Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ATTY. HERMINIO HARRY L. ROQUE, JR., Petitioner,	**G.R. No. 214986** Present:
-versus-	CARPIO, *J., Chairperson,* PERALTA, MENDOZA, LEONEN, and JARDELEZA, *JJ.*
ARMED FORCES OF THE PHILIPPINES (AFP) CHIEF OF STAFF, GEN. GREGORIO PIO CATAPANG, BRIG. GEN. ARTHUR ANG, CAMP AGUINALDO CAMP COMMANDER, and LT. COL. HAROLD CABUNOC, AFP PUBLIC AFFAIRS OFFICE CHIEF, Respondents.	**Promulgated:** 15 FEB 2017

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DECISION

LEONEN, *J.*:

We resolve a Petition to Cite for Indirect Contempt[1] filed by petitioner Atty. Herminio Harry L. Roque, Jr. against respondents Gen. Gregorio Pio Catapang, Brig. Gen. Arthur Ang, and Lt. Col. Harold Cabunoc, for violating Rule 139-B, Section18 of the Rules of Court.

On October 11, 2014, Jeffrey "Jennifer" Laude, 26-year old Filipino, was allegedly killed at a motel in Olongapo City by 19-year old US Marine

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1 *Rollo,* pp. 3–19.

Private Joseph Scott Pemberton.[2] After nearly a month since the killing, police had not been able to obtain Pemberton's latent fingerprints and oral swabs, because he was confined by his superiors on a ship and placed under their custody.[3] Thus, the question of custody over Pemberton was subject of public discussions.[4] Pemberton was eventually transferred from his ship to a facility in the headquarters of the Armed Forces of the Philippines.[5] However, Philippine authorities maintained that until a case was filed against Pemberton, custody over him remained with the United States of America.[6]

On October 22, 2014, news broke out that Pemberton had been flown into Camp Aguinaldo, where a detention facility had been constructed for him, in the premises of the Mutual Defense Board-Security Engagement Board.[7]

Thus, petitioner, together with his clients, the family of the slain Jeffrey "Jennifer" Laude, and German national Marc Sueselbeck, went to Camp General Emilio Aguinaldo, Quezon City, to demand to see Pemberton.[8]

Respondents state that petitioner, with his clients, forced their way inside the premises of the Mutual Defense Board-Security Engagement Board and gained entry despite having been instructed by Military Police personnel not to enter the compound, and even though the gates were closed.[9]

SSg Norly R. Osio PA ("Osio"), a guard who was detailed at Gate 6 Bravo of Camp Aguinaldo, attested that he flagged down a BMW vehicle with Regulation Plate Number UDR-628 sometime between 3:00 and 4:00 p.m. for inspection, and for the issuance of an appropriate Vehicle Pass, but the vehicle did not stop, and sped directly into the Camp.[10] Immediately following the BMW vehicle was a silver Toyota Innova with Regulation Plate Number AHJ-129, with the word "MEDIA" displayed on the windshield.[11] Upon inquiry, the driver of the Innova informed Osio that they were heading to the Public Affairs Office.[12]

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2 Id. at 4.
3 Id.
4 Id.
5 Id. at 4–5.
6 Id. at 5.
7 Id.
8 Id.
9 Id.
10 Id. at 136, Affidavit of SSg Norly R. Osio PA.
11 Id.
12 Id.

Cpl Walter Francisco 796690 (INF) PA attested that he had been posted at the perimeter fence of the MDB-SEB, and was instructed that no media be allowed inside.[13] He narrated encountering petitioner at the MDB-SEB, in front of members of the media:

. . . .

> 3. Pagdating namin sa lugar ay pumuwesto ako sa perimeter fence ng MDB-SEB compound. Naabutan naming maraming media na nakapwesto malapit sa Golf Driving Range na humigit-kumulang 15 metro lamang sa tapat ng perimeter fence na kinaroroonan ko. Binantayan na namin ang mga media na baka sila ay makapasok sa loob ng MDB-SEB compound.
>
> 4. Mga bandang alas tres ng hapon ay dumating si Atty. Harry Roque. Sinalubong sya ng media at sya ay ininterview sa may parking area ng Golf Driving Range at dumating na rin ang nanay ni Jennifer Laude.
>
> 5. Pagkatapos ay bigla silang tumawid, kasama ang media at galit na galit na sumugod sa aking kinatatayuan malapit sa perimeter fence ng binabantayan kong compound.
>
> 6. Noong sandaling iyon ay pinagsabihan ko sila na "Hanggang dyan lang po muna kayo at wala pang advice ang taga PAO (Public Affairs Office, Armed Forces of the Philippines)."
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> 7. Nung makalapit na sila ay minura ako ni Atty. Roque ng "Putang ina, bakit hindi taga PAO ang pumunta dito! [A]t hindi kami ang pupunta sa kanila!"
>
> 8. Pagkatapos ay napilitan akong umalis sa pwesto ko sa dami nila na sumugod sa akin. Sa pagkakataong iyon ay sinabihan ko ang tropa sa pamamamagitan ng handheld radio na isara at ilock ang gate ng AFRESCOM dahil papunta sila Atty. Roque at pamilya Laude dyan kasama mga media sa loob ng compound.
>
> 9. Habang sila ay papunta sa gate ng AFRESCOM ay sinundan ko sila para awatin ngunit sadya silang marami kaya nakaya nilang maitulak ang gate ng AFRESCOM na sya naming pilit na pinigilan nina Cpl Abdulla at SSg Arica na nasa likod ng gate ng AFRESCOM. Sa pagkakataong iyon, ay tuluyan nakapasok ang grupo nila Mr. Sueselbeck at Atty. Roque kasama na rin ang media.[14]

. . . .

As narrated by respondents, petitioner fomented disorder by inciting his clients to scale the perimeter fence, to see Pemberton. TSG Mariano C. Pamittan 787924 PA and SGT Alfonso A. Bungag 810943 PA attested:

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[13] Id. at 138, Affidavit of Cpl. Walter Francisco 796690 (INF) PA.

[14] Id. at 138–139.

> Nakita ko na pinangunahan nina ATTY. ROQUE at nung German ang pwersahang pagpasok sa Main Gate ng AFPRESCOM at MDB-SEB, at pagkatapos tumapat sila sa Gate ng MDB-SEB na kung saan kami ay nakaduty ng oras na iyon, at doon nagsisigaw si Marilou Laude, kapatid ni Jeffrey Laude, na "ilabas nyo si PEMBERTON at gusto namin makita kung nandyan ba talaga!"
>
> Pagkatapos magsisigaw ay biglang umakyat na si Marilou Laude sa bakod ng MDB-SEB, at inawat namin itong dalawa. Pagkatapos makaakyat ni Marilou Laude ay nakita namin yung German na umakyat na rin ng bakod, at pagbaba nilang pareho ay sinabihan namin na bawal ang ginagawa nila.
>
> Napansin din namin na habang umaakyat yung dalawa ay imbes na pigilin ni ATTY. ROQUE ay ginagatongan pa niya sila at pinagsasalitahan din kami ng masama.
>
> Samantala ay dumating na si Camp Commander sa lugar. Pag dating niya ay agad niyang pinakiusapan ang dalawang umakyat ng bakod na lumabas na.
>
> Habang pinapakiusapan niya sila ay kung ano anong mga masasakit na salita ang sinasabi ni ATTY. ROQUE kay Camp Commander at sa amin. Bagaman siya ay sinasabihan ng masama patuloy parin na nakikiusap si Camp Commander.
>
> Natigil lamang sa pagsasalita niya ng masama si ATTY. ROQUE ng napagsabihan ni Camp Commander na umalis muna ang media sa lugar.[15]

Respondents allege that the foregoing events are of public knowledge, having been subject of various national television, radio, internet, and print media publications.[16]

In response to the events of October 22, 2014, respondents released a press statement that they were considering filing disbarment proceedings against petitioner.[17] Thus, on October 30, 2014, respondent Cabunoc, the AFP Public Affairs Office Chief, was quoted by the Philippine Daily Inquirer:

> "The [AFP Chief of Staff] is strongly considering the filing of a formal complaint against him before the Integrated Bar of the Philippines, if warranted. The bases for this complaint are his inappropriate actions inside camp premises during the intrusion incident on October 22," AFP Public Affairs Office Chief Lieutenant Colonel Harold Cabunoc said on Wednesday night.[18]

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15 Id. at 140–141, Joint Affidavit of TSG Mariano C Pamittan 787924 PA and SGT Alfonso A Bungag 810943 PA.

16 Id. at 125, Comment.

17 Id.

18 Id. at 21. Francis Mangosing, *AFP mulls filing disbarment case vs Laude family lawyer Harry Roque,* INQUIRER.NET, October 30, 2014, available at <http://newsinfo.inquirer.net/647743/afp-mulls-filing-disbarment-case-vs-laude-family-lawyer-harry-roque>.

The Inquirer also quoted petitioner's Twitter account:

> Roque, in his Twitter account, said he was looking forward to responding to the AFP's complaint.
>
> "I look forward to answering the complaint of AFP before the IBP. They will hopefully stop their tirades which I consider as a threat to my security," he said.[19]

Similarly, on November 4, 2014, the Philippine Star reported:

> AFP to proceed with disbarment case vs Laude lawyer
>
> MANILA, Philippines – The military leadership will push through with its plan to file a disbarment case against lawyer Harry Roque, counsel of the family of Filipino transgender Jeffrey "Jennifer" Laude ...
>
> Lt. Col. Harold Cabunoc, Armed Forces of the Philippines-Public Affairs Office (AFP-PAO) chief, said military lawyers will file legal action against Roque at the Integrated Bar of the Philippines (IBP) for his conduct when he and members of the Laude family gate-crashed at Camp Aguinaldo in their bid to confront US Marine Private First Class Joseph Scott Pemberton.
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> ....
>
> Roque, for his part, said that he is not at all threatened by the AFP move to have him disbarred, saying that the military move will clarify a lawyer's role in pushing the victims' rights and national sovereignty.
>
> In return, Roque said he would also be filing graft charges against the AFP for allowing the US to have custody over Pemberton at Camp Aguinaldo.
>
> "It's graft when they allow the US to have custody over Pemberton. If they win, I will be disbarred. If I win, they end up in jail," Roque said.
>
> He added that his filing of charges against the AFP is without prejudice to the filing of contempt charges against those who have repeatedly and publicly threatened him with disbarment.[20]

On November 3, 2014, the Sun Star reported:

> MANILA – The Armed Forces of the Philippines (AFP) formally filed Monday a disbarment case against Harry Roque, the lawyer of the

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19 Id.

20 Id. at 22. Jaime Laude, *AFP to proceed with disbarment case vs Laude lawyer*, THE PHILIPPINE STAR, November 4, 2014, available at <http://www.philstar.com/headlines/2014/11/04/1387860/afp-proceed-disbarment-case-vs-laude-lawyer>.

> slain transgender Filipino Jeffrey "Jennifer" Laude before the Integrated Bar of the Philippines (IBP), a military official said Monday.
>
> AFP Public Affairs chief Lieutenant Colonel Harold Cabunoc said AFP chief of staff Gregorio Catapang ordered the military's legal office to file the case against Roque in relation to the inappropriate actions he displayed during the intrusion of Laude's family in restricted areas at the AFP headquarters in Camp Aguinaldo in Quezon City.
>
> On October 22, United States authorities turned over alleged suspect, US Marine Private First Class Joseph Scott Pemberton to Camp Aguinaldo, where he will be detained temporarily while facing murder charges related to Laude's death last October 11.
>
> After attending the hearing of the Senate committee on foreign relations... Laude's family together with Roque went to Camp Aguinaldo to personally see Pemberton and confront him.
>
> The family were able to pass through the first gate of the facility where Pemberton is being held. Marilou, sister of Laude, and German national Marc Sueselbeck climbed over the fence of the second gate as they tried to move closely to where the alleged suspect is detained.
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> The said facility was considered a restricted area, Cabunoc said.
>
> He said Roque was apparently the one who pushed Laude's family to violate the camp rules and regulations.
>
> "Ang isang abogado supposedly ay dapat sa aming paningin ay siyang dapat ang mag-uphold sa law dahil sila ang nakakaalam kung ano ang batas," Cabunoc said adding that Roque deceived the military police by dropping his name as the person they will visit upon entering the camp.
>
> In a text message, Roque said the case is a chance for him to "clarify a lawyer's role in pushing victims' rights and sovereignty."
>
> "On my part, I will file graft charges vs. AFP. Its (sic) graft when they allow the US to have custody over Pemberton in Aguinaldo. If they win, I will be disbarred. If I win, they end up in jail. This is without prejudice to filing contempt charges vs those who have repeatedly and publicly threatened me with disbarment. AFP should be taught what a civilian officer of the court stands for," he said.[21]

On November 4, respondents filed a disbarment complaint against petitioner, before the Integrated Bar of the Philippines.[22] On the same day, respondent Cabunoc called a conference at Camp Aguinaldo, and publicly announced that a disbarment complaint had been filed against petitioner.[23] Respondent Cabunoc also distributed a press statement, which reads:

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21 Id. at 23. Third Anne Peralta, *AFP files disbarment case vs Laude's lawyer,* SUN STAR, November 3, 2014.

22 Id. at 125, Comment.

23 Id. at 10.

> *Press Statement: AFP files disbarment complaint against Atty. Harry Roque*
>
> CAMP AGUINALDO, Quezon City – At about 2 p.m. today, the AFP has filed a verified disbarment complaint before the Integrated Bar of the Philippines (IBP) against Atty. Harry Roque for violation of the Code of Professional Responsibility.
>
> As a lawyer, Atty. Roque is, at all times, subject to the watchful public eye and community approbation.
>
> He is bound to maintain and live up to the standards of the legal profession not only in keeping a high regard of legal proficiency which he undoubtedly possesses but also of distinct high regard for morality, honesty, integrity and fair dealing.
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> As a lawyer, he must bring honor to the legal profession by faithfully performing his duties to society and he must refrain from doing any act that might lessen the confidence and trust reposed by the public in the fidelity, honesty and integrity of the legal profession.
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> His unlawful conduct is clearly prohibited under the rules of the Code of Professional Responsibility.[24]

Petitioner alleges that this press statement was reported on, and generously quoted from, by media.[25]

Petitioner asserts that respondents' acts are contumacious violations of Section 18, Rule 139-B of the Rules of Court.[26] Further, petitioner claims that respondents' acts put to question his professional and personal reputation.[27]

Respondents argue that the press statements are not among the contumacious acts prescribed under Section 3, Rule 71 of the Rules of Court.[28] The subject of the disbarment case pertains to a serious breach of

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[24] Id. at 24. Available at <http://www.afp.mil.ph/index.php/8-afp-news/202-press-statement-afp-files-disbarment-complaint-against-atty-harry-roque> (last visited on February 14, 2017).

[25] Id. at 11.

[26] Id. at 15–18. RULES OF COURT, Rule 139-B, sec. 18 provides:
Section 18. Confidentiality. — Proceedings against attorneys shall be private and confidential. However, the final order of the Supreme Court shall be published like its decisions in other cases.

[27] Id. at 15.

[28] Id. at 126–127, Comment. Rules of Court, Rule 71, sec. 3 provides:
Section 3. Indirect Contempt to be Punished After Charge and Hearing. — After charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:
(a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;
(b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;

security of a military zone.[29] The statements were official statements made in the performance of a public function to address a public concern.[30] The circumstances, which led to the filing of the disbarment complaint and the acts alleged therein were witnessed by the public and duly reported by the media.[31] The filing of the disbarment case was not meant to malign petitioner as a lawyer but rather was a response to the events that transpired at Camp Aguinaldo.[32] Respondents also claim the issue is a matter of public interest, which is a defense in contempt proceedings such as this.[33] With the Laude Murder case being of public concern, petitioner has attained the status of a public figure, susceptible of public comment in connection with his actions on the case.[34] In any case, respondents instituted the disbarment complaint against petitioner in good faith.[35] They are laymen, and are not familiar with the confidentiality rule.[36]

The issues for this Court to resolve are:

1. Whether a violation of the confidentiality rule constitutes contempt of court;

2. Whether respondents' public pronouncements violate Section 18, Rule 139-B of the Rules of Court;

3. Whether respondents may raise public interest as a defense; and

4. Whether non-lawyers may be punished for contempt.

We find for the respondents.

(c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under Section 1 of this Rule;
(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;
(e) Assuming to be an attorney or an officer of a court, and acting as such without authority;
(f) Failure to obey a subpoena duly served;
(g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.
But nothing in this section shall be so construed as to prevent the court from issuing process to bring the respondent into court, or from holding him in custody pending such proceedings.

29 Id. at 128, Comment.
30 Id.
31 Id. at 131, Comment.
32 Id. at 127, Comment.
33 Id. at 129–130, Comment.
34 Id. at 131, Comment.
35 Id. at 128.
36 Id. at 130.

I

Generally, court proceedings are often matters of public discussion, and the mere fact of publicity does not, in and of itself, influence or interfere with them. In *Webb v. De Leon*:[37]

> Finally, we come to the argument of petitioner that the DOJ Panel lost its impartiality due to the prejudicial publicity waged in the press and broadcast media by the NBI.
>
> Again, petitioners raise the effect of prejudicial publicity on their right to due process while undergoing preliminary investigation. We find no procedural impediment to its early invocation considering the substantial risk to their liberty while undergoing a preliminary investigation.
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> In floating this issue, petitioners touch on some of the most problematic areas in constitutional law where the conflicting demands of freedom of speech and of the press, the public's right to information, and an accused's right to a fair and impartial trial collide and compete for prioritization. The process of pinpointing where the balance should be struck has divided men of learning as the balance keeps moving either on the side of liberty or on the side of order as the tumult of the time and the welfare of the people dictate. The dance of the balance is a difficult act to follow.
>
> In democratic settings, media coverage of trials of sensational cases cannot be avoided and oftentimes, its excessiveness has been aggravated by kinetic developments in the telecommunications industry. For sure, few cases can match the high volume and high velocity of publicity that attended the preliminary investigation of the case at bar. Our daily diet of facts and fiction about the case continues unabated even today. Commentators still bombard the public with views not too many of which are sober and sublime. Indeed, even the principal actors in the case — the NBI, the respondents, their lawyers and their sympathizers — have participated in this media blitz. The possibility of media abuses and their threat to a fair trial notwithstanding, criminal trials cannot be completely closed to the press and the public. In the seminal case of *Richmond Newspapers, Inc. v. Virginia*, it was wisely held:
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> . . . .
>
> > (a) The historical evidence of the evolution of the criminal trial in Anglo-American justice demonstrates conclusively that at the time this Nation's organic laws were adopted, criminal trials both here and in England had long been presumptively open, thus giving assurance that the proceedings were conducted fairly to all concerned and discouraging perjury, the misconduct of participants, or decisions based on secret bias or partiality. In addition, the significant community therapeutic value of public trials was recognized: when a shocking crime occurs, a

[37] 317 Phil. 758 (1995) [Per J. Puno, Second Division].

> community reaction of outrage and public protest often follows, and thereafter the open processes of justice serve an important prophylactic purpose, providing an outlet for community concern, hostility, and emotion. To work effectively, it is important that society's criminal process 'satisfy the appearance of justice,' *Offutt v. United States*, 348 US 11, 14, 99 L Ed 11, 75 S Ct 11, which can best be provided by allowing people to observe such process. From this unbroken, uncontradicted history, supported by reasons as valid today as in centuries past, it must be concluded that a presumption of openness inheres in the very nature of a criminal trial under this Nation's system of justice, Cf., *e.g., Levine v. United States*, 362 US 610, 4 L Ed 2d 989, 80 S Ct 1038.
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> (b) The freedoms of speech, press, and assembly, expressly guaranteed by the First Amendment, share a common core purpose of assuring freedom of communication on matters relating to the functioning of government. In guaranteeing freedoms such as those of speech and press, the First Amendment can be read as protecting the right of everyone to attend trials so as to give meaning to those explicit guarantees; the First Amendment right to receive information and ideas means, in the context of trials, that the guarantees of speech and press, standing alone, prohibit government from summarily closing courtroom doors which had long been open to the public at the time the First Amendment was adopted. Moreover, the right of assembly is also relevant, having been regarded not only as an independent right but also as a catalyst to augment the free exercise of the other First Amendment rights with which it was deliberately linked by the draftsmen. A trial courtroom is a public place where the people generally — and representatives of the media — have a right to be present, and where their presence historically has been thought to enhance the integrity and quality of what takes place.
>
> (c) Even though the Constitution contains no provision which by its terms guarantees to the public the right to attend criminal trials, various fundamental rights, not expressly guaranteed, have been recognized as indispensable to the enjoyment of enumerated rights. The right to attend criminal trials is implicit in the guarantees of the First Amendment, without the freedom to attend such trials, which people have exercised for centuries, important aspects of freedom of speech and of the press could be eviscerated.

Be that as it may, we recognize that pervasive and prejudicial publicity under certain circumstances can deprive an accused of his due process right to fair trial. Thus, in *Martelino, et al. vs. Alejandro, et al.*, we held that to warrant a finding of prejudicial publicity there must be *allegation and proof* that the judges have been unduly influenced, not simply that they might be, by the barrage of publicity. In the case at bar, we find nothing in the records that will prove that the tone and content of the publicity that attended the investigation of petitioners fatally infected

> the fairness and impartiality of the DOJ Panel. Petitioners cannot just rely on the subliminal effects of publicity on the sense of fairness of the DOJ Panel, for these are basically unbeknown and beyond knowing. To be sure, the DOJ Panel is composed of an Assistant Chief State Prosecutor and Senior State Prosecutors. Their long experience in criminal investigation is a factor to consider in determining whether they can easily be blinded by the klieg lights of publicity. Indeed, their 26-page Resolution carries no indubitable indicia of bias for it does not appear that they considered any extra-record evidence except evidence properly adduced by the parties. The length of time the investigation was conducted despite its summary nature and the generosity with which they accommodated the discovery motions of petitioners speak well of their fairness. At no instance, we note, did petitioners seek the disqualification of any member of the DOJ Panel on the ground of bias resulting from their bombardment of prejudicial publicity.
>
> It all remains to state that the Vizconde case will move to a more critical stage as petitioners will now have to undergo trial on the merits. We stress that probable cause is not synonymous with guilt and while the light of publicity may be a good disinfectant of unfairness, too much of its heat can bring to flame an accused's right to fair trial. Without imposing on the trial judge the difficult task of supervising every specie of speech relating to the case at bar, it behooves her to be reminded of the duty of a trial judge in high profile criminal cases to control publicity prejudicial to the fair administration of justice. The Court reminds judges that our ability to dispense impartial justice is an issue in every trial and in every criminal prosecution, the judiciary always stands as a silent accused. More than convicting the guilty and acquitting the innocent, the business of the judiciary is to assure fulfillment of the promise that justice shall be done and is done — and that is the only way for the judiciary to get an acquittal from the bar of public opinion.[38]

Publicity does not, in and of itself, impair court proceedings. Even in the highly publicized case of *Webb*, where the parties, their sympathizers, and lawyers all participated in a media blitz, this Court required proof that the fairness and impartiality of the investigation was actually affected by the publicity.

II

Proceedings against lawyers, however, are treated differently, for several reasons.

Disbarment proceedings are covered by what is known as the confidentiality rule. This is laid down by Section 18, Rule 139-B of the Rules of Court, which provides:

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[38] Id. at 899–900.

> Section 18. *Confidentiality.* — Proceedings against attorneys shall be private and confidential. However, the final order of the Supreme Court shall be published like its decisions in other cases.

Law is a profession and not a trade. Lawyers are held to high standards as officers of the court, and subject to heightened regulation to ensure that the legal profession maintains its integrity and esteem. As part of the legal profession, lawyers are generally prohibited from advertising their talents, and are expected to rely on their good reputation to maintain their practice. In *Ulep v. Legal Clinic, Inc.*:[39]

> The standards of the legal profession condemn the lawyer's advertisement of his talents. A lawyer cannot, without violating the ethics of his profession, advertise his talents or skills as in a manner similar to a merchant advertising his goods. The proscription against advertising of legal services or solicitation of legal business rests on the fundamental postulate that the practice of law is a profession. Thus, in the case of *The Director of Religious Affairs vs. Estanislao R. Bavot* an advertisement, similar to those of respondent which are involved in the present proceeding, was held to constitute improper advertising or solicitation.
>
> The pertinent part of the decision therein reads:
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> > It is undeniable that the advertisement in question was a flagrant violation by the respondent of the ethics of his profession, it being a brazen solicitation of business from the public. Section 25 of Rule 127 expressly provides among other things that "the practice of soliciting cases at law for the purpose of gain, either personally or thru paid agents or brokers, constitutes malpractice." It is highly unethical for an attorney to advertise his talents or skill as a merchant advertises his wares. Law is a profession and not a trade. The lawyer degrades himself and his profession who stoops to and adopts the practices of mercantilism by advertising his services or offering them to the public. As a member of the bar, he defiles the temple of justice with mercenary activities as the money-changers of old defiled the temple of Jehovah. The most worthy and effective advertisement possible, even for a young lawyer, . . . is the establishment of a well-merited reputation for professional capacity and fidelity to trust. This cannot be forced but must be the outcome of character and conduct." (Canon 27, Code of Ethics.)
>
> We repeat, the canons of the profession tell us that the best advertising possible for a lawyer is a well-merited reputation for professional capacity and fidelity to trust, which must be earned as the outcome of character and conduct. Good and efficient service to a client as well as to the community has a way of publicizing itself and catching public attention. That publicity is a normal by-product of effective service which is right and proper. A good and reputable lawyer needs no artificial stimulus to generate it and to magnify his success. He easily sees the

[39] B.M. No. 553, June 17, 1993, 223 SCRA 378 [Per J. Regalado, En Banc].

> difference between a normal by-product of able service and the unwholesome result of propaganda.[40]

Thus, a good reputation is among a lawyer's most valuable assets. In *Santiago v. Calvo:*[41]

> The success of a lawyer in his profession depends almost entirely on his reputation. Anything which will harm his good name is to be deplored.[42]

The confidentiality rule is intended, in part, to prevent the use of disbarment proceedings as a tool to damage a lawyer's reputation in the public sphere.

Thus, the general rule is that publicly disclosing disbarment proceedings may be punished with contempt.[43]

III

The confidentiality in disciplinary actions for lawyers is not absolute. It is not to be applied under any circumstance, to all disclosures of any nature.

As a general principle, speech on matters of public interest should not be restricted. This Court recognizes the fundamental right to information, which is essential to allow the citizenry to form intelligent opinions and hold people accountable for their actions. Accordingly, matters of public interest should not be censured for the sake of an unreasonably strict application of the confidentiality rule. Thus, in *Palad v. Solis*,[44] this Court dismissed claims that the confidentiality rule had been violated, considering that the lawyer therein represented a matter of public interest:

> A person, even if he was not a public official or at least a public figure, could validly be the subject of a public comment as long as he was involved in a public issue. Petitioner has become a public figure because he is representing a public concern. We explained it, thus:

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40 Id. at 406–407.

41 48 Phil. 919 (1926) [Per J. Malcolm, En Banc].

42 Id. at 923.

43 *See Relativo v. De Leon*, 128 Phil. 104 (1967) [Per J. Bengzon, J.P., En Banc]; *Fortun v. Quinsayas*, 703 Phil. 578 (2013) [Per J. Carpio, Second Division]; *Murillo v. Superable, Jr.*, 107 Phil. 322 (1960) [Per J. Montemayor, En Banc].

44 *Palad v. Solis*, G.R. No. 206691, October 3, 2016, < http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/october2016/206691.pdf> [Per J. Peralta, Third Division].

> But even assuming . . . that [the person] would not qualify as a public figure, it does not necessarily follow that he could not validly be the subject of a public comment even if he was not a public official or at least a public figure, for he could be, as long as he was involved in a public issue. **If a matter is a subject of public or general interest, it cannot suddenly become less so merely because a private individual is involved or because in some sense the individual did not voluntarily choose to become involved. The public's primary interest is in the event; the public focus is on the conduct of the participant and the content, effect and significance of the conduct, not the participant's prior anonymity or notoriety.**
>
> As a general rule, disciplinary proceedings are confidential in nature until their final resolution and the final decision of this Court. However, in this case, the disciplinary proceeding against petitioner became a matter of public concern considering that it arose from his representation of his client on the issue of video voyeurism on the internet. The interest of the public is not in himself but primarily in his involvement and participation as counsel of Halili in the scandal. Indeed, the disciplinary proceeding against petitioner related to his supposed conduct and statements made before the media in violation of the Code of Professional Responsibility involving the controversy.[45]

Indeed, to keep controversial proceedings shrouded in secrecy would present its own dangers. In disbarment proceedings, a balance must be struck, due to the demands of the legal profession.

In *Fortun v. Quinsayas*,[46] despite recognizing that the disbarment complaint was a matter of public interest, it still declared the complainant therein in contempt for violating the confidentiality rule:

> Atty. Quinsayas is bound by Section 18, Rule 139-B of the Rules of Court both as a complainant in the disbarment case against petitioner and as a lawyer. As a lawyer and an officer of the Court, Atty. Quinsayas is familiar with the confidential nature of disbarment proceedings. However, instead of preserving its confidentiality, Atty. Quinsayas disseminated copies of the disbarment complaint against petitioner to members of the media which act constitutes contempt of court. In *Relativo v. De Leon*, the Court ruled that the premature disclosure by publication of the filing and pendency of disbarment proceedings is a violation of the confidentiality rule. In that case, Atty. Relativo, the complainant in a disbarment case, caused the publication in newspapers of statements regarding the filing and pendency of the disbarment proceedings. The Court found him guilty of contempt.[47]

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45 Id. at 8.
46 703 Phil. 578 (2013) [Per J. Carpio, Second Division].
47 Id. at 599–600.

The complainant in *Fortun* bears the distinction of having distributed the actual disbarment complaint to the press. This case is different.

The confidentiality rule requires only that "proceedings against attorneys" be kept private and confidential. It is the proceedings against attorneys that must be kept private and confidential. This would necessarily prohibit the distribution of actual disbarment complaints to the press. However, the rule does not extend so far that it covers the mere existence or pendency of disciplinary actions.

Some cases are more public than others, because of the subject matter, or the personalities involved. Some are deliberately conducted in the public as a matter of strategy. A lawyer who regularly seeks attention and readily welcomes, if not invites, media coverage, cannot expect to be totally sheltered from public interest, himself.

IV

Contempt power is not designed to insulate a lawyer from any publicity he may deem undesirable.

On indirect contempt, Rule 71 of the Rules of Court provides:

> SECTION 3. *Indirect Contempt to be Punished After Charge and Hearing.* — After charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:
>
> > (a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;
> >
> > (b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;
> >
> > (c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under Section 1 of this Rule;

> (d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;
>
> (e) Assuming to be an attorney or an officer of a court, and acting as such without authority;
>
> (f) Failure to obey a subpoena duly served;
>
> (g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.
>
> But nothing in this section shall be so construed as to prevent the court from issuing process to bring the respondent into court, or from holding him in custody pending such proceedings.

The power of contempt is exercised to ensure the proper administration of justice and maintain order in court processes. *In Re: Kelly* provides:[48]

> The summary power to commit and punish for contempt, tending to obstruct or degrade the administration of justice, as inherent in courts as essential to the execution of their powers and to the maintenance of their authority, is a part of the law of the land. (*Ex parte* Terry, *supra.*)
>
> Courts of justice are universally acknowledged to be vested, by their very creation, with power to impose silence, respect, and decorum in their presence and submission to their lawful mandates, and as a corollary to this provision, to preserve themselves and their officers from the approach of insults and pollution. (Anderson *vs.* Dunn, 6 Wheaton [U. S.], 204, 226; *Ex parte* Terry, *supra.*)
>
> The existence of the inherent power of courts to punish for contempt is essential to the observance of order in judicial proceedings and to the enforcement of judgments, orders, and writs of the courts, and consequently to the due administration of justice. (*Ex parte* Robinson *supra*; *Ex parte* Terry *supra*; In re Durant, 80 Conn., 140; In re Davies, 93 Pa. St., 116; The People *vs.* Goodrich, 79 Ill., 148; Bradley *vs.* Fisher, 13 Wallace [U. S.], 335; *Ex parte* Wall, 107 U. S., 265; *In re Duncan, 64 S. C., 461; Fields vs.* State, 18 Tenn., 168; Brooks *vs.* Fleming, 66 Tenn., 331, 337.)[49]

Similarly, in *Villavicencio v. Lukban*:[50]

> The power to punish for contempt of court should be exercised on the preservative and not on the vindictive principle. Only occasionally

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48 35 Phil. 944 (1916) [Per J. Johnson, Second Division].

49 Id. at 950.

50 39 Phil. 777 (1919) [Per J. Malcolm, En Banc].

> should the court invoke its inherent power in order to retain that respect without which the administration of justice must falter or fail.[51]

The power to punish for contempt should be invoked only to ensure or promote the proper administration of justice. Accordingly, when determining whether to declare as contumacious alleged violations of the confidentiality rule, we apply a restrictive interpretation.

We decline to exercise our contempt power under the conditions of this case.

Petitioner assails two acts as violating the confidentiality rule: *first*, respondents' supposed public threats of filing a disbarment case against him, and *second*, respondents' public statement that they had filed a disbarment complaint.

Where there are yet no proceedings against a lawyer, there is nothing to keep private and confidential. Respondents' threats were made before November 4, 2014, and there was no proceeding to keep private.

As for the Press Statement made on November 4, 2014, a close examination reveals that it does not divulge anything that merits punishment for contempt.

The Press Statement declared only three (3) things: *first*, respondent AFP filed a disbarment complaint against petitioner; *second*, petitioner is a lawyer, and thus, must conduct himself according to the standards of the legal profession; and *third*, petitioner's "unlawful conduct" is prohibited by the Code of Professional Responsibility.[52] As regards the disbarment, the Press Statement only said:

> At about 2 p.m. today, the AFP has filed a verified disbarment complaint before the Integrated Bar of the Philippines (IBP) against Atty. Harry Roque for violation of the Code of Professional Responsibility. [53]

The Press Statement's[54] coverage of the disbarment complaint was a brief, unembellished report that a complaint had been filed. Such an announcement does not, in and of itself, violate the confidentiality rule, particularly considering that it did not discuss the disbarment complaint itself.

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51 Id. at 798.
52 *Rollo*, p. 24.
53 Id.
54 Id.

In any case, the Press Statement does not divulge any acts or character traits on the part of petitioner that would damage his personal and professional reputation. Although the Press Statement mentioned that a disbarment complaint had been filed against petitioner, no particulars were given about the content of the complaint or the actual charges filed.

Furthermore, prior to the filing of the complaint, petitioner even made his own public statement regarding respondents' possible filing of a disbarment complaint. Even before any case against him had been filed, media reported that petitioner tweeted publicly that he looked forward to answering the complaint before the AFP.[55] In the articles cited by petitioner as evidence of respondents' violation of the confidentiality rule, he, too, is quoted, saying "the case is a chance for him to 'clarify a lawyer's role in pushing victims' rights and sovereignty.'"[56] It is unlikely that petitioner's reputation could be further damaged by a factual report that a complaint had actually been filed. Petitioner has made it even more public by filing the instant case against the entire Armed Forces of the Philippines, instead of targeting only the individuals who participated in the disclosure.

Even the events that led to the filing of the disbarment case transpired in front of media. As alleged by petitioner, the question of custody over Pemberton was the subject of public discussion.[57] In relation to that issue, petitioner accompanied his clients when they demanded to see Pemberton, when they were refused, and when they forced themselves into Pemberton's detention facility, in a serious breach of security of a military zone.

Thus, this Court agrees with respondents, that they should not be faulted for releasing a subsequent press statement regarding the disbarment complaint they filed against petitioner. The statements were official statements made in the performance of respondents' official functions to address a matter of public concern. It was the publication of an institutional action in response to a serious breach of security.[58] Respondents, in the exercise of their public functions, should not be punished for responding publicly to such public actions.

V

This Court will not freely infringe on the constitutional right to freedom of expression. It may interfere, on occasion, for the proper administration of justice. However, the power of contempt should be balanced with the right to freedom of expression, especially when it may have the effect of stifling comment on public matters. Freedom of

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55 Id. at 21.
56 Id. at 22.
57 Id. at 4.
58 Id. at 128–129.

expression must always be protected to the fullest extent possible. In *In re: Lozano*:[59]

> The rule is well established that newspaper publications tending to impede, obstruct, embarrass, or influence the courts in administering justice in a pending suit or proceeding constitute criminal contempt which is summarily punishable by the courts. The rule is otherwise after the cause is ended. It is also regarded as an interference with the work of the courts to publish any matters which their policy requires should be kept private, as for example the secrets of the jury room, or proceedings in camera (6 R. C. L., pp. 508-515).
>
> An examination of the authorities discloses that little attention has been directed to facts like those before us, and that in the few cases which have given consideration to the question there exist divergence of opinions. The English courts are more stringent in prohibiting the publication of their proceedings than are the American courts. Thus where the petitioner and her solicitor published a copy of the transcript of the official shorthand notes in a case of a very delicate and private character in contravention of an order directing that the cause be heard in camera, the presiding judge in England found the petitioner and her solicitor in contempt of court but accepted their excuses and apologies (Scott vs. Scott [1912], Am. Ann. Cas., 1912-B, 540). A decision of the Supreme Court of Iowa inclines to the same view, for in this case it was said that if by general or special rule the publication of testimony pending general or special rule the publication of testimony pending an investigation has been prohibited, a willful violation of such rule might amount to a contempt (State of Iowa vs. Dunham [1858], 6 Iowa, 245). But in a California divorce case, although the trial court ordered that no public report of the testimony should be made, and thereafter punished the editor of a newspaper for publishing a report of the trial, on certiorari the Supreme Court of California annulled the proceedings of the court under review. As explanatory of this judgment, it should be said that a fair and true report of the testimony was published and that the result was influenced by the phraseology of the California Law (Re Shortridge [1893], 99 Cal., 526; 21 L. R. A., 755). Along similar lines is the case of Ex parte Foster ([1903], 60 L. R. A., 631), coming from the Texas Court of Criminal Appeals, and holding that merely publishing a true statement of the testimony adducted from the witnesses in the course of a public trial in the courts of justice does not authorize a finding of contempt. To conclude our review of the pertinent decisions, we desire to quote from the decision of the Supreme Court of Wisconsin in Burns vs. State ([1911], 145 Wis., 373; 140 Am. St. Rep., 1081), where, in referring to the commendation meted out to the courts of England, it was said: "Judicial proceedings, in a case which the law requires to be conducted in secret for the proper administration of justice, should never be, while the case i son trial, given publicity by the press."
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> With reference to the applicability of the above authorities, it should be remarked first of all that this court is not bound to accept any of them absolutely and unqualifiedly. What is best for the maintenance of the Judiciary in the Philippines should be the criterion. Here, in contrast to other jurisdictions, we need not be overly sensitive because of the sting

[59] 54 Phil. 801 (1930) [Per J. Malcolm, En Banc].

of newspaper articles, for there are no juries to be kept free from outside influence. Here also we are not restrained by regulatory law. The only law, and that judge made, which is at all applicable to the situation, is the resolution adopted by this court. That the respondents were ignorant of this resolution is no excuse, for the very article published by them indicates that the hearing was held behind closes doors and that the information of the reporter was obtained from outside the screen and from comments in social circles. Then in writing up the investigation, it came about that the testimony was mutilated and that the report reflected upon the action of the complainant to his possible disadvantage.

The Organic Act wisely guarantees freedom of speech and press. This constitutional right must be protected in its fullest extent. The court has heretofore given evidence of its tolerant regard for charges under given evidence of its tolerant regard for charges under the Liberal Law which come dangerously close to its violation. We shall continue in this chosen path. The liberty of the citizen must be preserved in all of its completeness. But license or abuse of liberty of the press and of the citizen should not be confused with liberty in its true sense. As important as the maintenance of an unmuzzled press and the free exercise of the rights of the citizen is the maintenance of the independence of the Judiciary. Respect for the Judiciary cannot be had if persons are privileged to scorn a resolution of the court adopted for good purposes, and if such persons are to be permitted by subterranean means to diffuse inaccurate accounts of confidential proceedings to the embarrassment of the parties and the courts.

In a recent Federal case (U. S. vs. Sullens [1929], 36 Fed. [2d], 230, 238, 239), Judge Holmes very appropriately said:

> The administration of justice and the freedom of the press, though separate and distinct, are equally sacred, and neither should be violated by the other. The press and the courts have correlative rights and duties and should cooperate to uphold the principles of the Constitution and laws, from which the former receives its prerogative and the latter its jurisdiction. The right of legitimate publicity must be scrupulously recognized and care taken at all times to avoid impinging upon it. In a clear case where it is necessary, in order to dispose of judicial business unhampered by publications which reasonably tend to impair the impartiality of verdicts, or otherwise obstruct the administration of justice, this court will not hesitate to exercise its undoubted power to punish for contempt. . . .
> . . . .
>
> This court must be permitted to proceed with the disposition of its business in an orderly manner free from outside interference obstructive of its constitutional functions. This right will be insisted upon as vital to an impartial court, and, as a last resort, as an individual exercises the right of self-defense, it will act to preserve its existence as an unprejudiced tribunal. . . .[60]

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[60] Id. at 805–808.

The power to punish for contempt is not exercised without careful consideration of the circumstances of the allegedly contumacious act, and the purpose of punishing the act. Especially where freedom of speech and press is involved, this Court has given a restrictive interpretation as to what constitutes contempt.

In *Cabansag v. Fernandez*,[61] this Court was asked to review a charge of contempt, which was based on a remark in a letter to the Presidential Complaints and Action Commission. This Court emphasized the importance of freedom of speech and press:

> No less important is the ruling on the power of the court to punish for contempt in relation to the freedom of speech and press. We quote; "Freedom of speech and press should not be impaired through the exercise of the power to punish for contempt of court unless there is no doubt that the utterances in question are a serious and imminent threat to the administration of justice. . . . A judge may not hold in contempt one who ventures to publish anything that tends to make him unpopular or to belittle him. . . . The vehemence of the language used in newspaper publications concerning a judge's decision is not alone the measure of the power to punish for contempt. The fires which it kindles must constitute an imminent, not merely a likely, threat to the administration of justice." (Craig *vs.* Harney, 331 U. S. 367, syllabi.)
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> And in weighing the danger of possible interference with the courts by newspaper criticism against the right of free speech to determine whether such criticism may constitutionally be punished as contempt, it was ruled that "freedom of public comment should in borderline instances weigh heavily against a possible tendency to influence pending cases." (Pennekamp *vs.* Florida, 328 U. S. 331)
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> The question in every case, according to Justice Holmes, is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that congress has a right to prevent. It is a question of proximity and degree (Schenck *vs.* U. S., supra).
>
> 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 create 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

[61] 102 Phil. 152 (1957) [Per J. Bautista, First Division].

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

> It is a fundamental principle, long established, that the freedom of speech and of the press which is secured by the Constitution does not confer an absolute right to speak or publish, without responsibility, whatever one may choose, or an unrestricted and unbridled license that gives immunity for every possible use of language, and prevents the punishment of those who abuse this freedom. . . . Reasonably limited, it was said by story in the passage cited this freedom is an inestimable privilege in a free government; without such limitation, it might become the scourge of the Republic.
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> . . . .
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> And, for yet more imperative reasons, a state may punish utterances endangering the foundations of organized government and threatening its overthrow by unlawful means. These imperil its own existence as a constitutional state. . . .
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> . . . .
>
> . . . And the immediate danger is none the less real and substantial because the effect of a given utterance cannot be accurately foreseen. The state cannot reasonably be required to measure the danger from every such utterance in the nice balance of a jeweler's scale. A single revolutionary spark may kindle a fire that, smoldering for a time, may burst into a sweeping and destructive conflagration. It cannot be said that the state is acting arbitrarily or unreasonably when, in the exercise of its judgment as to the measures necessary to protect the public peace and safety, it seeks to extinguish the spark without waiting until it has enkindled the flame or blazed into the conflagration. It cannot reasonably be required to defer the adoption of measures for its own peace and safety until the revolutionary utterances lead to actual disturbances of the public peace or imminent and immediate danger of its own destruction; but it may, in the exercise of its judgment suppress the threatened danger in its incipiency. In People *vs.* Lloyd, *supra* p. 35 (136 N. E. 605), it was aptly said: 'Manifestly the legislature has authority to forbid the advocacy of a doctrine until there is a present and imminent danger of the success of the plan advocated. If the state were compelled to wait until the apprehended danger became certain, than its right to protect itself would come into being simultaneously with the overthrow of the government, when there would be neither prosecuting officers nor courts for the enforcement of the law.' [(]Gitlow *vs.* New York, *supra.*)[62]

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[62] Id. at 162–164.

In *Cabansag*, this Court reversed the contempt charges, considering that the allegedly contumacious letter did not undermine or cause any serious imminent threat to the fair administration of justice. This Court also noted that the intent behind sending the letter was not to degrade the courts.

This was echoed in *People v. Castelo*,[63] where this Court found that a news story, which was a factual account of an investigation, and did not contain any words tending to affect the administration of justice, was not contumacious. Although this case involved the freedom of the press, it may be instructive in that, in determining whether the subject publication was contumacious, this Court scrutinized its content, apparent purpose, and effect:

> It should however be noted that there is nothing in the story which may even in a slight degree indicate that the ultimate purpose of appellant in publishing it was to impede, obstruct or degrade the administration of justice in connection with the Castelo case. The publication can be searched in vain for any word that would in any way degrade it. The alleged extortion try merely concerns a news story which is entirely different, distinct and separate from the Monroy murder case. Though mention was made indirectly of the decision then pending in that case, the same was made in connection with the extortion try as a mere attempt to secure the acquittal of Castelo. But the narration was merely a factual appraisal of the negotiation and no comment whatsoever was made thereon one way or the other coming from the appellant. Indeed, according to the trial judge himself, as he repeatedly announced openly, said publication did not in any way impede or obstruct his decision promulgated on March 31, 1955. As this Court has aptly said, for a publication to be considered as contempt of court there must be a showing not only that the article was written while a case is pending but *that it must really appear* that such publication does impede, interfere with and embarrass the administration of justice (People vs. Alarcon, 69 Phil., 265). Here, there is no such clear showing. The very decision of the court shows the contrary.[64]

In deciding *Danguilan-Vitug v. Court of Appeals*,[65] this Court discussed various publications that it deemed contumacious. This Court reiterated that an article which does not impede, obstruct, or degrade the administration of justice is not contumacious:

> With respect to the motion for contempt filed by Margarita Cojuangco against Rina Jimenez-David, we believe that the article written by the latter is not such as to impede, obstruct, or degrade the administration of justice. The allegedly contemptuous article merely restates the history of the case and reiterates the arguments which Rina

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63 114 Phil. 892 (1962) [Per J. Bautista Angelo, En Banc].
64 Id. at 899–900.
65 302 Phil. 484 (1994) [Per J. Romero, Third Division].

> Jimenez-David, together with some other journalists have raised before this Court in their Brief for Petitioner Vitug. We do not find in this case the contemptuous conduct exhibited by the respondent in *In re Torres* where the respondent, being a newspaper editor, published an article which anticipated the outcome of a case in the Supreme Court, named the author of the decision, and pointed out the probable vote of the members of the Court although in fact, no such action had been taken by the court; and in *In re Kelly* where respondent, having been convicted of contempt of court, published a letter during the pendency of his motion for a re-hearing of the contempt charge. In said letter, he severely criticized the court and its action in the proceeding for contempt against him. In contrast to the aforementioned publications, Rina Jimenez-David's article cannot be said to have cast doubt on the integrity of the court or of the administration of justice. If at all, it was a mere criticism of the existing libel law in the country. In view of the above considerations, we are constrained to deny the motion for contempt.[66]

Given these circumstances, citing respondents in contempt would be an unreasonable exercise of this Court's contempt power.

On a final note, this Court is more resilient than as projected by the petitioner. We are aware of the attempts of some parties – perhaps upon advice of their lawyers – to employ the media to gain public sympathies for their case. Ultimately, this strategy is based on the hope that the members of this Court will be swayed by the fear of vociferous criticism by columnists or popular protagonists in social media. Unfortunately, such strategy is misguided.

Every resort to the media by one party invites the same effort from the opposing party. Litigating cases in public may cause misunderstanding of the issues by the public, especially since many opinion writers will usually infer motives and standpoints closer to fiction than reality. Furthermore, there exists the real danger of slanting the focus of the public. Instead of the important question as to whether our treaties allow custody of foreign military personnel in transit through our territory, it has now become a battle of wits between counsel and the spokesperson for the military. The public becomes invested in that issue, which, while important for counsels, may be tangential to the more important public concerns.

Seasoned practitioners tend to approach their cases with more sobriety, dignity, and professionalism. After all, after their years of practice, they discover that this Court is aware of machinations using public opinion.

When a lawyer chooses to conduct his cases in as public a manner as in this case, it would be an abuse of our contempt power to stifle the subject

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[66] Id. at 496.

of his attention. A lawyer who uses the public fora as his battleground cannot expect to be protected from public scrutiny.

Controversial cases of public interest cases can be challenging for lawyers. This Court is cognizant of the hardships lawyers must face as they may continually be pressed by media for details of their cases. Nonetheless, it must strike a balance between protecting officers of the court from harassment on one hand, and the interests of freedom of speech on the other. Given this case's factual milieu, the balance is served by denying the petition. In any case, this Court harbors no doubt that Atty. Roque is an able lawyer who can carry himself with all the dignity this profession requires to defend himself in the administrative proceedings against him.

WHEREFORE, the petition is **DENIED**.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

DIOSDADO M. PERALTA
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

I attest 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's Division.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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's Division.

MARIA LOURDES P. A. SERENO
Chief Justice