G.R. No. 229781 – LEILA M. DE LIMA, *Petitioner* v. HON. JUANITA GUERRERO, in her capacity as Presiding Judge, Regional Trial Court of Muntinlupa City, Branch 204, PEOPLE OF THE PHILIPPINES, P/DIR. GEN. RONALD M. DELA ROSA, in his capacity as Chief of the Philippine National Police (PNP), PSUPT. PHILIP GIL M. PHILLIPS, in his capacity as Director, Headquarters Support Service, SUPT. ARNEL JAMANDRON APUD, in his Capacity as Chief, PNP Custodial Service Unit, and all Persons Acting Under Their Control, Supervision, Instruction or Direction in Relation to the Orders that may be Issued by the Court, *Respondents*.

Promulgated:

October 10, 2017

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DISSENTING OPINION

JARDELEZA, *J.*:

The case presents a conflict between a person's right to liberty and the State's right to prosecute persons who appear to violate penal laws. On the one hand, the petitioner argues that a presiding judge's first duty in a criminal case is to determine the trial court's own competence or jurisdiction. When a judge is put on alert, through a motion to quash filed by the accused challenging her jurisdiction over the offense charged, she must first resolve the issue of jurisdiction before issuing a warrant of arrest. On the other hand, respondents maintain that the first and foremost task of the judge is to determine the existence or non-existence of probable cause for the arrest of the accused. The Revised Rules of Criminal Procedure do not require a judge to resolve a pending motion to quash prior to the issuance of a warrant of arrest.

The *ponencia* accepts the respondents' position and concludes that the respondent judge had no positive duty to first resolve petitioner De Lima's *motion to quash* before issuing a warrant of arrest. I respectfully dissent. While I do not fully subscribe to petitioner's analysis, I find that, under the present Rules, the demands of due process require the judge to resolve the issue of jurisdiction simultaneous with, if not prior to, the issuance of the warrant of arrest.

I

One of the fundamental guarantees of the Constitution is that no person shall be deprived of life, liberty, or property without due process of

law.[1] With particular reference to an accused in a criminal prosecution, Section 14(1) of Article III provides:

> Sec. 14. (1) No person shall be held to answer for a criminal offense without due process of law.

As applied to criminal proceedings, due process is satisfied if the accused is informed as to why he is proceeded against and what charge he has to meet, with his conviction being made to rest on evidence that is not tainted with falsity after full opportunity for him to rebut it and the sentence being imposed in accordance with a valid law.[2] This formulation of due process in criminal procedure traces its roots from a US Supreme Court decision of Philippine origin, *Ong Chang Wing v. United States*,[3] where the federal court held:

> This court has had frequent occasion to consider the requirements of due process of law as applied to criminal procedure, and, generally speaking, it may be said that if an accused has been heard in a court of competent jurisdiction, and proceeded against under the orderly processes of law, and only punished after inquiry and investigation, upon notice to him, with an opportunity to be heard, and a judgment awarded within the authority of a constitutional law, then he has had due process of law.[4] (Citation omitted.)

For clarity, the criminal due process clause of the Bill of Rights refers to procedural due process. It simply requires that the procedure established by law or the rules[5] be followed.[6] "Criminal due process requires that the accused must be proceeded against under the orderly processes of law. In all criminal cases, the judge should follow the step-by-step procedure required by the Rules. The reason for this is to assure that the State makes no mistake in taking the life or liberty except that of the guilty."[7] It applies from the inception of custodial investigation up to rendition of judgment.[8] The clause presupposes that the penal law being applied satisfies the substantive requirements of due process.[9] In this regard, the procedure for one of the early stages of criminal prosecution, *i.e.*, arrests, searches and seizure, is laid down by the Constitution itself. Article III, Section 2 provides that a search warrant or warrant of arrest shall only be issued upon a judge's personal determination of probable cause after examination under oath or affirmation

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1 CONSTITUTION, Art. III, Sec. 1.
2 *Vera v. People*, G.R. No. L-31218, February 18, 1970, 31 SCRA 711, 717.
3 218 U.S. 272 (1910).
4 *Id.* at 279-280.
5 CONSTITUTION, Art. VIII, Sec. 5(5).
6 *United States v. Ocampo*, 18 Phil. 1, 41 (1910).
7 *Romualdez v. Sandiganbayan*, G.R. Nos. 143618-41, July 30, 2002, 385 SCRA 436, 446. Citations omitted.
8 *Id.* at 445.
9 Bernas, *The 1987 Constitution of the Republic of the Philippines: A Commentary*, 2009 Ed., p. 498.

of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

Also part of an accused's right to due process is the right to a speedy trial[10] and to a speedy disposition of a case,[11] which have both been expressed as a right against "vexatious, capricious, and oppressive delays."[12] The right of the accused to a speedy trial and to a speedy disposition of the case against him was designed to prevent the oppression of the citizen by holding criminal prosecution suspended over him for an indefinite time, and to prevent delays in the administration of justice by mandating the courts to proceed with reasonable dispatch in the trial of criminal cases. The inquiry as to whether or not an accused has been denied such right is not susceptible to precise qualification; mere mathematical reckoning of the time involved is insufficient. The concept of a speedy disposition is a relative term and must necessarily be a flexible concept. In determining whether the right has been violated, courts must balance various factors such as the duration of the delay, the reason therefor, the assertion of the right, and prejudice to the defendant.[13]

Parallel to the rights of the accused is the State's "inherent right to protect itself and its people from vicious acts which endanger the proper administration of justice."[14] The State has every right to prosecute and punish violators of the law because it is essential for the sovereign's self-preservation and its very existence.[15] In our democratic system, society has a particular interest in bringing swift prosecutions and the government, as representatives of the people, is the one who should protect that interest.[16]

In resolving conflicts between the State's right to prosecute and the rights of the accused, the Court has applied the balancing test.[17] "[C]ourts must strive to maintain a delicate balance between the demands of due process and the strictures of speedy trial, on the one hand; and, on the other, the right of the State to prosecute crimes and rid society of criminals."[18] While the State, through its executive and judicial departments, has the "natural and illimitable"[19] right to prosecute and punish violators of the law,

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[10] CONSTITUTION, Art. III, Sec. 14(2).

[11] CONSTITUTION, Art. III, Sec. 16. In *Dansal v. Fernandez* (G.R. No. 126814, March 2, 2000, 327 SCRA 145, 152-153), the Court succinctly explained the distinction between Section 14(2) and Section 16: "[Section 16] guarantees the right of all persons to 'a speedy disposition of their case'; includes within its contemplation the periods before, during and after trial, and affords broader protection than Section 14(2), which guarantees just the right to a speedy trial. It is more embracing than the protection under Article VII, Section 15, which covers only the period after the submission of the case. The present constitutional provision applies to civil, criminal and administrative cases." (Citations omitted.)

[12] *Gonzales v. Sandiganbayan*, G.R. No. 94750, July 16, 1991, 199 SCRA 298, 307. Citation omitted.

[13] *Corpuz v. Sandiganbayan*, G.R. No. 162214, November 11, 2004, 442 SCRA 294, 313.

[14] *Allado v. Diokno*, G.R. No. 113630, May 5, 1994, 232 SCRA 192, 209.

[15] *Id.*

[16] *Corpuz v. Sandiganbayan, supra* at 321.

[17] *Id.* at 313. See also *Coscolluela v. Sandiganbayan (First Division)*, G.R. No. 191411, July 15, 2013, 710 SCRA 188; *Olbes v. Buemio*, G.R. No. 173319, December 4, 2009, 607 SCRA 336; and *People v. Tampal*, G.R. No. 102485, May 22, 1995, 244 SCRA 202.

[18] *Lumanlaw v. Peralta, Jr.*, G.R. No. 164953, February 13, 2006, 482 SCRA 396, 409.

[19] *Estrada v. Sandiganbayan*, G.R. No. 148560, November 19, 2001, 369 SCRA 394, 427.

it has the concomitant duty of insuring that the criminal justice system is consistent with due process and the constitutional rights of the accused.[20]

II

Before proceeding with the analysis of the case, it is important to clarify at the outset the limits of the accused's rights. First, the Constitution does not require judicial oversight of the executive department's decision to prosecute.[21] Second, there is no absolute constitutional right to have the issue of jurisdiction—understood as the authority to hear and try a particular offense and impose punishment[22]—determined prior to the issuance of a warrant of arrest. This is because the issuance of a warrant of arrest is not dependent upon the court's jurisdiction over the offense charge. Petitioner's formulation—that a court without jurisdiction over the offense charged has no power to issue a warrant of arrest and, consequently, that a warrant so issued is void—fails to capture this nuance.

At first glance, it appears that there is merit to petitioner's argument because under the current Rules of Criminal Procedure, the court that issues the warrant is the same court that hears and decides the criminal case. However, the two are tied only by a mere procedural rule rather than a substantive law on jurisdiction. The history of the warrant procedure in the Philippines and the practice in the US reveal that the two powers, *i.e.*, the power to issue warrants and the power to hear and decide cases, are **separate and distinct**. This is not quite the same as the power to issue a temporary restraining order, for instance, which is plainly incidental to the main action and can have no independent existence apart from a suit on a claim of the plaintiff against the defendant.

Under the Judiciary Act of 1948,[23] the Courts of First Instance (CFI) were granted original jurisdiction over "all criminal cases in which the penalty provided by law is imprisonment for more than six months, or a fine of more than two hundred pesos."[24] However, Section 87 of the same law vests upon lower level courts, the justices of the peace, the authority to "conduct preliminary investigations for any offense alleged to have been committed within their respective municipalities and cities, **without regard to the limits of punishment**, and may release, or **commit and bind** over any person charged with such offense to secure his appearance before the proper court."

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20 *Corpuz v. Sandiganbayan*, *supra* note 13 at 321.

21 We only review, in an appropriate case, whether the prosecutorial arm gravely abused its discretion. (*Information Technology v. Comelec*, G.R. Nos. 159139 & 174777, June 6, 2017.) This is not at issue here because it is the subject of the consolidated cases filed by petitioner which are presently pending before the Court of Appeals, docketed as CA-G.R. SP Nos. 149097 and 149358.

22 *People v. Mariano*, G.R. No. L-40527, June 30, 1976, 71 SCRA 600, 605.

23 Republic Act No. 296.

24 Republic Act No. 296, Sec. 44(f).

Thus, under the 1964 Rules of Court, the standard procedure was for the justice of the peace to conduct a preliminary examination upon the filing of a complaint or information imputing the commission of an offense cognizable by the CFI, for the purpose of determining whether there is a reasonable ground to believe that an offense has been committed and the accused is probably guilty thereof, so that a warrant of arrest may be issued and the accused held for trial.[25] CFI judges had a similar authority to conduct preliminary examination and investigation upon a complaint directly filed with it.[26]

The Judiciary Reorganization Act of 1980[27] is clearer. It provides that "[j]udges of Metropolitan Trial Courts, except those in the National Capital Region, of Municipal Trial Courts, and Municipal Circuit Trial Courts shall have authority to conduct preliminary investigation of crimes alleged to have been committed within their respective territorial jurisdictions which **are cognizable by the Regional Trial Courts**."[28] Thus, municipal/metropolitan trial court (MTC) judges have the power to issue a warrant of arrest in relation to the preliminary investigation pending before them, with the only restriction being that embodied in the Bill of Rights, *i.e.*, finding of probable cause after an examination in writing and under oath or affirmation of the complainant and his witnesses.

This substantive law found implementation in the 1985 Rules of Criminal Procedure, which provided that when the municipal trial judge conducting the preliminary investigation is satisfied after an examination in writing and under oath of the complainant and his witnesses in the form of searching questions and answers, that a probable cause exists and that there is a necessity of placing the respondent under immediate custody in order not to frustrate the ends of justice, he shall issue a warrant of arrest.[29] The 1985 Rules removed the conduct of preliminary investigation by regional trial court (RTC) judges and introduced a substantial change with respect to the RTC's exercise of its power to issue an arrest warrant—the RTC could only do so after an information had been filed.[30]

In the US, from which we patterned our general concept of criminal due process, the magistrate judge who issues the arrest warrant is different from the judge who conducts the preliminary hearing (post-arrest) and the one who actually tries the case.[31] The probable cause determination for the issuance of an arrest warrant is a preliminary step in the Federal Criminal Procedure, done *ex parte* without bearing any direct relation to the jurisdiction to hear the criminal case after indictment. Notably, our old rules hewed closely to the American procedure where the determination of

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25 1964 RULES OF COURT, Rule 112, Secs. 1 & 2.
26 1964 RULES OF COURT, Rule 112, Sec. 13.
27 *Batas Pambansa Blg.* 129.
28 *Batas Pambansa Blg.* 129, Sec. 37.
29 1985 RULES OF CRIMINAL PROCEDURE, Rule 112, Sec. 6(b).
30 1985 RULES OF CRIMINAL PROCEDURE, Rule 112, Sec. 6(a).
31 FEDERAL RULES OF CRIMINAL PROCEDURE, Rules 4, 5.1 and 18.

probable cause and issuance of arrest warrants were performed by lower level courts.

The foregoing confirms that the power to issue an arrest warrant may exist independently of the power to hear and decide a case and that the judge issuing the warrant need not be the same judge who will hear and decide the case. The Constitution only requires that the person who issues the warrant should be a judge and there is no requirement that this judge should sit on a court that has jurisdiction to try the case. It is therefore inaccurate to characterize the power to issue a warrant of arrest as being subsumed by the court's jurisdiction over the offense charged. Again, it only seems that way because of the revisions introduced by the 2000 Rules of Criminal Procedure. The 2000 Rules tied the issuance of the warrant of arrest with the court having jurisdiction over the offense charged. Thus, unlike the previous iteration of the Rules, the court that will hear and decide the criminal case became the same and exclusive court that determines probable cause for the issuance of the warrant of arrest.[32] The 2005 amendments to Rule 112[33] later removed the function of conducting preliminary investigation from MTC judges, which means that arrest warrants may now only issue after the filing of information. This is significant because the filing of an information is the operative act that vests the court jurisdiction over a particular criminal case.[34] Notwithstanding the present formulation of our criminal procedure, the provision in the Judiciary Reorganization Act authorizing MTC judges to conduct preliminary investigation and issue arrest warrants remain to be good law. Such powers are conferred by substantive law and, strictly speaking, cannot be "repealed" by procedural rules.

The issuance of a warrant of arrest is, at its core, a special criminal process, similar to its companion in the Bill of Rights, that is, the issuance of a search warrant. As the Court explained in *Malaloan v. Court of Appeals*,[35] penned by Justice Regalado:

> Petitioners invoke the jurisdictional rules in the institution of criminal actions to invalidate the search warrant issued by the Regional Trial Court of Kalookan City because it is directed toward the seizure of firearms and ammunition allegedly cached illegally in Quezon City. This theory is sought to be buttressed by the fact that the criminal case against petitioners for violation of Presidential Decree No. 1866 was subsequently filed in the latter court. The application for the search warrant, it is claimed, was accordingly filed in a court of improper venue and since venue in criminal actions involves the territorial

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[32] 2000 REVISED RULES OF CRIMINAL PROCEDURE, Rule 112, Sec. 6.

[33] A.M. No. 05-8-26-SC, Amendment of Rules 112 and 114 of the Revised Rules on Criminal Procedure by Removing the Conduct of Preliminary Investigation from Judges of the First Level Courts, August 30, 2005.

[34] The 2000 Rules did not have any explanatory note, though it may be gleaned that the reason is to streamline the criminal procedure and to ease the burden on MTCs or, more generally, to ensure the speedy and efficient administration of justice.

[35] G.R. No. 104879, May 6, 1994, 232 SCRA 249.

> jurisdiction of the court, such warrant is void for having been issued by a court without jurisdiction to do so.
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> **The basic flaw in this reasoning is in erroneously equating the application for and the obtention of a search warrant with the institution and prosecution of a criminal action in a trial court.** ***It would thus categorize what is only a special criminal process, the power to issue which is inherent in all courts, as equivalent to a criminal action, jurisdiction over which is reposed in specific courts of indicated competence.*** **It ignores the fact that the requisites, procedure and purpose for the issuance of a search warrant are completely different from those for the institution of a criminal action.**
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> For, indeed, **a warrant, such as a warrant of arrest** or a search warrant, merely **constitutes process**. A search warrant is defined in our jurisdiction as an order in writing issued in the name of the People of the Philippines signed by a judge and directed to a peace officer, commanding him to search for personal property and bring it before the court. A search warrant is in the nature of a criminal process akin to a writ of discovery. It is a special and peculiar remedy, drastic in its nature, and made necessary because of a public necessity.
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> In American jurisdictions, from which we have taken our jural concept and provisions on search warrants, such warrant is definitively considered merely as a process, generally issued by a court in the exercise of its ancillary jurisdiction, and not a criminal action to be entertained by a court pursuant to its original jurisdiction. We emphasize this fact for purposes of both issues as formulated in this opinion, with the catalogue of authorities herein.[36] (Emphasis supplied, citations omitted.)

Malaloan's reasoning is equally applicable to arrest warrants, particularly when historical, functional, and structural considerations of our criminal procedure are taken into account. An arrest warrant is a preliminary legal process, issued at an initial stage of the criminal procedure, in which a judge finds probable cause that a person committed a crime and should be bound over for trial. The principal purpose of the warrant procedure laid down by the rules is to satisfy the requirements of Article III, Section 2. Its placement in Rule 112 (preliminary investigation) reflects an assumption that the probable cause determination/issuance of arrest warrant precedes the criminal action proper which begins with arraignment. Prior to arraignment, we have held that the specific rights of the accused enumerated under Article III, Section 14(2), as reiterated in Rule 115, do not attach yet because the phrase "criminal prosecutions" in the Bill of Rights refers to proceedings before the trial court from arraignment (Rule 116) to rendition of the

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[36] *Id.* at 255-257. See also *Worldwide Web Corporation v. People*, G.R. No. 161106, January 13, 2014, 713 SCRA 18.

judgment (Rule 120).[37] Following Justice Regalado's analysis in *Malaloan*, it may be concluded that the criminal action proper formally begins with arraignment.[38]

The distinction between the warrant process and the criminal action leads me to conclude that there is no stand-alone right that criminal jurisdiction be determined prior to the issuance of a warrant of arrest. For one, the Constitution does not textually prescribe such procedure; for another, such statement would not have been universally true, dependent as it is upon prevailing procedural rules. Moreover, since the power to issue a warrant of arrest is conferred by substantive law, such as the Constitution[39] and the Judiciary Reorganization Act, its issuance by a court upon which such authority is vested but having no jurisdiction over offense charged cannot be peremptorily be declared as void for being *ultra vires*. However, the issuance of the warrant may be annulled if it contravenes the Rules because that would result in a violation of the accused's due process rights.

III

In my view, any due process claim by the accused must be evaluated on the basis of the applicable rules of procedure. This is consistent with the traditional touchstone for criminal due process that the accused must be proceeded against according to the procedure prescribed by remedial law.[40]

Under Rule 112 of the 2000 Rules, the judge is required to "personally evaluate the resolution of the prosecutor and its supporting evidence" within 10 days from the filing of the information.[41] After his personal determination of probable cause, the judge has three options: (a) to immediately dismiss the case for lack of probable cause; (b) if he finds probable cause, issue a warrant of arrest or commitment order; or (c) in case of doubt on the existence of probable cause, he may order the prosecution to present additional evidence.[42] While the Rules do not mention dismissal for

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[37] *People v. Jose*, G.R. No. L-28232, February 6, 1971, 37 SCRA 450, 472-473, citing *U.S. v. Beecham*, 23 Phil. 258 (1912).

[38] An arraignment is that stage where, in the mode and manner required by the rules, an accused, *for the first time*, is granted the opportunity to know the precise charge that confronts him. The accused is formally informed of the charges against him, to which he enters a plea of guilty or not guilty (*Albert v. Sandiganbayan*, G.R. No. 164015, February 26, 2009, 580 SCRA 279, 287. Italics supplied, citation omitted.). See also the rule in double jeopardy, which requires arraignment and plea for jeopardy to attach (*People v. Ylagan*, 58 Phil. 851 [1933]). Jeopardy does not attach in the preliminary investigation stage because it "has no purpose except that of determining whether a crime has been committed and whether there is probable cause to believe the accused guilty thereof" (*Paderanga v. Drilon*, G.R. No. 96080, April 19, 1991, 196 SCRA 86, 90).

[39] "The power of the judge to determine probable cause for the issuance of a warrant of arrest is enshrined in Section 2, Article III of the Constitution." (*Fenix v. Court of Appeals*, G.R. No. 189878, July 11, 2016, 796 SCRA 117, 131.)

[40] See *Taglay v. Daray*, G.R. No. 164258, August 22, 2012, 678 SCRA 640; *Romualdez v. Sandiganbayan*, *supra* note 7; and *United States v. Ocampo*, *supra* note 6.

[41] RULES OF COURT, Rule 112, Sec. 5(a).

[42] RULES OF COURT, Rule 112, Sec. 5(a).

lack of jurisdiction in Rule 112, it may be raised as a ground for the quashal of the information under Rule 117.[43]

A motion to quash may be filed any time before the accused enter his plea,[44] which means at any point between the filing of the information and arraignment. Thus, there is a 10-day window within which both the determination of probable cause and the motion to quash may be simultaneously pending before the trial court. In this regard, the Solicitor General is correct that the Rules are silent as to which matter the court should resolve first. But the silence is ambiguous; in analyzing the process due the accused in these instances, it becomes necessary to balance the societal interests and the rights of the accused.

A sweeping rule that a motion to quash must be resolved prior to the determination of probable cause would unduly impair society's interest in having the accused answer to a criminal prosecution because it is susceptible to being used as a dilatory tool to evade arrest. Neither would a rule that the motion be resolved simultaneously with probable cause be workable because the judge only has 10 days within which to personally determine probable cause. A motion to quash is a litigious motion that requires notice and hearing,[45] and it may well be unreasonable to impose upon judges such additional burden within a tight timeframe. The accused's right to a speedy disposition of his case does not mean that speed is the chief objective of the criminal process; careful and deliberate consideration for the administration of justice remains more important than a race to end the litigation.[46]

On the narrow ground of lack of jurisdiction over the offense charged, however, the balance tilts in favor of the accused. As I have previously emphasized, the 2000 Rules is structured in such a way that the court that issues the arrest warrant is the same court that hears the case. Upon filing of the information, the court is authorized by the Rules to exercise all powers relevant to the criminal case which include the issuance of arrest warrants, bail applications,[47] quashal of search warrants,[48] and, of course, the criminal action proper, from arraignment to judgment.[49] Because the existing procedure has consolidated the various facets of criminal procedure in a single court, the exercise of these powers have become procedurally tied to jurisdiction over the offense charged. Hence, while I have pointed out that the power to issue arrest warrants is separate and distinct from the power to hear and decide a case, the Rules make it impossible for the court to proceed to arraignment and trial if it has no jurisdiction over the offense charged.

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43 RULES OF COURT, Rule 117, Sec. 3(b).
44 RULES OF COURT, Rule 117, Sec. 1.
45 *People v. Court of Appeals*, G.R. No. 126005, January 21, 1999, 301 SCRA 475, 492-493.
46 *State Prosecutors v. Muro*, A.M. No. RTJ-92-876, December 11, 1995, 251 SCRA 111, 117-118.
47 RULES OF COURT, Rule 114, Sec. 17.
48 RULES OF COURT, Rule 126, Sec. 14.
49 RULES OF COURT, Rules 116-120.

When a court without jurisdiction over the offense orders the arrest of the accused prior to resolving the issue of jurisdiction, it necessarily prolongs the disposition of the case. I view this delay as incompatible with due process and the right to speedy disposition of cases. First, the reason for the delay is directly attributable to the prosecution, which has the primary duty of determining where the information should be filed.[50] The accused plays no part in such determination and it is not her duty to bring herself to trial. The State has that duty as well as the duty of ensuring that the conduct of the prosecution, including the pretrial stages, is consistent with due process.[51] Second, when the prosecution is amiss in its duty, it unavoidably prejudices the accused. Prejudice is assessed in view of the interests sought to be protected by the constitutional criminal due process guarantees, namely: to prevent oppressive pretrial incarceration; to minimize anxiety and concerns of the accused to trial; and to limit the possibility that his defense will be impaired.[52] When an accused is forced to contend with pretrial restraint while awaiting for the court's dismissal of the case on jurisdictional grounds, these interests are ultimately defeated.

Considering that, under the present Rules, the court where the information is filed cannot proceed to trial if it has no jurisdiction over the offense charged, any delay between the issuance of the warrant of arrest and the resolution of the issue of jurisdiction, regardless of the length of time involved, is *per se* unreasonable. The delay and concomitant prejudice to the accused is avoidable and would serve no other purpose than to restrain the liberty of the accused for a period longer than necessary. Liberty is "too basic, too transcendental and vital in a republican state, like ours"[53] to be prejudiced by blunders of prosecutors. Society has no interest in the temporary incarceration of an accused if the prosecution's ability proceed with the case in accordance with the processes laid down by the Rules is in serious doubt. The generalized notion of the sovereign power's inherent right to self-preservation must yield to the paramount objective of safeguarding the rights of an accused at all stages of criminal proceedings, and to the interest of orderly procedure adopted for the public good.[54] Indeed, societal interests are better served if the information is filed with the proper court at the first instance.

In practical terms, I submit that the determination of probable cause and resolution of the motion to quash on the ground of lack of jurisdiction over the offense charged should be made by the judge simultaneously within the 10-day period prescribed by Rule 112, Section 5(a). In resolving the question of jurisdiction, the judge only needs to consider the allegations on the face of the information and may proceed *ex parte*. As opposed to other

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[50] RULES OF COURT, Rule 110, Secs. 4, 5 & 15.

[51] *Coscolluela v. Sandiganbayan (First Division)*, *supra* note 17 at 199, citing *Barker v. Wingo*, 407 U.S. 514 (1972).

[52] *Id.* at 200-201.

[53] *People v. Hernandez, et al.*, 99 Phil. 515, 551 (1956).

[54] *Alejandro v. Pepito*, G.R. No. L-52090, February 21, 1980, 96 SCRA 322, 327.

grounds for quashal of the information, jurisdiction may easily be verified by looking at the imposable penalty for the offense charged, the place where the offense was committed, and, if the offender is a public officer, his salary grade and whether the crime was alleged to have been committed in relation to his office. If the motion to quash filed by the accused raises grounds other than lack of jurisdiction over the offense charged, then the court may defer resolution of these other grounds at any time before arraignment. This procedure in no way impinges the right of the State to prosecute because the quashal of the information is not a bar to another prosecution for the same offense.[55]

In sum, the Rules on Criminal Procedure play a crucial role in implementing the criminal due process guarantees of the Constitution. Contravention of the Rules is tantamount to a violation of the accused's due process rights. The structure of the Rules binds the issuance of a warrant of arrest to jurisdiction over the main criminal action; hence, the judicious procedure is for the judge to determine jurisdiction no later than the issuance of the warrant of arrest in order to mitigate prejudice to the accused. Applying the foregoing principles, the respondent judge violated petitioner's constitutional right to due process and to speedy disposition of cases when she issued a warrant of arrest without resolving the issue of jurisdiction over the offense charged. She ought to have known that, under the Rules, she could not have proceeded with petitioner's arraignment if she did not have jurisdiction over the offense charged. Respondent judge's error is aggravated by the fact that the lack of jurisdiction is patent on the face of the information. On this point, I join the opinion of Justice Caguioa that it is the Sandiganbayan which has jurisdiction over the offense. At the time of the alleged commission of the offense, petitioner was the incumbent Secretary of the Department of Justice, a position classified as Salary Grade 31 and squarely falls within the jurisdiction of the Sandiganbayan.[56] It is likewise clear from the allegations in the information that the crime was committed in relation to her capacity as then Secretary of Justice.[57]

I vote to grant the petition.

FRANCIS H. JARDELEZA
Associate Justice

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[55] RULES OF COURT, Rule 117, Sec. 6.

[56] Presidential Decree No. 1606, as amended. Sec. 4(b) in relation to 4(a)(1).

[57] Relevant portions of the information reads that "accused Leila M. De Lima, being then the Secretary of the Department of Justice x x x having moral ascendancy or influence over inmates in the New Bilibid Prison, did then and there commit illegal drug trading x x x De Lima and Ragos, with the use of their power, position and authority, demand, solicit and extort money from the high profile inmates x x x."