

COURT AT THE HAGUE

Decision pursuant to Art. 237 Law on Criminal Procedure (WvSv)

Public Prosecutor's Office no.:09/750006-06

RC no.: 06/2285

Decision of the judge-commissioner in criminal cases at the Court at The Hague against the suspect:

Jose Maria Canlas SISON

Born in Cabugao, 08 February 1939

Residing in Utrecht, Rooseveltlaan 778

Considering the criminal pre-investigation dated 28 August 2007, the decision of the chamber of the court dated 13 September 2007 and the decision of the Court of Appeals dated 03 October 2007.

Considering the letter of Atty. M. Pestman, lawyer of the suspect, of 6 November 2007

Considering the letter of the prosecutor of 16 November 2007

Judgment

In the current case, a criminal pre-investigation was opened on 28 August 2007 which has not yet been closed. Article 237, first paragraph Sv [Law on Criminal Procedure] stipulates that the judge-commissioner ought to close the criminal pre-investigation if there is no ground for continuing it. According to the judgment of the judge-commissioner, there is a lack of reason for continuing a criminal pre-investigation, among others, if considering the pattern of questions in articles 348 and 350 Sv, continuing the prosecution is not to be considered justified.

The chamber of this court rejected on 13 September 2007 the detention of the suspect because of the lack of serious objections ["ernstige bezwaren", grave presumptions, incriminating evidence]. The Public Prosecutor's Office appealed against this decision at the Court of Appeals here. In its decision of 3 October 2007, the Court of Appeals also rejected the demand for detention of the suspect. The Court of Appeals – concisely and in a business-like way presented – decided that given the current status of the investigation there are no serious objections [incriminating evidence] and moreover there is the question whether the defense can fully exercise its rights of cross examination.

The judge-commissioner requested the prosecutor by letter of 19 October 2007 to give her standpoint on the existence or continued existence of grounds for the criminal pre-investigation considering the aforementioned decisions. The prosecutor – after having

requested and received two extensions – verbally promised to come up with a substantive reaction at the latest by 16 November 2007. On 16 November 2007 the judge-commissioner did receive a reaction, but in it, the prosecutor does not take up the decisions of both chambers. There is therefore no substantive [“inhoudelijke”] reaction. The information that the public prosecutor’s office shall still take up the lack of serious objections if the judge-commissioner requests it, this cannot be considered other than a new attempt for postponement. It should have been perfectly clear to the prosecutor that this was precisely the reaction [taking up the lack of serious evidence] which the judge-commissioner asked for. This request after all flows implicitly from the letter [of the judge-commissioner] of 19 October 2007.

Up to the highest instance [refers to Court of Appeals] it has been decided that from the current criminal dossier no serious evidence against the suspect can be drawn. The prosecutor has in no way provided information whether continuation of the criminal pre-investigation would be able to lead to another judgment on this point. This means that the judge-commissioner cannot but conclude that further investigation will not lead to another conclusion, so that there is no ground for the continuation of the criminal pre-investigation.

The circumstance that the judge-commissioner has already approved witnesses for the prosecution does not negate that. These witnesses have already made their presentations in the existing criminal dossier and their declarations have thus been taken into consideration in the judgment of the Court of Appeals.

Decision

The judge-commissioner closes the criminal pre-investigation.

Thus done at The Hague on 21 November 2007

By (Sgd.) Atty. C.M. Derijks, judge-commissioner

.