Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

STRADCOM CORPORATION, Petitioner,	**G.R. No. 190980**
	Present:
-versus-	LEONEN, *J., Chairperson,* LAZARO-JAVIER, LOPEZ, M., LOPEZ, J., and KHO, JR., *JJ.*
MARIO TEODORO FAILON ETONG a.k.a. Ted Failon, Respondent.	**Promulgated:** OCT 10 2022

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DECISION

LEONEN, *J.*:

There is a presumption of innocence in criminal contempt proceedings. Without the requisite proof beyond reasonable doubt, the supposed contemnor cannot be cited in contempt.[1]

This Court resolves a Petition for Indirect Contempt[2] filed by Stradcom Corporation (Stradcom) against Mario Teodoro Failon Etong (Failon) for statements made in his radio program allegedly criticizing past decisions of this Court, and for discussing the merits of an ongoing case where Stradcom is a party.

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1 *Webb v. Gatdula,* G.R. No. 194469, September 18, 2019 <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65754> [Per J. Leonen, Third Division].

2 *Rollo,* 4–21. Although generally captioned as "Petition for Contempt" it is nevertheless expressed in the body of the Petition that it is specifically for Indirect Contempt.

This is an offshoot of *Bayan Muna Party-List Representative Satur C. Ocampo et al. v. DOTC Secretary Mendoza et al.*,[3] where petitioners in that case sought to nullify the Department of Transportation and Communications and the Land Transportation Office's Radio Frequency Identification (RFID) project on claims, among others, that it failed to undergo competitive public bidding and it lacked the required approval from the National Economic and Development Authority (NEDA). Petitioners, in that case, also applied for a Temporary Restraining Order to enjoin the implementation of the RFID project.[4]

Stradcom is the private respondent in *Bayan Muna*. On February 8, 2010, while *Bayan Muna* was still pending, it filed this contempt petition before the Court against Failon for his statements on the RFID project, which aired over the DZMM TeleRadyo program *"Tambalang Failon and Sanchez"* on January 12, 2010.[5] The statements complained of were transcribed as follows:

> At ano nga ba your Honors ang kagandahan ng public bidding?
>
> Pag public bidding mga kaibigan, pababaan po ng presyo.
>
> Ayon po [s]a pagsasaliksik ng grupo ng Failon ngayon mga kaibigan, palakpakan natin si Grace, si Winnie at si Apple.
>
> Sa ibang mga bansa, ang sticker po ng RFID na yan ay nagkakahalaga lamang ng hindi tataas hindi sosobra sa halagang One US Dollar equivalent to about [f]orty-five pesos or less ang isang RFID sticker na [y]an.
>
> At ang reader nito mga kaibigan ay hindi lalagpas sa pitong daang dolyar bawat isa o katumbas mga kaibigan na mga [tatlumpu't] tatlong libong piso.
>
> Ang LTO po ay umaamin na wala pa silang reader. Ni hindi po natin alam mga kaibigan kung papaano po ang deployment ng reader at kung anong reader ang bibilhin, saan po ilalagay, kung yan po ay fixed na reader o kung sino po ang may hawak nito at gaano po karami ang may hawak nito at kung [i]to po ba ay nationwide.
>
> Samakatuwid mga kaibigan hindi dapat tayo ipinagbabayad sa hindi mo alam na programa.
>
> Ilan ba ang readers na bibilhin ninyo. Sa buong Pilipinas ba ay magkakaroon ng reader. Papaano nga ba ire. Kasi nga wala pong bidding mga kaibigan.
>
> So ngayon [p]o mga kapamilya, tayo po ay magbabayad in advance, sampung taon advance ano po sa isang bagay na hindi man lamang po mga kaibigan na hindi dumaan sa public bidding.

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3 804 Phil. 638 (2017) [Per J. Sereno, En Banc].
4 *Rollo*, pp. 4–6.
5 *Id.*

Isang bagay na hindi ka nakakasiguro sa lifespan nito.

Dumaan sa NEDA, ayaw ng NEDA. Ang NTC nagsabi nung una pa na hindi pupwede yan dahil hindi yan dumaan sa amin dahil ang pinaguusapan nito radio frequency. Dapat dumaan sa kanila. Wala sa NTC mga kaibigan.

Ano nga ba ire.

So [kumbaga], talaga pong ipinipilit sa atin mga kaibigan ang proyektong ito.

Ngayon, ito po mga kaibigan ay dadaan ha sa suppose[d] to be na tila matang lawin na pagsusuri po ng kataastaasang kagalanggalangang hukuman.

Pero tayo po ay nangangamba mga kaibigan sa posibleng kahahantungan ng TRO petition na ito [sa] Supreme Court.

Alam nyo po kung bakit? Dahil kung atin pong oobserbahan lately po with all due respect sa atin pong mga mahistrado. Hindi naman po [i]to botohan ng 15-0, hati lagi ang boto, dikit ang boto ibig sabihin meron pa din po dyang naninindigan para sa tama, ha, naninindigan para sa bayan.. pero sila po ay natatalo ng mayorya.

Example, [iyon] pong desisyon ng Supreme Court mga kapamilya tungkol sa mga City hindi ho ba[.] Yun pung isyu kung sino po ang dapat maging lungsod or hindi.

If you will remember [,] mga kaibigan tayo po ay magbalik tanaw.. tayo [po ay] magrewind ng panandalia[n], ops.

Nagkaroon po ng demandahan dyan nagreklamo ang mga lehitimong lungsod laban sa mga nag-aa[p]ply bilang lungsod. Ang pinaguusapan dito bayan ay pera ..

Tandaan po natin bottomline dyan ang Internal Revenue Allotment, pera, malaki ang share mo kapag ikaw ay lungsod, yan po ang bottomline dyan mga kaibigan kaya marami po ang gustong maging lungsod.

Ngayon, nagkaroon na po ng desisyon mga kaibigan ang Supreme Court na sinasabi na ito ang panuntunan before ka maging lungsod. May mga natalo dalawang motion. Ano ang sabi ng Supreme Court? Hindi na pupwede. Hindi na kami mageentertain pa ng kahit ano pang hirit di[t]o. Sarado na ang kasong ito.. Case closed.

Ano ang nangyayari nagkaroon ng mga pagbabago sa loob ng kataastaasang hukuman. Mayroo[n] pong mga nagretiro na mahistrado.. Nagkaroon po ng pagpapalit ng mga mahistrado. Kinalaunan sa isang hindi maipaliwana[g] na pagkakataon.. mismo ang [S]upreme [C]ourt ang kumain sa kanilang mga salita na wala na silang tatanggapin na petition tungkol sa saradong isyu na ito.

At tila ba isang malaking himala.. Tila baga isang hindi maipaliwanag na pangyayari biglang nagbukas ang pintuan ng Supreme Court at tinanggap ang panibangong motion ng mga gustong maging syudad

at pinagbigyan ang kanilang kahilingan na maging lungsod sa gitna ng pagsasabi ng Supreme Court na wala na kaming tatanggaping petition tungkol sa isyung ito.

Mga kaibigan yan po ang mga palatandaan ng pagbabago ng ating panahon.

Ito ba ay kabahagi ng Climate Change? Hindi ko masasabi.

Hindi pa dyan mga kaibigan magtatapos.

Kung inyo pong magugunita mga kaibigan, alam naman po nating lahat na ang isang appointed official ng pamahalaan... Ikaw ay miyembro ng gabinete, ikaw ay isang bureau director, ikaw ay isang pinuno ng isang ahensya ng pamahalaan na kung saan ikaw ay naluklok sa pwesto sa bisa lamang ng papel at ballpen na hawak ng appointing power.

Ikaw ay naa[p]point...nanungkulan. At ng ikaw ay magdesisyon para tumakbo sa isang elected na posisyon, hindi ho ba kinakailangan na magresign ka na? Dahil iba ang elected, iba ang appointed.

Mga kaibigan, sa mga kadahilanang hindi natin maipaliwanag, ang Supreme Court, sa botong dikit, sa botong hati, pero nakakalamang pa rin ang mga pabor.

Ano ang naging hatol ng mga mahistrado? Kahit na sino ang nag-file ng certificate of candidacy, whether halal ng bayan o appointed ay hindi na kinakailangan pang mag-resign hanggang sa kahulihuliang araw nya ng panunungkulan sa gobyerno, yan poy Enero, yan poy Hunyo a-trenta ng taong kasalukuyan.

Sa madaling sabi ang isang [COMELEC] official na gustong tumakbo bilang isang kongresista, isang Cabinet official na gustong tumakbong g[o]bernador, . . . ang isang director mga kaibigan ng DPWH na gusto maging alkalde, hindi na kinakailangan[g] magresign sa kanyang posisyon POR DYOS POR SANTO MGA KAPATID KO SA MGA PANANAMPALATAYA MGA KAPATID KO SA PANANALIG, MGA KAPAMILYA, ANO NA ANG NANGYAYARI SA ATING KATAAS TAASANG HUKUMAN?!!![6]

In saying these remarks, as well as in citing *League of Cities of the Philippines v. Commission on Elections, et al.*[7] and *Quinto v. Commission on Elections*,[8] respondent Failon allegedly mocked and depicted this Court as "fickle minded, lacking firmness and resoluteness in its decisions"[9] creating doubt on the result of the application for Temporary Restraining Order in *Bayan Muna*.[10] Respondent's words, as to petitioner Stradcom, tend to erode the people's faith in this Court, effectively impeding, obstructing, and degrading the dispensation of justice in *Bayan Muna*.

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6 *Id.* at 6–10.
7 623 Phil. 531 (2009) [Per J. Velasco, Jr., En Banc].
8 621 Phil. 236 (2009) [Per J. Nachura, En Banc].
9 *Rollo*, p. 10.
10 *Id.*

Citing an excerpt of respondent's January 4, 2010 interview with Bayan Muna Party-List Representative Congressman Teodoro Casiño (Congressman Casiño), petitioner also argues that respondent allegedly allowed his radio program to be used as a means to discuss the arguments of petitioners in *Bayan Muna*:[11]

> Ted: So Congressman, pwede ho bang iulit nyo lamang sa mga nakikinig po sa atin ngayon para maintindihan lalo na po ng mga motorista, mga operators po ng taxi, [PUJs], sa lahat po ng mga motorista na ano ho ba ang mga argumento ninyo sa Supreme Court kung bakit kinakailangan pigilan ang proyektong ito.
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> Cong: Meron tayong tatlong grounds [na] idinulog sa korte kung bakit pinapawalang bisa po natin itong kontrata ng RFID. Unang-una, hindi ito dumaan sa tamang proseso. Lumabag ito sa at least dalawang batas natin, yung procurement act na nagre-require ng public bidding sa ganitong mga proyekto at yung batas na dapat dumaan sa NEDA ang ganitong klaseng mga kontrata. Pangalawa, usurpation ng kapangyarihan ng Kongreso na in effect ang ginawa ng LTO nagdagdag sila ng isang requirement sa pagrerehistro ng vehikolo. At ang mga requirements na ito ay nakasaad sa batas. Kung walang batas na nagdadagdag ng requirements eh di hindi pwedeng ipataw ito ng LTO. Pangatlo yung banta sa privacy ng mga motorista dahil dito nga sa RFID meron open[-]ended na information na kung ano sa tingin ng LTO ang gobyerno pwede nilang ilagay ay maaari nilang ilalagay as part ng information to be provided ng RFID. So [,] on those three tayo ay naghain ng complaint sa Korte Suprema.[12]

In repeatedly discoursing on the merits of *Bayan Muna*, petitioner submits that respondent blatantly violated the *sub judice* rule and elated himself above this Court. His endless tirades were purportedly made to influence the opinion of the people for the public clamor to sway this Court into ruling against the project. For these reasons, petitioner prays for respondent to be cited in contempt with a fine and for this Court to issue a cease-and-desist order to restrain him from further discussing the merits of the petition in *Bayan Muna* in his radio program while the case is pending.[13]

In his Comment,[14] respondent insists on merely expressing his opinions and informing his listeners on public issues.[15] Believing that the contempt imputed against him is criminal in nature, he stresses on intent as a necessary element[16] of the charge to which petitioner allegedly fell short of proving.[17] He explains that his statements relative to *League of Cities* and *Quinto* were within the permissible bounds of fair criticisms. While he may have been

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11 *Id.* at 12–13 and 29.
12 *Id.* at 13–14.
13 *Id.* at 14–15.
14 *Id.* at 149–192.
15 *Id.* at 151–152.
16 *Id.* at 153–155.
17 *Id.* at 170.

passionate in expressing his disagreement on the rulings of these cases, he nevertheless did so in good faith, bereft of abuse or misrepresentation of facts.[18]

To reinforce that his statements were fair criticisms and thus noncontemptuous, respondent asserts that he only discussed court decisions that the public should know. He did not malign any particular person or attribute discreditable motives to this Court or its members, and he did not also take pleasure in using spiteful or malicious words. Allegedly, it was not his intention to disrespect this Court. He is merely doing his job as a journalist and radio commentator to provide information to the public on this Court decisions.[19]

Respondent counters that petitioner also failed to establish how his comments in the cited cases cast doubt on the application for Temporary Restraining Order. Given that the Petition for Contempt was filed after this Court had already issued a *status quo ante* order effectively restraining the Land Transportation Office from implementing the project as early as January 12, 2010, the issue regarding this matter is purportedly moot.[20]

Respondent further explains that since the *status quo ante* order was issued on the same day, his January 12, 2010 statements could not have influenced this Court. By filing a Petition for Contempt, petitioner is seemingly implicating that the Justices listened to him and considered his opinions in their deliberation and eventual issuance of the order. Respondent then calls for the dismissal of the Petition because in contending that this Court can be swayed by his statements, it is allegedly petitioner and not him who is attacking this Court's independence.[21]

In addition, respondent argues that petitioner has no, or if at all, only "little-interest" in this contempt proceeding. Allegedly, this Court did not even *moto propio* take action on his statements showing that the uproar was only on the part of petitioner.[22] Assuming that petitioner may have minimal interest in this case, still, it allegedly failed to prove how his criticisms could affect the dispensation of justice in *Bayan Muna*. Failon attacks petitioner's mere presentation of a compact disk and transcripts of his assailed statements without establishing how it supposedly cast doubt on the result of the application for the restraining order.[23]

On his alleged violation of the *sub judice* rule, respondent argues that the cited interview was only a rehash of the arguments raised by petitioners in

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18 *Id.* at 155.
19 *Id.* at 161–162.
20 *Id.* at 165–166.
21 *Id.* at 166.
22 *Id.* at 167.
23 *Id.* at 167–168 and 125.

Bayan Muna, which were already made public.[24] In balancing judicial independence with freedom of expression, respondent claims that his remarks were only "advocacies of his thoughts and opinions"[25] pursuant to the clear and present danger test. He also stresses that petitioner's prayer for a cease-and-desist order is an impermissible prior restraint.[26]

In its Reply,[27] petitioner reiterated its arguments in the Petition and insisted that respondent's remarks neither espouse the respect and dignity owing to this Court nor encourage confidence in it.[28] Respondent later filed a Motion to Admit[29] his attached Rejoinder[30] but was eventually denied by this Court for being a prohibited pleading.[31]

For this Court's resolution is whether or not respondent Mario Teodoro Failon Etong is guilty of indirect contempt for the statements he made in his radio program.

We dismiss the Petition.

I (A)

Contempt of court does not only pertain to the intentional disregard of a court's directive but also encompasses behavior which tends to bring the court's power and the dispensation of law into disrespect or, in some way, to obstruct the due administration of justice. In *Webb v. Gatdula*, we emphasized that the courts' contempt power is a vital component of judicial authority.[32] Thus:

> Contempt of court is willful disobedience to the court and disregard or defiance of its authority, justice, and dignity. In *Lim-Lua v. Lua*, this Court explained that contempt of court "signifies not only a willful disregard or disobedience of the court's order, but such conduct which tends to bring the authority of the court and the administration of law into disrepute or, in some manner, to impede the due administration of justice."
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> The power to cite persons in contempt is an essential element of judicial authority. All courts have the inherent power to punish for contempt to the end that they may *"enforce their authority, preserve their integrity, maintain their dignity, and insure the effectiveness of the administration of justice."*

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24 *Id.* at 181.
25 *Id.* at 185.
26 *Id.* at 187.
27 *Id.* at 212–221.
28 *Id.* at 218.
29 *Id.* at 222–224
30 *Id.* at 225–239.
31 *Id.* at 240. With the denial of the Motion to Admit, the attached Rejoinder was only noted without action by the Court.
32 *Webb v. Gatdula*, G.R. No. 194469, September 18, 2019 <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65754> [Per J. Leonen, Third Division].

In *Roque, Jr. v. Armed Forces of the Philippines Chief of Staff*:

> The power of contempt is exercised to ensure the proper administration of justice and maintain order in court processes. *In Re: Kelly* provides:
>
> > 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.
> >
> > 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.
> >
> > *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.*[33] (Emphasis supplied and citations omitted)

There are two types of contempt: direct contempt and indirect contempt. Direct contempt entails "misbehavior in the presence of or so near a court to obstruct or interrupt the proceedings before [it]"[34] and includes the following: "(1) disrespect to the court; (2) offensive behavior against others; and (3) refusal, despite being lawfully required, to be sworn in or to answer as a witness, or to subscribe an affidavit or deposition."[35]

On the other hand, the following acts constitute indirect contempt under Rule 71, Section 3 of the Rules of Civil Procedure:

> 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 by indirect contempt:
>
> a. Misbehavior of an officer of a court in the performance of his [or her] official duties or in his [or her] 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

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33 *Id.*

34 *Oca v. Custodio*, 814 Phil. 641,666 (2017) [Per J. Leonen, Second Division].

35 *Id. See also* RULES OF COURT, rule 71, sec.1.

> 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 [or her].
>
> 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 [or her] in custody pending such proceedings. (Emphasis supplied)

Direct contempt "can be punished summarily without a hearing."[36] In contrast, indirect contempt "is only punished after a written petition is filed, and an opportunity to be heard is given to the party charged."[37]

I (B)

The power of contempt has a two-fold aspect, namely: "(1) the proper punishment of the guilty party for his [or her] disrespect to the court or its order; and (2) to compel his [or her] performance of some act or duty required of him [or her] by the court which he [or she] refuses to perform."[38]

Owing to this, contempt may either be criminal or civil.

Criminal contempt is a behavior directed against the court's authority and dignity or towards a judge acting judicially; it is a conduct that impedes the dispensation of justice that tends to bring disrepute to the court. Its purpose is chiefly for punishment. Conversely, civil contempt is the failure to undertake a court's directive in a civil action for the benefit of the other party. It is a transgression against the party on whose behalf the defied order was

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36 *Id.*

37 *Id.* at 667.

38 *Webb v. Gatdula*, G.R. No. 194469, September 18, 2019 <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65754> [Per J. Leonen, Third Division].

rendered, thus, for compensatory or remedial purposes.[39] As explained in *Webb:*

> The power of contempt has a two-fold aspect, namely: "(1) the proper punishment of the guilty party for his disrespect to the court or its order; and (2) to compel his performance of some act or duty required of him by the court which he refuses to perform." Due to this two-fold aspect, contempt may be classified as civil or criminal.
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> *Criminal contempt is a "conduct that is directed against the dignity and authority of the court or a judge acting judicially; it is an act obstructing the administration of justice which tends to bring the court into disrepute or disrespect."* On the other hand, civil contempt is one's failure to fulfill a court order in a civil action that would benefit the opposing party. It is, therefore, an offense against the party in whose behalf the violated order was made.
>
> *In People v. Godoy, this Court held that the primary consideration in determining whether a contempt is civil or criminal is the purpose for which the power of contempt is exercised.*
>
> *A proceeding is criminal when the purpose is primarily punishment. Criminal contempt is directed against the power and dignity of the court with no element of personal injury involved. The private parties' interest in the criminal contempt proceedings is tangential, if any.*
>
> In contrast, a proceeding is civil when the purpose is compensatory or remedial. In such case, contempt "consists in the refusal of a person to do an act that the court has ordered him to do for the benefit or advantage of a party to an action pending before the court[.]" Thus, in civil contempt, the party in whose favor that judgment was rendered is the real party-in-interest in the proceedings.
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> Furthermore, in *Godoy*:
>
> > *Criminal contempt proceedings are generally held to be in the nature of criminal or quasi-criminal actions. They are punitive in nature, and the Government, the courts, and the people are interested in their prosecution. Their purpose is to preserve the power and vindicate the authority and dignity of the court, and to punish for disobedience of its orders. Strictly speaking, however, they are not criminal proceedings or prosecutions, even though the contemptuous act involved is also a crime. The proceeding has been characterized as sui generis, partaking of some of the elements of both a civil and criminal proceeding, but really constituting neither. In general, criminal contempt proceedings should be conducted in accordance with the principles and rules applicable to criminal cases, in so far as such procedure is consistent with the summary nature of contempt proceedings. So it has been held that the strict rules that govern criminal prosecutions apply to a prosecution for criminal contempt, that the accused is to be afforded many of the protections provided in regular*

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[39] *Id.*

> *criminal cases, and that proceedings under statutes governing them are to be strictly construed. However, criminal proceedings are not required to take any particular form so long as the substantial rights of the accused are preserved.*
>
> Civil contempt proceedings are generally held to be remedial and civil in their nature; that is, they are proceedings for the enforcement of some duty, and essentially a remedy for coercing a person to do the thing required. As otherwise expressed, a proceeding for civil contempt is one instituted to preserve and enforce the rights of a private party to an action and to compel obedience to a judgment or decree intended to benefit such a party litigant. So [,] a proceeding is one for civil contempt, regardless of its form, if the act charged is wholly the disobedience, by one party to a suit, of a special order made in behalf of the other party and the disobeyed order may still be obeyed, and the purpose of the punishment is to aid in an enforcement of obedience [.][40] (Emphasis supplied and citations omitted)

Corollary, the determination of burden of proof in criminal and civil contempt proceedings are different. In criminal contempt, the contemnor enjoys the presumption of innocence, and it is for the prosecution to prove the charge beyond reasonable doubt. However, there exists no similar presumption in civil contempt proceedings:

> *A difference between criminal and civil contempt also lies in the determination of the burden of proof.* In criminal contempt proceedings, the contemnor is "presumed innocent and the burden is on the prosecution to prove the charges beyond reasonable doubt." In civil contempt proceedings, no presumption exists, "although the burden of proof is on the complainant, and while the proof need not be beyond reasonable doubt, it must amount to more than a mere preponderance of evidence."[41] (Emphasis supplied and citations omitted)

Although the disobedience punishable under the law as constructive contempt connotes willfulness, this Court nevertheless clarified that intent is merely necessary in cases of criminal contempt. Since the purpose of civil contempt is not punitive but only remedial, intent is irrelevant. Therefore, good faith or absence of intent to defy this Court's order are not plausible defenses in civil contempt proceedings.[42]

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40 *Id.*
41 *Id.*
42 *Id.*

I (C)

Here, petitioner argues that respondent's remarks are punishable as "[a]ny improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice" under Rule 71, Section 3(d) of the Rules of Civil Procedure.[43] A contempt charge on this basis is criminal in nature. Thus, it should be established that respondent "acted willfully or for an illegitimate purpose."[44] No person will be punished for criminal contempt except when "the evidence makes it clear that he [or she] intended to commit it."[45] As such, petitioner ought to prove that respondent deliberately stated the supposed contumacious remarks to "impede, obstruct or degrade the administration of justice in *Bayan Muna*[.]"[46] That through his words, respondent sought to ridicule the Court to cast doubt on the result of the Temporary Restraining Order application in *Bayan Muna* by trying to erode the faith of the people to this Court.[47]

Petitioner fails to persuade.

Intent is a vital element in criminal contempt proceedings.[48] With the presumption of innocence in the contemnor's favor, petitioner holds the burden of proving that respondent is guilty beyond reasonable doubt of indirect contempt,[49] which it miserably failed to do. Apart from general allegations, no other evidence was adduced to prove petitioner's claims. Its imputations, merely reinforced by transcripts of respondent's supposed contumacious remarks, without more, fell short of the required standard of proof in this criminal contempt proceeding. On this account, petitioner's contempt charge fails.

I (D)

Besides, respondent's assailed utterances are not contemptuous.

The freedom of speech and of the press is "among the most zealously protected rights in the Constitution."[50] As follows, this Court recognizes that these liberties must be safeguarded to their greatest possible extent.[51]

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43 *Rollo*, pp. 4-5.

44 *Webb v. Gatdula*, G.R. No. 194469, September 18, 2019 <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65754> [Per J. Leonen, Third Division].

45 *People v. Godoy*, 312 Phil. 977, 999 (1995) [Per J. Regalado, En Banc].

46 *Rollo*, p. 12.

47 *Id.*

48 *Webb v. Gatdula*, G.R. No. 194469, September 18, 2019 <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65754> [Per J. Leonen, Third Division].

49 *Id.*

50 *In re Jurado*, 313 Phil. 119, 165 (1995) [Per C.J. Narvasa, En Banc].

51 *In re Lozano*, 54 Phil. 801, 807 (1930) [Per J. Malcolm, En Banc].

In *In re Lozano*:[52]

> We come now to a determination of the right of the court to take action in a case of this character. It has previously been expressly held that the power to punish for contempt is inherent in the Supreme Court (*In re* Kelly [1916], 35 Phil., 944). That this power extends to administrative proceedings as well as to suits at law cannot be doubted. It is necessary to maintain respect for the courts, indeed to safeguard their very existence, in administrative cases concerning the removal and suspension of judges as it is in any other class of judicial proceedings.
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> . . . .
>
> *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 Libel 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. [R]espect 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.*[53] (Emphasis supplied)

Nonetheless, as elucidated in *Zaldivar v. Sandiganbayan*,[54] these constitutional guarantees are not absolute and should be balanced with other equally fundamental matters of public interest, such as the maintenance of the integrity of courts and the proper administration of justice:

> Respondent Gonzalez is entitled to the constitutional guarantee of free speech. No one seeks to deny him that right, least of all this Court. *What respondent seems unaware of is that freedom of speech and of expression, like all constitutional freedoms, is not absolute and that freedom of expression needs on occasion to be adjusted to and accommodated with the requirements of equally important public interest. One of these fundamental public interests is the maintenance of the integrity and orderly functioning of the administration of justice. There is no antinomy between free expression and the integrity of the system of administering justice. For the protection and maintenance of freedom of expression itself can be secured only within the context of a functioning and orderly system of dispensing justice, within the context, in other words, of viable independent institutions for delivery of justice which are accepted by the general community.* As Mr. Justice Frankfurter put it:

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52 *Id.*

53 *Id.* at 805–807.

54 248 Phil. 542 (1988) [Per Curiam, En Banc].

> *". . . A free press is not to be preferred to an independent judiciary, nor an independent judiciary to a free press. Neither has primacy over the other; both are indispensable to a free society.*
>
> *The freedom of the press in itself presupposes an independent judiciary through which that freedom may, if necessary, be vindicated. And one of the potent means for assuring judges their independence is a free press."*[55]
> (Emphasis supplied and citations omitted)

Correspondingly, a person accused of contempt for making particular utterances or publishing evident opprobrious texts does not evade liability by just invoking the freedom of speech and of the press. These constitutional guarantees must not be mistaken for the abuse of such liberties. Impeding the courts' dispensation of justice — either through spoken or written words — has been considered an abuse of these rights, exposing the abuser to punishment for contempt of court.[56]

However, the authority of courts to punish contempt is not just thoughtlessly exercised without due regard to the circumstances behind the supposed contumacious act and the reason why the conduct was punished. "Especially where freedom of speech and press is involved, this Court has given a restrictive interpretation of what constitutes contempt."[57]

In *People v. Castelo*,[58] a trial court judge who was then handling an ongoing murder case cited in contempt a news editor of the Manila Daily Bulletin who wrote a story on a supposed extortion attempt to acquit the accused illicitly. This extortion attempt, at that time, was under investigation by proper government authorities.

As to the judge, the act of publishing the article constitutes indirect contempt. In effect, it allegedly tended to impede, degrade or humiliate the dispensation of justice in the pending murder case as it was primarily geared to secure an unlawful acquittal of the accused while the case was still ongoing.[59]

Before ruling on the merits of the news editor's appeal, the Court in *Castelo* initially examined the content of the publication objectively and found that it was merely a factual account of the investigation:

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55 *Id.* at 579.
56 *People v. Godoy*, 312 Phil. 977, 1003–1004 (1995) [Per J. Romero, Third Division].
57 *Roque, Jr. v. AFP Chief of Staff*, 805 Phil. 921, 948 (2017) [Per J. Leonen, Second Division].
58 114 Phil. 892, 895 (1962) [Per J. Bautista Angelo, En Banc].
59 *Id.* at 896–897.

> ***Before we proceed to discuss the merits of this case, it is necessary that an objective analysis be made of the published news story to determine its true perspective or the situation under which it was published.*** This objective analysis is imperative to determine whether it comes within the limitations of the freedom of the press or constitutes a fair and true account of a matter that may come within the scope of a privileged communication. In short, the analysis is necessary to show if appellant has transgressed the bounds of his constitutional freedom as a news editor.
>
> The story as published may be briefly summed up as follows: Philippine constabulary agents investigated two society matrons in their attempt to extort P100,000.00 from Oscar Castelo allegedly to secure his acquittal. The investigators questioned the matrons and took tape recordings and pictures while they were negotiating the money. Castelo confirmed the extortion attempt. The plan was broached to Miss Adelaida Reyes, a friend of Castelo, who upon being informed thereof reported the matter to the military intelligence service of the constabulary (G-2). The negotiations took place in San Juan de Dios coffee shop on Dewey boulevard. There Miss Reyes was told by one of the matrons that she saw the decision sentencing Castelo but that they could secure its change to acquittal if Miss Reyes could raise P100,000.00. The negotiations did not go through because Miss Reyes could not raise the amount. When Miss Reyes informed Castelo of the plan he reportedly got mad.
>
> According to appellant, what he published in his story was a fair and true account of a matter that was then under investigation by constabulary agents without making any comment or criticism. In fact, as a result of said investigation, the two matrons were charged with attempted estafa before the Court of First Instance of Rizal which was then pending trial when this contempt incident came up before this Court.
>
> ***It thus appears that the narration of the extortion try made in the news story is but an account of the facts then being gathered by the agents of the constabulary who were then investigating the two society matrons involved therein. During the investigation tape recordings and pictures of the negotiations were even taken. The investigation was not carried out confidentially or at closed doors for apparently the reporters or outsiders were not excluded. In fact, similar stories appeared in other newspapers which gave rise to similar contempt proceedings against their news editors as a result of this publication. It is likewise noteworthy that throughout the narration no criticism or comment was ever made casting reflection against the trial judge or tending to influence one way or the other his decision on the pending Castelo case. It was a mere factual appraisal of the investigation.***[60] (Emphasis supplied)

Ultimately, in reversing the contempt charge, the Court in *Castelo* found nothing in the story indicating that it was published to obstruct or debase the administration of justice in the pending murder case. A mere factual narration of the extortion attempt negotiation, without comment or criticism on the part of the news writer, does not constitute indirect contempt:

> 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

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[60] *Id.* at 897–899.

> 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 [.][61]

A similar import that an article which does not obstruct or degrade the administration of justice is not contumacious was echoed in *Danguilan-Vitug v. Court of Appeals*.[62] Prescinding from the contents of an assailed publication that only restates the history of the main case and the arguments raised therein by the journalists-intervenors, this Court held that it could neither cast doubt on the court's integrity nor in its dispensation of justice in the main case:

> ***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 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.[63] (Emphasis supplied)

In *People v. Godoy*,[64] this Court dismissed a complaint for indirect contempt against a columnist and a publisher of a local newspaper in Palawan. The complainant in *Godoy* was the trial court judge who handled the pertinent criminal case before the trial court.[65]

At the core of the controversy was an article which allegedly impedes and demeans the administration of justice. As to the trial court judge, the

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61 *Id.* at 899–900.
62 302 Phil. 484 (1994) [Per J. Romero, Third Division].
63 *Id.* at 496.
64 312 Phil. 977 (1995) [Per J. Regalado, En Banc].
65 *Id.* at 993.

publication does not only cast doubt on his honesty and impartiality but also insinuates that he was biased. Further, it allegedly includes offensive words and violates the *sub judice* rule since the criminal case was then under automatic review by this Court.[66]

When this Court evaluated the supposed contumacious remarks in its entirety, it found that the assailed words in the publication were merely taken out of context. As to this Court, the article did not go beyond the bounds of editorial criticism and explained that "snide remarks or sarcastic innuendos"[67] do not automatically take on the level of abuse punishable as indirect contempt:

> ***On the issue of whether the specified statements complained of are contumacious in nature, we are inclined, based on an overall perusal and objective analysis of the subject article, to hold in the negative. We have read and reread the article in its entirety and we are fully convinced that what is involved here is a situation wherein the alleged disparaging statements have been taken out of context. If the statements claimed to be contumacious had been read with contextual care, there would have been no reason for this contempt proceeding.***
>
> In our aforestated evaluation, we were sufficiently persuaded to favorably consider the following explanation of respondent Ponce de Leon in her Supplemental Comment:
>
> On the other hand, a reading of the subject article in its entirety will show that the same does not constitute contempt, but at most, merely constitutes fair criticism.
>
> The first portion of the article reads:
>
> > "Isang maalab na issues (sic) pa ay ang DEATH THREATS laban kono kay Judge Eustaquio Gacott, Jr. ng mga pamilya ng kanyang sinentensiyahan ng Double Death Penalty. Sinabi ni Wilmar Godoy sa DWRM programa na wala silang pagbabantang ginawa umano, at hindi nila ito kailan man isinaisip. Ayon naman kay Gacott sa kanyang interview sa DYPR ay totoong pinagbantaan siya ng mga Godoy. Kaya ayon marami siyang Security na armado, in full battle gear. Kung totoo ito, bakit hindi niya kasuhan ang mga ito? Ito rin ang katanungan ni Mr. Tony Omaga Diaz, ang station manager ng DYPR. O bale ba gumawa siya ng sariling MULTO pagkatapos ay takot na takot siya sa multong kanyang ginawa."
>
> The foregoing does not even deal with the merits of the case, but with the public accusations being made by Complainant that he is being given death threats by the family of the accused, Danny Godoy. The article only makes a justifiable query as to why Complainant does not file the appropriate charges if his accusations are true.

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66 *Id.*

67 *Id.* at 997.

> "Usap-usapan pa rin ang kaso ni Godoy. Ito raw ay isang open book maging sa kanyang mga co-teachers sa Pulot na nagli-live in si Godoy at ang babaing si Mia Taha. Matagal na ang kanilang ugnayan. Meron ding "balita" ewan kung totoo, na noong si Godoy daw ay nasa Provincial Jail pa ay dinadalaw siya ni Taha at kumakain pa sila sa labas kasama ang isang Provincial Guard. Ito rin ang dahilan kung bakit ipinagpilitan ni Judge Gacott na madala kaagad sa Muntinlupa sa National Bilibid Prisons si Godoy kahit na ang kaso ay naka-apela pa."

The foregoing is merely a report of rumors regarding the accused Danny Godoy. They are not presented as facts by respondent Mauricio Reynoso, Jr. In fact, he even goes to the extent of acknowledging that he himself does not know if the rumors are true or not.

The subject article then offers the following analysis:

> "Malaking epekto ang desisyon ng Korte Suprema sa dalawang tao, kay Danny Godoy at Judge Gacott. Kung babaliktarin ng Supreme Court ang decision ni Gacott, lalaya si Godoy, si Gacott naman ang masisira, ang kanyang aspirations na maitaas sa Court of Appeals at eventually makasama sa mga miyembro ng korte suprema ng bansa. Kung papaboran naman si Gacott ay sigurado na ang kamatayan ni Godoy, at double pa pero si Gacott maitataas pa ang puwesto. Tayo naman, hintay lamang tayo ng ano mang magiging developments ng kaso."

The foregoing is nothing more than a fair analysis. For indeed, if the Honorable Court affirms the Decision of Complainant, the accused Danny Godoy would be meted the death sentence. On the other hand, if the Decision is reversed, this may adversely affect the aspirations of Complainant to be promoted to the Court of Appeals, and eventually to the Honorable Court.

Finally, the subject article reads:

> "Pero mayroong payo si Atty. Telesforo Paredes, Jr. sa mga mamamayan ng Palawan, mag-ingat kayo sa paglalakad at baka kung hindi kayo madapa ay madulas daw kayo. Dahil ayon daw kay Judge Gacott, base sa kanyang interview sa Magandang Gabi Bayan, "Tagilid na raw ang mundo. Maraming nagpapatunay daw dito, maski sa kapitolyo." Joke lang. Pero isang warning din sa may mga nobya, na mag-ingat sa pag-break sa inyong girlfriend, dahil baka mademanda kayo at masentensyahan ng double death penalty, lalo na kung kay Judge Gacott, dahil alam na ninyo, tagilid ang laban diyan."

Again, the subject article merely reports what Atty. Telesforo Paredes, Jr. allegedly said. But more importantly, the foregoing is merely a reaction not so much to Complainant's Decision, but to the public statements made by Complainant in the national television show "Magandang Gabi Bayan."

> ***Snide remarks or sarcastic innuendoes do not necessarily assume that level of contumely which is actionable under Rule 71 of the Rules of Court. Neither do we believe that the publication in question was intended to influence this Court for it could not conceivably be capable of doing so. The article has not transcended the legal limits for editorial comment and criticism. Besides, it has not been shown that there exists a substantive evil which is extremely serious and that the degree of its imminence is so exceptionally high as to warrant punishment for contempt and sufficient to disregard the constitutional guaranties of free speech and press.***[68] (Emphasis supplied)

Nonetheless, guided by the ensuing precepts, this Court in *In re Jurado*[69] did not hesitate to cite a lawyer-journalist in contempt for writing baseless articles imputing grave accusations of impropriety and corruption to members of the judiciary without exerting genuine effort to verify the allegations before publication::

> . . . *Basic Postulates*
>
> To resolve the issue raised by those facts, application of fairly elementary and self-evident postulates is all that is needed, these being:
>
> 1) **that the *utterance* or publication by a person of falsehoods or half-truths, or of slanted or distorted versions of facts — or accusations which he made no *bona fide* effort previously to verify, and which he does not or disdains to prove — *cannot* be justified as a legitimate exercise of the freedom of speech and of the press guaranteed by the Constitution, and cannot be deemed an activity shielded from sanction by that constitutional guaranty;**
>
> 2) that such utterance or publication is also violative of "The Philippine Journalist's Code of Ethics" which *inter alia* commands the journalist to "scrupulously report and interpret the news, taking care not to suppress essential facts nor to distort the truth by improper omission or emphasis," and makes it his duty "to air the other side and to correct substantive errors promptly;"
>
> 3) **that such an *utterance* or publication, when it is *offensive to the dignity and reputation of a Court or of the judge presiding over it, or degrades or tends to place the courts in disrepute and disgrace or otherwise to debase the administration of justice*, constitutes contempt of court and is punishable as such after due proceedings [.]**[70] (Emphasis supplied and citations omitted)

While this Court sees no problem with legitimate criticisms pointing out errors in its decisions or in its management of public affairs, unfounded scurrilous attacks that damage its integrity and weakens the faith of the people

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68 *Id.* at 994–997.

69 313 Phil. 119 (1995) [Per C.J. Narvasa, En Banc].

70 *Id.* at 143–144.

in the judiciary are adjudged not of this permissible genre. In *In re Macasaet*:[71]

> **In determining the liability of the respondent in this contempt proceeding, we weigh the conflicting constitutional considerations — respondent's claim of his *right to press freedom*, on one hand; and, on the other hand, ensuring judicial independence by upholding public interest in maintaining the dignity of the judiciary and the orderly administration of justice — both indispensable to the preservation of democracy and the maintenance of a just society.**
>
> . . . .
>
> **We have no problems with legitimate criticisms pointing out flaws in our decisions, judicial reasoning, or even how we run our public offices or public affairs. They should even be constructive and should pave the way for a more responsive, effective and efficient judiciary.**
>
> **Unfortunately, the published articles of respondent Macasaet are not of this genre. On the contrary, he has crossed the line, as his are baseless scurrilous attacks which demonstrate nothing but an abuse of press freedom. They leave no redeeming value in furtherance of freedom of the press. They do nothing but damage the integrity of the High Court, undermine the faith and confidence of the people in the judiciary, and threaten the doctrine of judicial independence.**
>
> **A veteran journalist of many years and a president of a group of respectable media practitioners, respondent Macasaet has brilliantly sewn an incredible tale, adorned it with some facts to make it lifelike, but impregnated it as well with insinuations and innuendoes, which, when digested entirely by an unsuspecting soul, may make him throw up with seethe. *Thus, he published his highly speculative articles that bribery occurred in the High Court, based on specious information, without any regard for the injury such would cause to the reputation of the judiciary and the effective administration of justice. Nor did he give any thought to the undue, irreparable damage such false accusations and thinly veiled allusions would have on a member of the Court.***
>
> The Investigating Committee could not have put it any better when it found respondent feigning his "highest respect for this Court" —
>
> Macasaet's diatribes against the Court generate public distrust in the administration of Justice by the Supreme Court, instead of promoting respect for its integrity and honor. They derogate his avowal of "highest respect for this Court"... his declaration that he has "always upheld the majesty of the law as interpreted by the Court"... that his opinion of the Court has actually been "elevated ten miles up" because of its decisions in the cases involving Proclamation No. 1017, the CPR, EO 464, and the People's Initiative...that he has "done everything to preserve the integrity and majesty of the Court and its jurists"... that he wants "the integrity of the Court preserved because this is the last bastion of democracy[.]"

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[71] 583 Phil. 391 (2008) [Per J. R.T. Reyes, En Banc].

> These tongue-in cheek protestations do not repair or erase the damage and injury that his contemptuous remarks about the Court and the Justices have wrought upon the institutional integrity, dignity, and honor of the Supreme Court. **As a matter of fact, nowhere in his columns do we find a single word of respect for the Court or the integrity and honor of the Court. On the contrary, what we find are allegations of *"pernicious rumor that the courts are dirty,"* suspicions that the jurists are *"thieves,"* that the Highest Court has a *"soiled reputation,"* and that the Supreme Court has a *"sagging reputation."***
>
> ....
>
> **To reiterate the words of the Committee, this case is "not just another event that should pass unnoticed for it has implications far beyond the allocated ramparts of free speech." To allow respondent to use press freedom as an excuse to capriciously disparage the reputation of the Court and that of innocent private individuals would be to make a mockery of this liberty.**
>
> Respondent has absolutely no basis to call the Supreme Court a court of "thieves" and a "basket of rotten apples." These publications directly undermine the integrity of the justices and render suspect the Supreme Court as an institution. Without bases for his publications, purely resorting to speculation and "fishing expeditions" in the hope of striking — or creating — a story, with utter disregard for the institutional integrity of the Supreme Court, he has committed acts that degrade and impede the orderly administration of justice.[72] (Emphasis supplied)

Concomitantly, as every citizen has the right to criticize the actions of public officers, such criticisms must nevertheless be *bona fide* and should not deviate from the confines of propriety and decency. As such, an article insinuating that court processes can be maneuvered and that members of this Court are easily swayed by money is beyond the ambit of fair criticism for promoting distrust in the judiciary. In *Garcia Jr. v. Manrique*:[73]

> ***The power to punish for contempt does not, however, render the courts impenetrable to public scrutiny nor does it place them beyond the scope of legitimate criticism. Every citizen has the right to comment upon and criticize the actuations of public officers and such right is not diminished by the fact that the criticism is aimed at judicial authority. It is the cardinal condition of all such criticisms however that it shall be bona fide, and shall not spill the walls of decency and propriety.*** A wide chasm exists between fair criticism, on the one hand; and abuse and slander of courts and the judges thereof, on the other. Intemperate and unfair criticism is a gross violation of the duty to respect courts and therefore warrants the wielding of the power to punish for contempt.
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> ....
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> ***Succinctly, there are two kinds of publications relating to court and to court proceedings which can warrant the exercise of the power to punish for contempt: (1) that which tends to impede, obstruct, embarrass***

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72 *Id.* at 447–451.

73 697 Phil. 157 (2012) [Per J. Reyes, First Division].

or influence the courts in administering justice in a pending suit or proceeding; and (2) that which tends to degrade the courts and to destroy public confidence in them or that which tends to bring them in any way into disrepute.

We find the subject article illustrative of the second kind of contemptuous publication for insinuating that this Court's issuance of TRO in G.R. No. 185132 was founded on an illegal cause. The glaring innuendos of illegality in the article is denigrating to the dignity of this Court and the ideals of fairness and justice that it represents. It is demonstrative of disrespect not only for this Court, but also for the judicial system as a whole, tends to promote distrust and undermines public confidence in the judiciary by creating the impression that the Court cannot be trusted to resolve cases impartially.

This Court has always exercised utmost restraint and tolerance against criticisms on its decisions and issuances, bearing in mind that official actions are subject to public opinion as a means of ensuring accountability. Manrique's article, however, has transgressed the ambit of fair criticism and depicted a legitimate action of this Court as a reciprocated accommodation of the petitioners' interest. Contrary to Manrique's claim of objectivity, his article contained nothing but baseless suspicion and aspersion on the integrity of this Court, calculated to incite doubt on the mind of its readers on the legality of the issuance. It did not simply dwell on the propriety of the issuance on the basis of some sound legal criteria nor did it simply blame this Court of an irregularity in the discharge of duties but of committing the crime of bribery. The article insinuated that processes from this Court may be obtained for reasons other than that their issuance is necessary to the administration of justice. Judging from the title alone, "TRO ng Korte Suprema binayaran ng P20M?" the article does not aim for an academic discussion of the propriety of the issuance of the TRO but seeks to sow mistrust in the dispositions of this Court. To suggest that the processes of this Court can be obtained through underhand means or that their issuance is subject to negotiation and that members of this Court are easily swayed by money is a serious affront to the integrity of the highest court of the land. Such imputation smacks of utter disrespect to this Court and such temerity is deserving of contempt.

Manrique claims that he was only being critical of the actions of the petitioners as public officers and that no disrespect was meant to the Court. While he claims good faith, the contents of his article bespeak otherwise. A person's intent, however good it maybe, cannot prevail over the plain import of his speech or writing. It is gathered from what is apparent, not on supposed or veiled objectives.

The truth is we consider public scrutiny of our decisions and official acts as a healthy component of democracy. However, such must not transcend the wall of tolerable criticism and its end must always be to uphold the dignity and integrity of the justice system and not to destroy public confidence in them.[74] (Emphasis supplied)

Equally telling that this Court is not immune from criticisms and acknowledges the duty of the press to demand accountability from

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[74] *Id.* at 164–167.

government agencies and officials for their actions. Even so, as elucidated in *Re: Jomar Canlas*,[75] the press cannot just simply throw accusations without confirming the veracity of their report as one's "reputation is priceless and so are the reputations of the justices of this Court."[76]

> First, the Court notes that the statement of the unnamed Justice did not confirm the allegation of bribery; the unnamed Justice only stated that the Court will not allow itself to be pressured by anyone. Second, the legitimacy of the news article is misleading and has not been sufficiently established. Third, a reading of the article shows its intention to sensationalize. The news article reports of grave accusations that were not shown to have been verified. It imputed bribery charges against a female lawyer, who was a former Malacañang lawyer and who supported the candidacy of Mar Roxas; a member of the Liberal Party; and a businessman, who is close to Roxas and President Benigno Aquino III. It gave a false impression against the Justices who did not vote in favor of Poe. It compared the bribery attempts to the one that allegedly occurred during the impeachment of Chief Justice Renato C. Corona. ***The article, in full, emphasizes the bad that overshadows the short disclaimer that the Justices refused the bribe. Again, because of the close voting in the Poe cases, the article created a doubt in the minds of the readers, against some of the Justices and in the process, the Court as a whole.***
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> . . . .
>
> ***The Court is not immune from criticisms, and it is the duty of the press to expose all government agencies and officials and to hold them responsible for their actions. However, the press cannot just throw accusations without verifying the truthfulness of their reports.*** The perfunctory apology of Canlas does not detract from the fact that the article, directly or indirectly, tends to impede, obstruct, or degrade the administration of justice.
>
> ***In lieu of a monetary fine on Canlas, we are severely reprimanding him to stress that a person's reputation is priceless, and so are the reputations of the Justices of this Court.***[77] (Emphasis supplied)

In the case at hand, petitioner claims that in uttering his January 12, 2012 remarks on his radio program, respondent "ridicules and portrays [this Court] as fickle-minded, lacking firmness and resoluteness in its decisions, thereby casting doubt on the outcome of the application for Temporary Restraining Order in *Bayan Muna*."[78] Moreover, his utterances allegedly erode the public's faith in this Court by "imped[ing], obstruct[ing] or degrad[ing] the administration of justice in *Bayan Muna*."[79]

Petitioner's arguments do not persuade.

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75 A.M. No. 16-03-10-SC, October 15, 2019 <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65859> [Per J. Carpio, En Banc].

76 *Id.*

77 *Id.*

78 *Rollo*, p. 10.

79 *Id.* at 12.

Guided by the preceding jurisprudential gauges, this Court holds the assailed utterances, in its entirety, not contumacious.

Respondent's remarks only express reasonable concerns about the RFID project, which undeniably is a matter affecting public interest. These include: (1) the importance of public bidding *vis-à-vis* the project; (2) the details of the RFID project and the manner of its implementation; (3) why the public is being made to pay for a project whose details are unknown to them; and (4) the alleged lack of the required approval of the project by the NEDA.

Furthermore, respondent merely expressed his frustrations and disagreements with past decisions of this Court to reinforce his fears about the outcome in *Bayan Muna*. His words were not the kind of expressions which were adjudged contumacious by this Court worthy of its exercise of the contempt power. He did not insinuate disreputable motives to this Court or any of its specific members; neither did he used intemperate language to demean the Court's dignity or the respect due to it. Even his sarcastic intimations cannot be deemed actionable. The contempt power, though seemingly plenary, should be applied judiciously and sparingly with extreme self-restraint for the purpose of "correction and preservation of the dignity of the court, not for retaliation or vindication."[80] Recognizing the right of the people to criticize the courts and judges fairly and courteously through legitimate means, we "ought to be patient and tolerate as much as possible everything which appears as hasty and unguarded expression of passion or momentarily outbreak of disappointment at the outcome of a case."[81]

All these, together with petitioner's fatal misstep of failing to discharge the burden to prove that respondent willfully made such remarks for an improper purpose, constrain this Court to dismiss this contempt petition.

II

Finally, as to respondent's supposed violation of the *sub judice* rule, petitioner's arguments fail to convince.

The rule on *sub judice* constricts comments and disclosures on legal proceedings as a means to avert "prejudging the issue, influencing the court, or obstructing the administration of justice."[82] A breach of this rule constitutes indirect contempt under Rule 71, Section 3(d) of the Rules of Civil Procedure.[83]

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80 *Id.*

81 *Bildner v. Ilusorio*, 606 Phil. 369, 383–384 (2009) [Per J. Velasco, Jr., Second Division].

82 *Marantan v. Diokno*, 726 Phil. 642,648 (2014) [Per J. Mendoza, Third Division].

83 *Id.*

Buttressed by its citation of an interview with Congressman Casiño on January 4, 2010, petitioner claims that respondent deliberately violated the *sub judice* rule in repetitively discussing the merits of the petition in *Bayan Muna*. As to petitioner, respondent's continuous tirades on the RFID project in his radio program were allegedly calculated to influence the opinion of the public against it on the desire that public clamor would sway this Court to abrogate the project.[84]

Petitioner's arguments do not persuade.

In order for a comment to constitute contempt of court, "it must really appear" that it interferes and humiliates the dispensation of justice.[85] The justification behind the *sub-judice* rule was encapsulated in *Marantan v. Diokno*:[86]

> . . . What is, thus, sought to be protected is the all-important duty of the court to administer justice in the decision of a pending case. ***The specific rationale for the sub judice rule is that courts, in the decision of issues of fact and law should be immune from every extraneous influence; that facts should be decided upon evidence produced in court; and that the determination of such facts should be uninfluenced by bias, prejudice or sympathies.***[87] (Emphasis supplied and citations omitted)

Met with an issue of balancing the constitutional guarantee of free speech and press *vis-à-vis* judicial independence, *Re: Jomar Canlas*[88] is instructive:

> Once again, we are confronted with the issue of balancing the role of the media *vis-à-vis* judicial independence.
>
> The Court has used two formulas to balance the constitutional guarantee of free speech and of the press and judicial independence. As early as 1957, this Court sustained the view that:
>
> > Two theoretical formulas had been devised in the determination of conflicting rights of similar import in an attempt to draw the proper constitutional boundary between freedom of expression and independence of the judiciary. These are the *"clear and present danger"* rule and the "dangerous tendency" rule. **The first, as interpreted in a number of cases, means that the evil consequence of the comment or utterance must be "extremely serious and the degree of imminence extremely high" before the**

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84 *Rollo*, pp. 13-15.

85 *Marantan v. Diokno*, 726 Phil. 642 (2014) [Per J. Mendoza, Third Division].

86 *Id.*

87 *Id.* at 648–649.

88 A.M. No. 16-03-10-SC, October 15, 2019 <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65859> [Per J. Carpio, En Banc].

> **utterance can be punished. The danger to be guarded against is the "substantive evil" sought to be prevented. And this evil is primarily the "disorderly and unfair administration of justice." This test establishes a definite rule in constitutional law. It provides the criterion as to what words may be published. Under this rule, the advocacy of ideas cannot constitutionally be abridged unless there is a clear and present danger that such advocacy will harm the administration of justice.**
>
> . . .
>
> Thus, speaking of the extent and scope of the application of this rule, the Supreme Court of the United States said "Clear and present danger of substantive evils as a result of indiscriminate publications regarding judicial proceedings justifies an impairment of the constitutional right of freedom and press only if the evils are extremely serious and the degree of imminence extremely high. x x x. A public utterance or publication is not to be denied the constitutional protection of freedom of speech and press merely because it concerns a judicial proceeding still pending in the courts, upon the theory that in such a case it must necessarily tend to obstruct the orderly and fair administration of justice. ["]
>
> . . . .
>
> 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 [.]
>
> This rule may be epitomized as follows: If the words uttered created 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 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 [.][89] (Emphasis supplied and citations omitted)

Applying the "clear and present danger" rule is apropos. Before a remark may be punished, the consequent evil should be "extremely serious and the degree of imminence extremely high."[90] There should be a clear and present danger that the assailed utterances will impair the dispensation of justice. "It must constitute an imminent, not merely a likely, threat."[91]

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89 *Id.*

90 *Marantan v. Diokno*, 726 Phil. 642, 649 (2014) [Per J. Mendoza, Third Division].

91 *Id.*

Here, there was no showing that respondent's remarks or even his interview with Congressman Casiño could cause a serious and imminent threat to the dispensation of justice in *Bayan Muna*. A perusal of the assailed interview shows that it was merely a reiteration of the arguments raised by petitioners in *Bayan Muna*, which is not of that nature to generate the substantive evil of obstructing the administration of justice in the ongoing case that needs to be forestalled. To stress, a public utterance or publication will not be deprived of the constitutional guarantee of freedom of speech and of the press simply because it relates to an ongoing judicial proceeding upon the assumption that the expression unavoidably tends to impede the orderly dispensation of justice in the pending case.[92]

ACCORDINGLY, the Petition is **DISMISSED.**

SO ORDERED.

MARVIC M.V.F. LEONEN
Senior Associate Justice

WE CONCUR:

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

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92 *Id.* at 650.

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.

MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 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.

ALEXANDER G. GESMUNDO
Chief Justice