Republic of the Philippines
Supreme Court
Manila

EN BANC

PEOPLE OF THE PHILIPPINES, Petitioner,	**G.R. Nos. 216007-09**
	SERENO, C.J., CARPIO, VELASCO, JR., LEONARDO-DE CASTRO, BRION,* PERALTA, BERSAMIN, DEL CASTILLO, VILLARAMA, JR., PEREZ, MENDOZA, REYES, PERLAS-BERNABE, LEONEN, and JARDELEZA, JJ.
- versus -	
LUZVIMINDA S. VALDEZ and THE SANDIGANBAYAN (FIFTH DIVISION), Respondents.	**Promulgated:** December 8, 2015

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DECISION

PERALTA, *J.*:

This special civil action for *certiorari* under Rule 65 of the Rules of Court (*Rules*) seeks to nullify and set aside the October 10, 2014 Resolution[1] of public respondent Sandiganbayan Fifth Division, the dispositive portion of which states:

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* On official leave.

[1] Penned by Associate Justice Ma. Theresa Dolores C. Gomez-Estoesta, with Associate Justices Roland B. Jurado and Alexander G. Gesmundo, concurring; *rollo*, pp. 30-40.

> WHEREFORE, the (i) *Motion to Set Aside No Bail Recommendation and to Fix the Amount of Bail* and the (ii) *Urgent Supplemental Motion to the Motion to Set Aside No Bail Recommendation and to Fix the Amount of Bail with Additional Prayer to Recall/List Warrant of Arrest* filed by accused Luzviminda S. Valdez, are **GRANTED**.
>
> Let the Order of Arrest issued in Criminal Case Nos. SB-14-CRM-0321, 0322 and 0324 adopting the "no bail" recommendation of the Office of the Ombudsman be **RECALLED**. Instead, let an Order of arrest in said cases be issued anew, this time, fixing the bail for each offense charged in the amount of Two Hundred Thousand Pesos (₱200,000.00).
>
> SO ORDERED.[2]

The case stemmed from the Joint Affidavit[3] executed by Sheila S. Velmonte-Portal and Mylene T. Romero, both State Auditors of the Commission on Audit Region VI in Pavia, Iloilo, who conducted a post-audit of the disbursement vouchers (D.V.) of the Bacolod City Government. Among the subjects thereof were the reimbursements of expenses of private respondent Luzviminda S. Valdez (Valdez), a former mayor of Bacolod City, particularly:

1. D.V. No. 6 dated January 8, 2004 amounting to ₱80,000.00;
2. D.V. No. 220 dated March 24, 2004 amounting to ₱68,000.00;
3. D.V. No. 278 dated April 13, 2004 amounting to ₱19,350.00; and
4. D.V. No. 325 dated April 30, 2004 amounting to ₱111,800.00 for Cash Slip No. 193402.[4]

Based on the verification conducted in the establishments that issued the official receipts, it was alleged that the cash slips were altered/falsified to enable Valdez to claim/receive reimbursement from the Government the total amount of ₱279,150.00 instead of only ₱4,843.25; thus, an aggregate overclaim of ₱274,306.75.

The Public Assistance and Corruption Prevention Office (PACPO), Office of the Ombudsman – Visayas received the joint affidavit, which was thereafter resolved adverse to Valdez.

Consequently, Valdez was charged with eight cases four of which (SB-14-CRM-0317 to 0320) were for Violation of Section 3 (e) of Republic Act No. 3019, while the remaining half (SB-14-CRM-0321 to 0324) were for the complex crime of Malversation of Public Funds thru Falsification of

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2 *Id*. at 40.
3 *Id*. at 41-43.
4 *Id*. at 41.

Official/Public Documents under Articles 217[5] and 171,[6] in relation to Article 48[7] of the Revised Penal Code (RPC). All the cases were raffled before public respondent.

Since the Ombudsman recommended "no bail" in SB-14-CRM-0321, 0322, and 0324, Valdez, who is still at-large, caused the filing of a Motion to Set Aside No Bail Recommendation and to Fix the Amount of Bail.[8] She argued that the three cases are bailable as a matter of right because no aggravating or modifying circumstance was alleged; the maximum of the indeterminate sentence shall be taken from the medium period that ranged from 18 years, 8 months and 1 day to 20 years; and applying Article 48 of the RPC, the imposable penalty is 20 years, which is the maximum of the medium period.

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[5] Art. 217. *Malversation of Public Funds or Property; Presumption of Malversation.* – Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same or shall take or misappropriate or shall consent, through abandonment or negligence, shall permit any other person to take such public funds, or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property, shall suffer:

1. The penalty of *prision correccional* in its medium and maximum periods, if the amount involved in the misappropriation or malversation does not exceed two hundred pesos.
2. The penalty of *prision mayor* in its minimum and medium periods, if the amount involved is more than two hundred pesos but does not exceed six thousand pesos.
3. The penalty of *prision mayor* in its maximum period to *reclusion temporal* in its minimum period, if the amount involved is more than six thousand pesos but is less than twelve thousand pesos.
4. The penalty of *reclusion temporal,* in its medium and maximum periods, if the amount involved is more than twelve thousand pesos but is less than twenty-two thousand pesos. If the amount exceeds the latter, the penalty shall be *reclusion temporal* in its maximum period to *reclusion perpetua.*

In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.

The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be prima facie evidence that he has put such missing funds or property to personal use. (As amended by RA 1060)

[6] Art. 171. *Falsification by Public Officer, Employee or Notary or Ecclesiastic Minister.* – The penalty of *prision mayor* and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

1. Counterfeiting or imitating any handwriting, signature or rubric;
2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;
3. Attributing to persons who have participated in any act or proceeding statements other than those in fact made by them;
4. Making untruthful statements in a narration of facts;
5. Altering true dates;
6. Making any alteration or intercalation in a genuine document which changes its meaning;
7. Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a copy a statement contrary to, or different from, that of the genuine original; or
8. Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.

The same penalty shall be imposed upon any ecclesiastical minister who shall commit any of the offenses enumerated in the preceding paragraphs of this article, with respect to any record or document of such character that its falsification may affect the civil status of persons.

[7] Art. 48. *Penalty for complex crimes.* – When a single act constitutes two or more grave or less grave felonies, or when an offense is a necessary means for committing the other, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period.

[8] *Rollo*, pp. 44-51.

Petitioner countered in its Comment/Opposition[9] that the Indeterminate Sentence Law (ISL) is inapplicable as the attending circumstances are immaterial because the charge constituting the complex crime have the corresponding penalty of *reclusion perpetua*. Since the offense is punishable by *reclusion perpetua*, bail is discretionary. Instead of a motion to fix bail, a summary hearing to determine if the evidence of guilt is strong is, therefore, necessary conformably with Section 13, Article III of the 1987 Constitution and Section 4, Rule 114 of the Rules.

Due to the issuance and release of a warrant of arrest, Valdez subsequently filed an Urgent Supplemental Motion to the Motion to Set Aside No Bail Recommendation and to Fix the Amount of Bail with Additional Prayer to Recall/Lift Warrant of Arrest.[10] Petitioner filed a Comment/Opposition thereto.[11] Later, the parties filed their respective Memorandum of Authorities.[12]

As aforesaid, on October 10, 2014, public respondent granted the motions of Valdez. It recalled the arrest order issued in Criminal Case Nos. SB-14-CRM-0321, 0322 and 0324. In lieu thereof, a new arrest order was issued, fixing the bail for each offense charged in said cases in the amount of Two Hundred Thousand Pesos (₱200,000.00). Without filing a motion for reconsideration, petitioner elevated the matter before Us to resolve the lone issue of whether an accused indicted for the complex crime of Malversation of Public Funds thru Falsification of Official/Public Documents involving an amount that exceeds ₱22,000.00 is entitled to bail as a matter of right.

The Court shall first tackle Valdez's procedural objection. She avers that the petition must be dismissed outright on the ground that it was filed without first filing a motion for reconsideration before public respondent, and that, even if there are exceptions to the general rule, this case does not fall under any of them.

We disagree.

The general rule is that a motion for reconsideration is a condition *sine qua non* before a petition for *certiorari* may lie, its purpose being to grant an opportunity for the court *a quo* to correct any error attributed to it by a re-examination of the legal and factual circumstances of the case.

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9 *Id*. at 52-56.
10 *Id*. at 57-59.
11 *Id*. at 60-63.
12 *Id*. at 64-74.

However, the rule is not absolute and jurisprudence has laid down the following exceptions when the filing of a petition for *certiorari* is proper notwithstanding the failure to file a motion for reconsideration:

> (a) where the order is a patent nullity, as where the court *a quo* has no jurisdiction;
> (b) where the questions raised in the *certiorari* proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court;
> (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the petition is perishable;
> (d) where, under the circumstances, a motion for reconsideration would be useless;
> (e) where petitioner was deprived of due process and there is extreme urgency for relief;
> (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable;
> (g) where the proceedings in the lower court are a nullity for lack of due process;
> (h) where the proceeding was *ex parte* or in which the petitioner had no opportunity to object; and,
> (i) where the issue raised is one purely of law or public interest is involved.[13]

The issue being raised here is one purely of law and all the argument, *pros* and *cons* were already raised in and passed upon by public respondent; thus, filing a motion for reconsideration would be an exercise in futility. Likewise, as petitioner claims, the resolution of the question raised in this case is of urgent necessity considering its implications on similar cases filed and pending before the Sandiganbayan. As it appears, there have been conflicting views on the matter such that the different divisions of the anti-graft court issue varying resolutions. Undeniably, the issue is of extreme importance affecting public interest. It involves not just the right of the State to prosecute criminal offenders but, more importantly, the constitutional right of the accused to bail.

Now, on the main issue:

The controversy is, in fact, not one of first impression. *Mañalac, Jr. v. People*[14] already resolved that an accused charged with Malversation of Public Funds thru Falsification of Official/Public Documents where the amount involved exceeds ₱22,000.00 is not entitled to bail as a matter of right because it has an actual imposable penalty of *reclusion perpetua*.

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13 *Republic v. Lazo,* G.R. No. 195594, September 29, 2014, 737 SCRA 1, 18-19.
14 G.R. Nos. 206194-206207, July 3, 2013, Third Division Resolution.

In *Mañalac, Jr.*, the defendants argued that they should be allowed to post bail since *reclusion perpetua* is not the prescribed penalty for the offense but merely describes the penalty actually imposed on account of the fraud involved. It was also posited that Article 48 of the RPC applies "only after the accused has been convicted in a full-blown trial such that the court is mandated to impose the penalty of the most serious crime," and that the reason for the imposition of the penalty of the most serious offense is "only for the purpose of determining the correct penalty upon the application of the Indeterminate Sentence Law." This Court, through the Third Division, however, denied the petition and resolved in the affirmative the issue of whether the constitutional right to bail of an accused is restricted in cases whose imposable penalty ranges from *reclusion temporal* maximum to *reclusion perpetua*. Citing *People v. Pantaleon, Jr., et al.,*[15] in relation to Section 13, Article III of the Constitution and Section 7, Rule 114 of the Rules, it was held that Manalac, Jr. is not entitled to bail as a matter of right since he is charged with a crime whose penalty is *reclusion perpetua*.

To recall, the amounts involved in *Pantaleon, Jr.* were manifestly in excess of ₱22,000.00. We opined that the Sandiganbayan correctly imposed the penalty of *reclusion perpetua* and that the ISL is inapplicable since it is an indivisible penalty. The Court's pronouncement is consistent with the earlier cases of *People v. Conwi, Jr.*,[16] *People v. Enfermo*,[17] and *People v. Pajaro, et al.*[18] as well as with the fairly recent case of *Zafra v. People*.[19]

The rulings in *Pantaleon, Jr.* and analogous cases are in keeping with the provisions of the RPC. Specifically, Article 48 of which states that in complex crimes, "the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period." Thus, in Malversation of Public Funds thru Falsification of Official/Public Documents, the prescribed penalties for malversation and falsification should be taken into account. Under the RPC, the penalty for malversation of public funds or property if the amount involved exceeds ₱22,000.00 shall be *reclusion temporal* in its maximum period to *reclusion perpetua*, aside from perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.[20] On the other hand, the penalty of *prision mayor* and a fine not to exceed ₱5,000.00 shall be imposed for falsification committed by a public officer.[21] Considering that malversation is the more serious offense, the ***imposable*** penalty for Malversation of Public Funds thru Falsification of Official/Public Documents if the amount involved exceeds ₱22,000.00 is *reclusion*

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15 600 Phil. 186 (2009).
16 223 Phil. 23 (1985).
17 513 Phil. 1 (2005).
18 577 Phil. 441 (2008).
19 G.R. No. 176317, July 23, 2014, 730 SCRA 438.
20 REVISED PENAL CODE, Art. 217.
21 REVISED PENAL CODE, Art. 171.

perpetua, it being the maximum period of the ***prescribed*** penalty of "*reclusion temporal* in its maximum period to *reclusion perpetua*."

For purposes of bail application, however, the ruling in *Mañalac, Jr.* should be revisited on the ground that *Pantaleon, Jr.* (as well as *Conwi, Jr.*, *Enfermo*, *Pajaro, et al.*, and *Zafra*) was disposed in the context of a judgment of conviction rendered by the lower court and affirmed on appeal by this Court. As will be shown below, the appropriate rule is to grant bail as a matter of right to an accused who is charged with a complex crime of Malversation of Public Funds thru Falsification of Official/Public Documents involving an amount that exceeds ₱22,000.00.

Section 13, Article III of the 1987 Constitution states:

> SECTION 13. All persons, except those charged with offenses ***punishable*** by *reclusion perpetua* when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of *habeas corpus* is suspended. Excessive bail shall not be required.[22]

Pursuant thereto, Sections 4 and 7, Rule 114 of the Revised Rules of Criminal Procedure provide:

> **SEC. 4.** ***Bail, a matter of right; exception***. **–** All persons in custody shall be admitted to bail as a matter of right, with sufficient sureties, or released on recognizance as prescribed by law or this Rule (a) before or after conviction by the Metropolitan Trial Court, Municipal Trial Court, Municipal Trial Court in Cities, or Municipal Circuit Trial Court, and (b) before conviction by the Regional Trial Court of an offense not ***punishable*** by death, *reclusion perpetua,* or life imprisonment. (4a)
>
> **SEC. 7**. ***Capital offense of an offense punishable by reclusion perpetua or life imprisonment, not bailable.*** **–** No person charged with a capital offense, or an offense ***punishable*** by *reclusion perpetua* or life imprisonment, shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal prosecution. (7a)[23]

The pivotal question is: How should We construe the term *"punishable"* under the provisions above-quoted?

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22 Emphasis supplied.

23 Emphasis supplied.

In Our mind, the term *"punishable"* should refer to ***prescribed***, not ***imposable***, penalty. *People v. Temporada*,[24] which was even cited by petitioner, perceptibly distinguished these two concepts:

> The RPC provides for an initial penalty as a general prescription for the felonies defined therein which consists of a range of period of time. This is what is referred to as the "**prescribed penalty**." For instance, under Article 249 of the RPC, the prescribed penalty for homicide is *reclusión temporal* which ranges from 12 years and 1 day to 20 years of imprisonment. Further, the Code provides for attending or modifying circumstances which when present in the commission of a felony affects the computation of the penalty to be imposed on a convict. This penalty, as thus modified, is referred to as the "**imposable penalty**." In the case of homicide which is committed with one ordinary aggravating circumstance and no mitigating circumstances, the imposable penalty under the RPC shall be the prescribed penalty in its maximum period. From this imposable penalty, the court chooses a single fixed penalty (also called a straight penalty) which is the "**penalty actually imposed**" on a convict, *i.e.*, the prison term he has to serve.[25]

Petitioner contends that the ***imposable*** penalty is the one provided by the RPC before conviction to determine whether the charge is bailable or not, while the ***penalty actually imposed*** pertains to the prison sentence upon conviction.[26] Hence, it is maintained that the penalty imposable for the offense charged against private respondent is *reclusion perpetua*, which makes Criminal Case Nos. SB-14-CRM-0321, 0322 and 0324 non-bailable.

The argument is erroneous.

Following *Temporada*, for the complex crime of Malversation of Public Funds thru Falsification of Official/Public Documents involving an amount that exceeds ₱22,000.00, the **"prescribed penalty"** is *reclusion temporal* in its maximum period to *reclusion perpetua*. After trial, should the commission of such crime be proven by the prosecution beyond reasonable doubt, the **"imposable penalty"** is *reclusion perpetua* in view of the RPC mandate that the prescribed penalty of *reclusion temporal* maximum to *reclusion perpetua* shall be applied in its maximum.[27] The falsification, which is the means used to commit the crime of malversation, is in the nature of a generic aggravating circumstance that effectively directs the imposition of the prescribed penalty in its maximum period.[28] The phrases

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24 594 Phil. 680, 717-718 (2008).

25 *Id*.

26 *Rollo*, p. 19.

27 The duration of *reclusion temporal* in its maximum period to *reclusion perpetua* is 17 years, 4 months and 1 day to *reclusion perpetua*: The minimum period is 17 years, 4 months and 1 day to 18 years and 8 months; the medium period is 18 years, 8 months and 1 day to 20 years; and the maximum period is *reclusion perpetua*. (See *Zafra v. People*, *supra* note 19, at 456).

28 See REVISED PENAL CODE, Art. 64 (3).

"shall be applied" and *"shall impose,"* found in Articles 63 and 64, respectively, of the RPC, are of similar import as the phrase *"shall be imposed"* found in Article 48. Both Articles 63 and 64 refer to the penalty to be imposed after considering the aggravating or mitigating circumstance/s. Finally, the "**penalty actually imposed"** is still *reclusion perpetua*, considering that the ISL finds no application as the penalty is indivisible.[29]

The October 10, 2014 Resolution of public respondent is spot on had it not confused ***imposable*** penalty with ***prescribed*** penalty. Nonetheless, reading through the text of the assailed Resolution reveals that the anti-graft court actually meant ***prescribed*** penalty whenever it referred to ***imposable*** penalty. Therefore, in essence, the ruling is correct. Respondent court held:

> If the complex crime of Malversation thru Falsification be imposed in its maximum period, there is no doubt that, *in case of conviction*, the penalty to be imposed is *reclusion perpetua*. The cases, however, are still at their inception. Criminal proceedings are yet to ensue. This is not the proper time, therefore, to call for the application of the penalty contemplated under Article 48 by imposing the same in its maximum period.
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> For purposes of determining whether a person can be admitted to bail as a matter of right, it is the **imposable penalty** prescribed by law for the crime charged which should be considered and, not the penalty to be actually imposed. Illustrative cases such as *Catiis v. Court of Appeals, et al.* and *People v. Hu Ruey Chun* evidently confirm this to be so.
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> In both cases, therefore, it is the ***penalty imposable*** for the offense charged that was considered for purposes of bail.
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> A circumspect reading of substantive law validates this view.
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> Section 13, Article III of the Constitution provides that:
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> x x x x
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> On the other hand, Section 4, Rule 114 of the Revised Rules of Court, as amended, provides:
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> x x x x
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> Notably, the word used is [*"punishable,"*] which practically bears the same meaning as *"imposable."* It is only logical that the reference has a direct correlation with the time frame *"before conviction"* since trial is yet to begin; hence, it can only be the penalty imposable of the offense charged that can be considered for purposes of bail.

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[29] The ISL is not applicable since the proper imposable penalty to be imposed upon the accused is already *reclusion perpetua*. (See *Zafra v. People*, *supra* note 19, at 458).

> In these cases, the offenses charged are the complex crimes of Malversation of Public Funds thru Falsification of Official/Public Documents. In determining the penalty imposable, it is the penalty for the most serious crime which is considered. Between Malversation and Falsification, it is Malversation which provides the graver penalty. As thus provided under Article 217 of the Revised Penal Code, *"[i]f the amount exceeds the latter, the penalty shall be reclusion temporal in its maximum period to reclusion perpetua."*
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> The penalty, however, cannot be immediately applied in its maximum period, or *reclusion perpetua*, since this will already consider the application of the penalty in the event of a conviction.
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> A clear perusal of Article 48 of the Revised Penal Code states:
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> x x x x
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> The word used is *"imposed,"* not *imposable*. Thus, the reference can only point to the time when a judgment of conviction is impending. If and when *"the penalty for the most serious crime shall be* ***imposed****, the same to be applied in its maximum period,"* is thus applied in the proper application of the penalty to be imposed on the accused. Certainly, this cannot be considered for purposes of bail.[30]

Indeed, the trial is yet to proceed and the prosecution must still prove the guilt of the accused beyond reasonable doubt. It is not amiss to point that in charging a complex crime, the information should allege each element of the complex offense with the same precision as if the two (2) constituent offenses were the subject of separate prosecutions.[31] Where a complex crime is charged and the evidence fails to support the charge as to one of the component offenses, the defendant can be convicted of the offense proven.[32]

At this point, there is no certainty that Valdez would be found guilty of Malversation of Public Funds thru Falsification of Official/Public Documents involving an amount that exceeds ₱22,000.00. Falsification, like an aggravating circumstance, must be alleged and proved during the trial. For purposes of bail proceedings, it would be premature to rule that the supposed crime committed is a complex crime since it is only when the trial has terminated that falsification could be appreciated as a means of committing malversation. Further, it is possible that only the elements of one of the constituent offenses, *i.e.*, either malversation or falsification, or worse, none of them, would be proven after full-blown trial.

It would be the height of absurdity to deny Valdez the right to bail and grant her the same only after trial if it turns out that there is no complex

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30 *Rollo*, pp. 34-37.

31 See *People v. Bulalayao*, G.R. No. 103497, February 23, 1994, 230 SCRA 232, 240.

32 *People v. Bulalayao*, *supra*.

crime committed. Likewise, it is unjust for Us to give a stamp of approval in depriving the accused person's constitutional right to bail for allegedly committing a complex crime that is not even considered as inherently grievous, odious and hateful. To note, Article 48 of the RPC on complex crimes does not change the nature of the constituent offenses; it only requires the imposition of the maximum period of the penalty prescribed by law. When committed through falsification of official/public documents, the RPC does not intend to classify malversation as a capital offense. Otherwise, the complex crime of Malversation of Public Funds thru Falsification of Official/Public Documents involving an amount that exceeds ₱22,000.00 should have been expressly included in Republic Act No. 7659.[33] If truly a non-bailable offense, the law should have already considered it as a special complex crime like robbery with rape, robbery with homicide, rape with homicide, and kidnapping with murder or homicide, which have prescribed penalty of *reclusion perpetua*.

Just to stress, the inequity of denying bail as a matter of right to an accused charged with Malversation of Public Funds thru Falsification of Official/Public Documents involving an amount that exceeds ₱22,000.00 is palpable when compared with an accused indicted for plunder, which is a heinous crime punishable under R.A. No. 7080,[34] as amended by R.A. No. 7659[35] and R.A. No. 9346.[36] Observe that bail is not a matter of right in plunder committed through malversation of public funds, but the aggregate amount or total value of ill-gotten wealth amassed, accumulated or acquired must be at least Fifty Million Pesos (₱50,000,000.00). In contrast, an accused who is alleged to have committed malversation of public funds thru falsification of official/public documents, which is not a capital offense, is no longer entitled to bail as a matter of right if the amount exceeds ₱22,000.00, or as low as ₱22,000.01. Such distinction is glaringly unfair and could not have been contemplated by the law.

The foregoing interpretation is more favorable to Valdez as an accused following the rule of lenity:

> Intimately related to the *in dubio pro reo* principle is the rule of lenity. The rule applies when the court is faced with two possible interpretations of a penal statute, one that is prejudicial to the accused and

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[33] AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL CODE, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES, dated December 13, 1993.

[34] AN ACT DEFINING AND PENALIZING THE CRIME OF PLUNDER, dated July 12, 1991.

[35] ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL CODE, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES, dated December 13, 1993.

[36] AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES, dated June 24, 2006.

> another that is favorable to him. The rule calls for the adoption of an interpretation which is more lenient to the accused.[37]

The time-honored principle is that penal statutes are construed strictly against the State and liberally in favor of the accused.[38] When there is doubt on the interpretation of criminal laws, all must be resolved in favor of the accused.[39] Since penal laws should not be applied mechanically, the Court must determine whether their application is consistent with the purpose and reason of the law.[40]

For having ruled that an accused charged with the complex crime of Malversation of Public Funds thru Falsification of Official/Public Documents that involves an amount in excess of ₱22,000.00 is entitled to bail as a matter of right, a summary hearing on bail application is, therefore, unnecessary. Consistent with *Miranda v. Tuliao,*[41] an affirmative relief may be obtained from the court despite the accused being still at-large. Except in petition for bail, custody of the law is not required for the adjudication of reliefs sought by the defendant (such as a motion to set aside no bail recommendation and to fix the amount of bail in this case) where the mere application therefor constitutes a waiver of the defense of lack of jurisdiction over the person of the accused.[42]

WHEREFORE, premises considered, the petition is **DENIED** for lack of merit. Private respondent Luzviminda S. Valdez is entitled to bail, as a matter of right, in Criminal Case Nos. SB-14-CRM-0321, 0322 and 0324. Public respondent Sandiganbayan Fifth Division should be guided by the latest Bailbond Guide. In any case, the amount should correspond to the medium penalty multiplied by Ten Thousand Pesos (₱10,000.00) for every year of imprisonment.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

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37 *Intestate Estate of Manolita Gonzales Vda. de Carungcong v. People, et al.*, 626 Phil. 177, 200 (2010).

38 *Tan v. Philippine Commercial International Bank*, 575 Phil. 485, 497 (2008); *People v. Temporada, supra* note 24, at 735; *Maj. Gen. Garcia (Ret.) v. The Executive Secretary, et al.*, 692 Phil. 114, 142 (2012); and *Renato M. David v. Editha A. Agbay*, G.R. No. 199113, March 18, 2015.

39 *Villareal v. People*, 680 Phil. 527, 600 (2012).

40 *Tan v. Philippine Commercial International Bank, supra* note 38, at 497.

41 520 Phil. 907 (2006).

42 See *Renato M. David v. Editha A. Agbay* G.R. No. 199113, March 18, 2015, citing *Miranda v Tuliao*, 520 Phil. 907, 919 (2006).

WE CONCUR:

I join the Dissent of J. Villarama

MARIA LOURDES P. A. SERENO
Chief Justice

ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

On official leave
ARTURO D. BRION
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

Pls See Dissenting Opinion

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

I join the dissent of J. Villarama

See separate Dissenting Opinion

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

CERTIFICATION

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.

MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED XEROX COPY:
FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT