

RULE 11.2

EXECUTIVE DETERMINATION OF PROBABLE CAUSE

Yambot vs Armovit
GR No. 172677
September 12, 1996

FACTS:

Armovit filed a complaint for libel against Yambot and others for the publication of a news report which allegedly imputes to him the concealment of his client Rolito Go, a convicted murderer. Upon finding of probable cause, the provincial prosecutor filed before the RTC two criminal actions for libel. Yambot however seek the review of the OPPs (Office of the Provincial Prosecutor) resolution by the Regional State Prosecutor, wherein, RSP Caridad reversed the finding of the OPPs and ordered the withdrawal of the informations.

The trial court denied the motion for withdrawal, and was also denied by the CA upon appeal, hence the present case.

ISSUE:

Whether or not the denial of the motion to withdraw by the trial court deprived petitioners of their right to preliminary investigation.

RULING:

No. The Court held that once a complaint or information is filed in court, any disposition of the case as to its dismissal, or the conviction or acquittal of the accused, rests on the sound discretion of the courts. While the prosecutorial arm is persuasive, it is not binding in court. It may therefore grant or deny at its option a motion to dismiss or to withdraw the information based on its own assessment of the records of the preliminary investigation submitted to it, in the faithful exercise of judicial discretion and prerogative, and not out of subservience to the prosecutor.

In the case at bar, the Court finds no error on the part of the appellate court in sustaining the orders of the trial court. The RTC of Ilocos Sur, indeed has the prerogative to grant or deny the motion to withdraw the informations.

Petition denied.

Michigan Prosecutor Conviction Probable Cause Manual

Raffaela Di Napoli

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