

UNOFFICIAL TRANSLATION

Court Sitting in Chambers

Court in the Hague

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TEMPORARY DETENTION

1139

USERID DET

Case Number: 09-760006-06

Having considered the dossier of the clerk of Court of the Court in The Hague of 13 September 2007, wherein the Officer of Justice in the case of

Name: Jose Maria Canlas Sison

Date of Birth: 8 February 1939 in Cabugao (Philippines)

Address: Rooseveltlaan 778 in Utrecht

Filed a higher appeal against the decision of the Hague Court of 13 September 2007 which contains the rejection of the demand of the Prosecutor for the detention of the suspect and the lifting of the order for temporary detention of the suspect.

Having considered the decision against which the appeal is made and the information pieces of the dossier,

At the non-public chamber hearing of 26 September 2007 the Advocate General Atty. Van Die and the suspect assisted by his Counsel, Atty. M. Pestman, lawyer in Amsterdam were heard.

The suspect is suspected of co-perpetrating and inciting in the Netherlands of the murder of Romulo Kintanar 23 January 2003 (fact /offense 1) and/or Arturo Gabasan Tabara and/or Stephen Alamo Ong on 26 September 2004 (fact 3) and the attempted

murder on Ruel Murakami and/or Ruiz y Martinez on 23 January 2003 (fact/offense 2), committed in the Philippines. According to the Public Prosecutors' office, the suspect is supposed to have played an influential role within the CPP – and within other organs of the Party and from that position had given the order for the above mentioned offenses or had incited such offenses.

Serious complaints.

The Court must answer the question whether – on the basis of the dossier and what has been brought forward during the Chamber hearing – there are serious complaints against the suspect as meant in Article 87, third paragraph, of the Wetboek van Strafvordering (Law Book on Criminal Prosecution ?). There was no discussion regarding the seriousness of the murder attacks committed in the Philippines.

The Court deliberates concerning the serious complaints as follows.

The suspect is the founder of the CPP and was in any case the leader of the Party up to the time of his detention in the Philippines in 1977 which lasted until 1986. The suspect has been staying in the Netherlands since 1987.

The dossier, moreover, contains according to the judgement of the Court numerous indications that the suspect, during his many years “in exile” if not as chairman has continued to fulfill a prominent role within the CPP.

The only (presumed) accountability of the suspect within the chain of the CPP, among which the NPA which is supposed to have committed the murders , is for establishing of his criminal responsibility for the above described facts/offenses is *in abstracto* not sufficient. For that it is necessary that a direct connection has to be established (and lawfully and convincingly) proven between the behaviors, actions and negligence of the suspect and that of the murder attacks committed in the Philippines that lawfully speaking can be taken as perpetrator (or offender) in the meaning of Article 47 of the Wetboek van Strafrecht (Criminal Code?).

According to the judgment of the Court, however, the pieces of information available at present there is no concrete indication at all from which the direct criminal involvement of the suspect in the alleged behavior can be drawn, that it would be proper to state that there is responsibility as an offender in the meaning of Article 47 of the Wetboek van Strafrecht (Criminal Code?). Therefore the Court considers the application of temporary detention demanded by serious complaints against the suspect as not present.

The Court has also taken note that the content of the declaration of the witnesses as they are at present found in the dossier pieces in so far as they bear an intimidating character contain a high degree of indefiniteness in time. The Court further notes that the facts perhaps have a political context and that incriminating declarations have been made against the suspect in the Philippines and also considering the political constellation there, cannot just simply be taken as reliable.

The Court refers over and over again (ten overvloede) to the duration and extent of the investigation which are still uncertain while there is also the question in how far the defense in the course of the procedure can fully exercise its rights of interrogation.

The Court shall, considering the partially different motivation, nullify the decision against which the appeal is made and shall reject the demand of the Public Prosecutors' Office for the detention of the suspect just like the Court did earlier.

Decision:

The Court:

Nullifies the decision against which the appeal is made.

Rejects the demand of the Public Prosecutors' Office for detention of the suspect.

So decided on 3 October 2007

By Atty. G. Oosterhof, Vice President at the same time Chairperson

Atty. G.P.A. Aler, Vice President, and Atty. F. Heemskerk, Council

In the presence of Atty. W. S. Korteling, Clerk of Court

And signed by the Chairperson and Clerk of Court: