANDER G. GESMUNDO**  
Associate Justice


(on leave)  
**JOSE C. REYES, JR.**  
Associate Justice

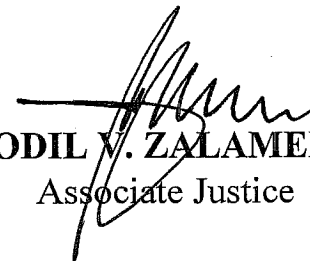
  
**RAMON PAUL L. HERNANDO**  
Associate Justice



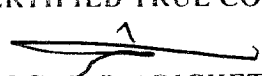
  
**ROSMARIE D. CARANDANG**  
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Associate Justice

  
**RODIL V. ZALAMEDA**  
Associate Justice

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**EDGAR O. ARICHETA**  
Clerk of Court En Banc  
Supreme Court