EN BANC

G.R. No. 231854 — PEOPLE OF THE PHILIPPINES, *petitioner,* ***versus*** **LEILA L. ANG, ROSALINDA DRIZ, JOEY ANG, ANSON ANG, AND VLADIMIR NIETO,** *respondents.*

Promulgated:

October 6, 2020

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CONCURRING AND DISSENTING OPINION

CAGUIOA, *J.*:

I concur in the result. The present petition should be granted but only because the matters contained in respondent Leila L. Ang's (respondent Ang) *Request for Admission* are not proper subjects of a Request for Admission under Rule 26 of the Rules of Court.

I disagree, however, to the majority's ruling that Rule 26 does not apply to criminal proceedings. I am of the considered opinion that Requests for Admission should be made available in criminal litigation, but only to the accused. This availability is premised on the inherent imbalance between the State's resources in prosecuting the accused on the one hand, and the accused's severely limited access to pre-trial information on the other. Circumscribed by the accused's right against self-incrimination and to remain silent, Requests for Admission, while available to the accused, cannot be made to extend for the use of the prosecution.

The Court should have granted the parties the opportunity to be heard on the issue of whether or not Rule 26 applies to criminal proceedings.

Preliminarily, I find that the majority should have first allowed the parties to comment on the issue of whether or not Rule 26 is available to criminal proceedings because this issue was never raised and argued by the parties before the trial court, the Sandiganbayan and this Court. Basic tenets of fairness and due process demand that the parties be given the opportunity to be heard before the Court may render a judgment on said issue.

For proper context, a restatement of the facts is in order.

Respondent Ang filed a *Request for Admission* in Criminal Case No. 2005-1048 addressed to the People and was served to the Office of the City Prosecutor of Lucena City.[1]

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[1] *Rollo*, pp. 16-17.

The People moved to expunge respondent Ang's *Request for Admission* arguing that "[t]he matters sought for admission in the defense's pleading are either proper subjects of stipulation during pre-trial, or matters of evidence which should undergo judicial scrutiny during trial on the merits. They need confirmation from witnesses who should be placed under oath, since there is no summary trial in criminal cases, except those covered by the summary proceedings under the Rules."[2]

In a Resolution dated April 13, 2010, Acting Presiding Judge Rodolfo D. Obnamia (Judge Obnamia) of the Regional Trial Court, Lucena City (RTC-Lucena) Branch 53, denied respondent Ang's *Request for Admission* and ordered that the same be expunged from the records of the case.[3] According to the court, "the proposed admission can be tackled and be the proper subject of stipulation during the pre-trial conference of the parties held mandatory by law aimed towards early disposition of cases."[4]

Respondent Ang moved for reconsideration and filed a motion to inhibit Judge Obnamia.[5] Upon inhibition of Judge Obnamia, the three cases filed against respondents were transferred to RTC-Lucena, Branch 56, presided by Judge Dennis R. Pastrana (Judge Pastrana).[6]

In the Joint Order[7] dated February 12, 2015, Judge Pastrana granted respondent Ang's Motion for Partial Reconsideration and ruled that since the prosecution failed to deny or oppose the *Request for Admission* within the 15-day period from receipt of the documents, the facts stated therein are deemed impliedly admitted by the People pursuant to Section 2, Rule 26 of the Rules of Court.[8]

The People filed a *Motion for Clarification*[9] claiming that copies of the *Request for Admission* were to the public prosecutor only and not to the parties to whom it was addressed.[10]

However, in the Joint Order[11] dated July 24, 2015, Judge Pastrana denied the People's *Motion for Clarification* for being filed out of time.[12] In the same Joint Order, Judge Pastrana ruled the facts stated in respondent Ang's *Request for Admission* are final as such implied admission by the People under Rule 26 of the Rules of Court and are consequently retained in

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2 Id. at 67 -68; underscoring omitted.
3 Id. at 68.
4 Id.
5 Id. at 17.
6 Id.
7 Id. at 140-146.
8 Id. at 142.
9 Id. at 147-150.
10 Id. at 70.
11 Id. at 159-164.
12 Id. at 161.

the court records as judicial admissions under Section 4, Rule 129 of the Rules of Court.[13]

Thereafter, respondents filed their separate *Manifestations* adopting in Criminal Cases Nos. 2005-1046 and 2005-1047 the implied admissions declared as judicial admissions in Criminal Case No. 2005-1048.[14]

Meanwhile, the People also filed its *Requests for Admissions* in the three criminal cases, which were served on respondents.[15] The People also moved for the consolidation of the three cases for purpose of trial, to which respondent Ang opposed.[16]

In the Joint Order[17] dated March 10, 2016, Judge Pastrana denied the People's *Request for Admission* stating that the judicial admissions of the People can no longer be varied or contradicted by contrary evidence much less by a request for admission directly or indirectly amending such judicial admission. In the same Order, the RTC-Lucena, Branch 56 took judicial notice of the adoption in the other two criminal cases of the implied admissions declared as judicial admissions in Criminal Case No. 2005-1048.

The People filed a motion for reconsideration (MR) based on the following grounds: (1) under Section 3, Rule 26 of the Rules of Court, any admission by a party pursuant to such request is only for the purpose of the pending action and shall not constitute admission by him for any other proceeding; (2) there was no judicial admission, whether verbal or written, made in Criminal Case No. 2005-1048 as Section 4, Rule 139 of the Rules of Court requires; and (3) the *Manifestations* filed by respondents were not set for hearing.[18]

Meanwhile, in the Order dated May 16, 2016, the RTC-Lucena, Branch 56 granted the People's motion to consolidate.[19]

However, in the Joint Order[20] dated September 5, 2016, the RTC-Lucena, Branch 56 denied the People's MR and maintained that the court can take judicial notice of the People's admissions in Criminal Case No. 2005-1048 as also the People's admissions in the other closely related and interwoven cases. It also ruled that in consolidated cases, as in this case, the evidence in each case effectively becomes the evidence of both.[21]

When the People elevated the case before the Sandiganbayan, through a petition for *certiorari* under Rule 65, what the People assailed and sought to

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13 Id. at 164.
14 Id. at 17.
15 Id.
16 Id. at 71.
17 Id. at 153-154.
18 Id. at 71.
19 Id.
20 Id. at 155-158.
21 Id. at 157.

remedy were the RTC's Joint Orders dated March 10, 2016 and September 5, 2016[22] (assailed Joint Orders) – Orders that pertain to the adoption in the other two criminal cases of the People's implied admissions declared as judicial admissions in Criminal Case No. 2005-1048. Consequently, the assigned errors and arguments raised by the People in their petition were limited to the following:

> 1. The public respondent committed a grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed orders and taking judicial notice in Criminal Case Nos. 2005-1046 and 2005-1047 of the "implied admissions declared as judicial admissions" in Criminal Case No. 2005-1048 despite the express prohibition in Section 3, Rule 26 of the Rules of Court.
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> 2. The public respondent committed a grave abuse of discretion amounting to lack or excess of jurisdiction x x x in issuing the assailed orders and taking judicial notice in Criminal Case Nos. 2005-1046 and 2005-1047 of the "implied admissions declared as judicial admissions" in Criminal Case No. 2005-1048 despite the clear provision of Section 4, Rule 129 of the Rules of Court.
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> 3. The public respondent committed a grave abuse of discretion amounting to lack or excess of jurisdiction x x x in issuing the assailed orders and taking judicial notice in Criminal Case Nos. 2005-1046 and 2005-1047 of the "implied admissions declared as judicial admissions" in Criminal Case No. 2005-1048 without a hearing.
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> 4. The public respondent committed a grave abuse of discretion amounting to lack or excess of jurisdiction x x x in issuing the assailed orders and taking judicial notice in Criminal Case Nos. 2005-1046 and 2005-1047 of the "implied admissions declared as judicial admissions" in Criminal Case No. 2005-1048 on the ground that all three cases are considered as only one proceeding.[23]

In the assailed Decision, the Sandiganbayan dismissed the People's petition, confining itself to the issue of whether or not Judge Pastrana had committed grave abuse of discretion in issuing the assailed Joint Orders. The Sandiganbayan held that there was no such grave abuse of discretion because the Joint Orders were issued after the RTC had considered the facts and jurisprudence attendant in the case.[24] The Sandiganbayan further held that while it may be true that Section 3, Rule 26 of the Rules of Court limits the application of an admission made pursuant to a *Request for Admission* only for the purpose of the pending action (*i.e.*, Criminal Case No. 2005-1048), the consolidation of the three cases extended the effect of such admission to the other cases.[25]

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22 Id. at 14.
23 Id. at 15.
24 Id. at 18-20.
25 Id. at 20

Upon denial of the People's MR in the assailed Sandiganbayan Resolution, the People filed the present petition where it claims that the Sandiganbayan gravely erred when it agreed with the RTC-Lucena, Branch 56 that the People's implied admission obtained under Rule 26 are equivalent to judicial admissions under Rule 129 and that the consolidation of the three criminal cases extended the effect of the alleged implied admissions in Criminal Case No. 2005-1048 to the other criminal cases filed against respondents.[26] The People insist that the implied admissions declared as judicial admissions should only apply to Criminal Case No. 2005-1048.[27] The People likewise assert that the subject *Requests for Admission* were not served to the proper parties and the matters set forth therein are not proper subjects of a request.[28]

Thus, the People prayed of this Court that (1) the assailed Sandiganbayan Decision and Resolution be reversed and set aside; (2) the assailed Joint Orders of the RTC-Lucena, Branch 56 declaring the matters made subject of the *Request for Admission* filed by respondents as implied admissions, and taking judicial notice thereof as judicial admissions in the three criminal cases filed against respondents be nullified; (3) an Order be issued directing the RTC-Lucena, Branch 56 to hear and decide the three criminal cases with utmost dispatch.[29]

It is thus quite clear that the issue on whether or not a *Request for Admission* is available to criminal proceedings is **not** the actual issue of the instant petition.

When the People filed a petition before the Sandiganbayan and thereafter to this Court, the issue brought for resolution was whether the RTC-Lucena, Branch 56 gravely abused its discretion in taking judicial notice in Criminal Cases Nos. 2005-1046 and 2005-1047 of the People's admissions in Criminal Case No. 2005-1048. The Joint Orders dated February 12, 2015 and July 24, 2015, wherein Judge Pastrana admitted respondent Ang's *Request for Admission* and declared that the facts contained therein are deemed impliedly admitted by the People and are also considered as judicial admissions, were never assailed by the People before the Sandiganbayan and this Court.

More importantly, this issue on the suppletory application of Rule 26 to criminal cases was never raised and argued by the parties in their pleadings filed before the courts.

From the time respondent Ang filed her *Request for Admission* with the RTC-Lucena, Branch 53, until the filing of the instant petition before this Court, the issues and arguments raised by the parties were confined to the following: (1) the proper service of respondent Ang's *Request for Admission*;

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26 Id. at 86.
27 Id.
28 Id. at 87-89.
29 Id. at 89.

(2) the propriety of the matters set forth in said *Request*; (3) the declaration that the matters contained in said *Request* being deemed impliedly admitted and also considered as judicial admissions by the People; and (4) the adoption of the implied admissions declared as judicial admissions in the other two criminal cases against respondents.

While the Court is indeed clothed with the ample authority to review issues or errors not raised by the parties on appeal,[30] such power should not be exercised at the expense of elementary rules on due process. In its bare minimum, the standard of due process in judicial proceedings require that the parties be given notice and opportunity to be heard before a judgment is rendered.[31] Thus, to my mind, it would be offensive to due process for the Court to *motu proprio* resolve issues, *albeit* closely related or dependent to an error properly raised, and deprive the parties of the opportunity to be heard on the matter. Indeed, this Court has previously declared that:

> x x x "[C]ourts of justice have no jurisdiction or power to decide a question not in issue" and that a judgment going outside the issues and purporting to adjudicate something upon which the parties were not heard is not merely irregular, but extrajudicial and invalid. The rule is based on the fundamental tenets of fair play x x x.[32]

Thus, prudence dictates that the Court should have first heard the parties' arguments on the issue of whether Rule 26 applies to criminal cases, before rendering a full-blown decision on the present petition. To be sure, this practice of directing the parties to comment on an issue which the Court finds relevant and necessary for the resolution of the case, is not new. There have been cases filed before the Court where parties were directed to file a comment on certain issues not raised in their pleadings but were found necessary for a just resolution of their cases.

On the merits, prudence should have likewise dictated the adoption of a framework both mindful of the peculiarities of criminal proceedings and the proven utility provided by modes of discovery in uncovering the truth and delivering swift justice. The wholesale rejection of the application of Requests for Admission in criminal proceedings is an unfortunate missed opportunity towards achieving the aims of our criminal justice system.

Rule 26 should be made available to the accused only.

I approach the question of whether Rule 26, as a mode of civil discovery that can be applied in criminal cases, with an analysis of the inherent differences between civil and criminal proceedings.

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30 *Vda. de Javellana v. Court of Appeals*, G.R. No. L-60129, July 29, 1983, 123 SCRA 799, 805.
31 *Mabaylan v. NLRC*, G.R. No. 73992, November 14, 1991, 203 SCRA 570, 575.
32 *Bernas v. Court of Appeals*, G.R. No. 85041, August 5, 1993, 225 SCRA 119, 129.

Procedural laws enacted to litigate claims and the discovery procedures available in civil and criminal proceedings traversed markedly different paths. That being said, however, the means to gather and compel evidence were traditionally enforced through the trial process.[33] Under common law, the written pleading was generally the only pre-trial source for information.[34] Means of gathering evidence before trial were minimal both at common and statutory law until the mid-twentieth century[35] with the introduction of the American Federal Rules of Civil Procedure in 1938 and, with it, the procedures allowing parties to gather and compel evidence before trial.[36] The Federal Rules of Criminal Procedure were adopted in 1946,[37] almost a decade after its civil counterpart, but it contained none of the discovery devices formally adopted by the civil rules. Since its inception, the federal rules have expanded modestly but has not reached the same level of scope as in civil discovery.

As a general proposition, it has become widely recognized that the scope of civil discovery is broader than the scope of criminal discovery.[38] Specifically, Requests for Admission has not made it across criminal litigation and there appears to be no statutory basis or jurisprudential precedent in common law applying the same in criminal litigation.[39]

The foregoing, however, is not an argument against restricting the accused's access to discovery and, by extension, to Requests for Admission. If anything, it suggests only an all too common reluctance towards extending civil discovery procedures to criminal litigation due to the belief that an expansive discovery stood as a threat to the adversarial process.[40] This, in turn, is rooted in the old age belief that a purely adversarial proceeding is the only proven tool in finding out the truth of conflicting claims. Times have changed, however, and the common law roots of the adversarial process with its elements of game and surprise is a thing of the past.

If the Court approaches the question with the belief that criminal prosecution is an adversarial process between two relatively equal litigants, then it is almost inevitable that the scales will tip towards refusing to apply

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33 See generally John H. Langbein, *The Disappearance of Civil Trial in the United States*, 122 Yale L.J. 522 (2012).

34 George Ragland, Jr. *Discovery Before Trial*, Chicago: Callaghan and Company (1932).

35 John H. Langbein, supra note 33, at 542-548.

36 Id. at 543.

37 First iterations of the Federal Rules of Criminal Procedure were adopted by order of the Supreme Court of the United States on December 26, 1944 for procedures up to verdict, and on February 8, 1946 for post-verdict procedures. The complete rules took effect on March 21, 1946.

38 *Dominguez v. Hartford Fin. Serv's Group., Inc.*, 530 F. Supp. 2d 902, 905 (S.D. Tex. 2008): "The scope of criminal discovery is significantly narrower than the scope of civil discovery," p. 907.

39 See *State ex rel. Grammer v. Tippecanoe Circuit Court*, 377 N.E.2d 1359 (1978) (where the Supreme Court of Indiana refused the application of the rules on requests for admission in a criminal suit). See also Separate Concurring Opinion of Justice Zalameda pp. 4 and Concurring Opinion of Justice Inting pp. 10-11.

40 See Stephen N. Subrin, *Fishing Expeditions Allowed: the Historical Background of the 1938 Federal Rules*, 39 B.C. L. Rev, 691 (1998).

civil discovery procedures to criminal prosecution[41] even if the former is altered to suit the contours of the latter.

However, if the Court views criminal prosecution as a quest for truth,[42] recognizes an affirmative duty upon the State to guarantee fair trial, and approaches the issue cognizant of the unequal footing between the State, with its immense investigatory resources,[43] and the accused who, most often than not, does not have access to the same, then it should be difficult to conceive an argument against ensuring the accused access to all possible fact-finding mechanisms – Requests for Admissions being one of them.

I submit that the Court should adopt a framework firmly rooted on this second view.

Detached from its origins in civil litigation[44] and focusing instead on how this mode of discovery operates, there is little debate as to the functions and office of Requests for Admissions. At its core, Requests for Admission establish facts.[45] Requests for Admission lead to the narrowing of the factual issues under contention.[46] When a party serves to his adversary a request to admit a relevant matter, it presupposes that he already has knowledge of such fact or has possession of the documents sought to be admitted and "merely wishes that his opponent [admit to such relevant matters of fact] or concede [the] genuineness of the document.[47]

Requests for Admission serve two vital purposes during pre-trial – (1) it limits the controversy or issues of the case; and (2) it facilitates proof thereby reducing trial time and costs.[48] Requests for admission is a tool primarily designed to streamline litigation and narrow issues for trial.[49] It is intended to expedite the trial and to relieve the parties of the cost of proving facts that will not be disputed at trial, the truth of which is known to the parties or can be ascertained by reasonable inquiry.[50] Admissions made pursuant to a request constitute admissions for the purpose of the proceeding and thus will no longer require proof during trial.[51]

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41 See Bruce E. Gaynor, *Defendant's Right of Discovery in Criminal Cases*, 20 Clev. St. L. Rev. 31 (1971) at 33-34, accessed at <https://engagedscholarship.csuohio.edu/clevstlrev/vol20/iss1/57> (Based upon the premise that the adversary system elicits justice, current limited discovery practice is predicated upon the legal fiction that all counsel are equally competent).

42 Id. at 34.

43 Id. at 33 (Advocates of liberal discovery practices in criminal causes rely on the premise that the balance of advantage in any criminal trial rests with the prosecution, which usually has extensive financial and manpower resources at its disposal.)

44 Origins include Equity Rule 58 of the English Rules Under the Judicature Act as stated in Fed. R. Civ. P. 36 Advisory Committee Note of April 1937, p. 89

45 Id. at 88.

46 See generally, Fed. R. Civ. P. 36 Advisory Committee Note of June 1946, pp. 54-55.

47 See Jeffrey S. Kinsler, *Requests for Admission in Wisconsin Procedure: Civil Litigation's Double Edged Sword*, 78 Marq. L. Rev. 625 (1995) 631, citing *Report on Practice Under Rule 36: Requests for Admission*, 53 ALB. L. Rev. 35.

48 Id. at 633, citing Ted Finman, *The Request for Admissions in Federal Criminal Procedure*, The Yale Law Journal, Volume 71 Number 3 (1962) 375.

49 Id. at 638.

50 *Uy Chao v. De la Rama Steamship Co. Inc.*, G.R. No. L-14495, September 29, 1962, 6 SCRA 69, 73.

51 Bar Matter No. 411, Revised Rules on Evidence (Rules 128-134), Rule 129, Sec. 4, July 1, 1989.

A Request for Admission properly served and answered by the parties will reveal other undisputed facts of the case and may further narrow and limit the issues raised in the pleadings. The propositions raised in a request and the adversary's admission or denial thereof will also shed light as to the truth or falsity of the allegations of the pleadings[52] (or, when adopted to criminal litigation, the relevant facts surrounding the accusation) and may "unmask as quickly as may be feasible, and give short shrift to, untenable causes of action or defenses and thus avoid waste of time, effort and money."[53]

The establishment of uncontroverted facts and the abbreviation of litigation are goals not unique to civil litigation. Surely, these are paramount interests that the judicial process should be able to extend to the accused, more so where life and liberty are at stake.

It becomes clear then that the objections raised against the availability of Requests for Admission in criminal litigation are not on an absence of utility nor on a perceived inherent vice in its operation.

Instead, opposition gravitates among three propositions: *first*, that the office of Requests for Admission is performed by the criminal pre-trial process;[54] *second*, that the operation of Rule 26 is inherently incompatible with criminal litigation;[55] and *third*, the constitutional rights of the accused are in danger of being infringed.[56] These are hurdles, true, but none are so insurmountable as to absolutely bar any translation of Requests for Admission into the realm of criminal litigation.

The proposition that criminal litigation can do without Requests for Admission since the functions thereof are already fulfilled by the now strengthened criminal pre-trial process is, to my mind, hardly an argument at all. To be sure, no such argument is being made in its civil counterpart where Rule 26 on Requests for Admission and Rule 18 on Pre-Trial have cumulatively been aiding parties in civil suits. No prejudice is caused to the accused if he is allowed the use of a mechanism, like a Request for Admission, to establish facts surrounding the accusations against him over and above those granted during pre-trial. In fact, as I see it, a Request for Admission complements and reinforces the objectives of pre-trial by providing sanctions against a failure to timely answer a request and an improper denial.[57]

Also, the propositions that Rule 26 is inherently incompatible with criminal litigation and runs the risk of violating the constitutional rights of the

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52 *Concrete Aggregates Corporation v. Court of Appeals*, G.R. No. 117574, January 2, 1997, 266 SCRA 88, 93.

53 *Diman v. Alumbres*, G.R. No. 131466, November 27, 1998, 299 SCRA 459, 464-465.

54 See *ponencia*, p. 18; Concurring Opinion of Justice Inting, p. 10.

55 See Concurring Opinion of Justice Perlas-Bernabe, p. 8.

56 See *ponencia*, pp. 16-19; Concurring Opinion of Justice Perlas-Bernabe, pp. 5-7; Concurring Opinion of Justice Inting, pp. 7-10.

57 See 1997 Revised Rules on Civil Procedure as amended, Rule 26, Sec. 2, 3 and Rule 29, Sec. 4.

accused are a function of the Court's restrictive approach to apply Rule 26, as worded, into criminal cases. At this point, I wish to make it clear that I am not advocating for the stock application of the provisions of Rule 26 into criminal procedure. For the benefits of Rule 26 to breathe meaning and significance into criminal litigation, it must be tailor fit to operate within it.

As I earlier emphasized, the Court should not lose sight of the inherent imbalance between the State and the accused with the scales tilted against the latter. It is undeniable that the State has more pre-trial investigative capacity both as a matter of law and practicality than defendants do. An individual accused whose life and liberty are at stake, "is but a speck of dust of particle or molecule *vis-à-vis* the vast and overwhelming powers of government; His only guarantee against oppression and tyranny are his fundamental liberties under the Bill of Rights which shield him in times of need."[58] Expanding pre-trial discovery procedures in criminal cases will allow the accused to "have a better chance to meet on more equal terms what the state, at its leisure and without real concern for expense, gathers to convict them."[59] Request for Admission, as a discovery tool, would bridge the gap and aid the accused to achieve this goal.

The foregoing considerations that support Requests for Admissions to be available to the accused are the same considerations that should deny the prosecution access to the procedural tool. Not only is the prosecution already at an advantage in gathering facts and building its case, it cannot pursue a Request for Admission without violating the accused's constitutional right to presumption of innocence, the right against self-incrimination and the right to be silent.

The cornerstone of all criminal prosecution is the right of the accused to be presumed innocent.[60] The Constitution guarantees that "[i]n all criminal prosecution, the accused shall be presumed innocent until the contrary is proved."[61] And this presumption of innocence is overturned if and only if the prosecution has discharged its duty – that is, proving the guilt of the accused beyond reasonable doubt. The Constitution places upon the prosecution the heavy burden to prove each and every element of the crime charged in the information as to warrant a finding of guilt for that crime or for any other crime necessarily included therein.[62]

It is worth emphasizing that this burden of proof never shifts.[63] The burden of proof remains at all times upon the prosecution to establish the accused's guilt beyond reasonable doubt.[64] Conversely, as to his innocence,

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58 *Secretary of Justice v. Lantion*, G.R. No. 139465, January 18, 2000, 322 SCRA 160, 169.

59 William J. Brennan Jr., *The Criminal Prosecution: Sporting Event or Quest for Truth?*, 1963 WASH. U. L. Q. 279, 286 (1963) accessed at <https://openscholarship.wustl.edu/law_lawreview/vol1963/iss3/1>.

60 *People v. Luna*, G.R. No. 219164, March 21, 2018, 860 SCRA 1, 32.

61 CONSTITUTION, Art. III, Sec. 14, par. (2).

62 *People v. Luna*, supra note 60.

63 *People v. Ordiz*, G.R. No. 206767, September 11, 2019, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65741>.

64 *People v. Mariano*, G.R. No. 134309, November 17, 2000, 345 SCRA 1, 10.

the accused has no burden of proof.[65] The accused does not even need to present a single piece of evidence in his defense if the State has not discharged its onus and can simply rely on his right to be presumed innocent.[66] A criminal case thus rises or falls on the strength of the prosecution's own evidence and never on the weakness or even absence of that of the defense.[67]

Intimately related to the constitutional right to presumption of innocence is the right against self-incrimination. Section 17, Article III of the Constitution states that "[n]o person shall be compelled to be a witness against himself." Reinforcing this right in criminal prosecution, Section 1, Rule 115 of the Revised Rules of Criminal Procedures provides that "the accused shall be entitled x x x to be exempt from being compelled to be a witness against himself" and "[h]is silence shall not in any manner prejudice him." The Court, in *People v. Ayson*,[68] explained the extent of the right of the accused against self-incrimination:

> The right of the defendant in a criminal case "to be exempt from being a witness against himself" signifies that **he cannot be compelled to testify or produce evidence in the criminal case in which he is the accused, or one of the accused. He cannot be compelled to do so even by *subpoena* or other process or order of the Court.** He cannot be required to be a witness either for the prosecution, or for a co-accused, or even for himself. In other words — unlike an ordinary witness (or a party in a civil action) who may be compelled to testify by *subpoena*, having only the right to refuse to answer a particular incriminatory question at the time it is put to him — the defendant in a criminal action can refuse to testify altogether. *He can refuse to take the witness stand, be sworn, answer any question. And, as the law categorically states, **"his neglect or refusal to be a witness shall not in any manner prejudice or be used against him."***[69] (Emphasis, underscoring and italics supplied)

A Request for Admission served upon the accused directly tramples upon the right of the accused not to be compelled to testify against himself. Rule 26 mandates the party requested to answer the request to admit within fifteen (15) days from receipt thereof; otherwise all relevant matters stated in the request shall be deemed admitted. This forces the accused to answer a request to admit served upon him at the expense of giving up his right to remain silent.

Equally obtaining is the necessary conclusion that the accused should not be prejudiced should he or she refuse or fail to answer any such requests. No inference of guilt may be drawn against an accused upon his or her failure to make a statement of any sort.[70] If an accused has the right to decline to testify at trial without having any inference of guilt drawn from his failure to

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65 *People v. Catalan*, G.R. No. 189330, November 28, 2012, 686 SCRA 631, 646.
66 *People v. Ordiz*, supra note 63.
67 *King v. People*, G.R. No. 131540, December 2, 1999, 319 SCRA 654, 670.
68 G.R. No. 85215, July 7, 1989, 175 SCRA 216.
69 Id. at 233.
70 *People v. Arciaga*, G.R. No. L-38179, June 16, 1980, 98 SCRA 1, 17.

go on the witness stand,[71] then with more reason should the accused not be prejudiced by the rules and effects of a Request for Admission.

Furthermore, compelling the accused to answer a request to admit would place upon him the burden of proving his innocence rather than the prosecution presenting evidence to prove his guilt. When an accused admits the truth of a relevant matter of fact or the genuineness of a relevant document contained in the request, which may relate to the essential elements of the crime charged, the Rules provide that these are considered as admissions by the accused and will no longer require any proof during trial.[72] The prosecution is then relieved of its duty to present evidence of such admitted fact during trial as the accused has been imposed the "burden" to establish such fact for the prosecution's case.[73] Pushing this scenario further, it would not be farfetched for a conviction to rest solely on the results of a request for admission. This goes against the rule that an accused should be convicted on the strength of the evidence presented by the prosecution.[74]

As such, while the utility of Request for Admission is undoubted, its translation into criminal litigation necessitates its modification. The accused should have access to this procedural tool in order to establish facts and narrow factual issues on trial, which may be essential in the preparation of his defense. In recognition, however, of the accused's right against self-incrimination, Requests for Admission cannot be wielded by the prosecution to elicit admissions from the accused.

It may be argued that a one-sided approach may frustrate the State's interest to prosecute criminals because "allowing the accused to subject [the prosecution or any of its witnesses] to a request for admission would be tantamount to shifting to the accused some form of control over the direction of the prosecution," which "would violate the basic principle that criminal actions are prosecuted under the sole discretion and control of the public prosecutor."[75]

However, as I see it, granting the accused the use of Request for Admission does not in any way lessen its objectives or limit its benefits only to the accused. The refining of issues and establishment of the truthfulness or falsity of the facts surrounding the accusation, achieved through the service of a request to admit, may also benefit the prosecution in the form of a guilty plea or an abbreviated litigation through plea-bargaining.[76]

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71 See *People v. Gargoles*, G.R. No. L-40885, May 18, 1978, 83 SCRA 282, 294.

72 See Bar Matter No. 411, Revised Rules on Evidence (Rules 128-134), Rule 129, Sec. 4, July 1, 1989.

73 See *F.W. Means & Co. v. Carstens*, 428 N.E.2d 251 (1981).

74 *People v. Arciaga*, supra note 70, 17-18; *People v. Legaspi*, G.R. No. 117802, April 27, 2000, 331 SCRA 95, 127.

75 See Concurring Opinion of Justice Perlas-Bernabe, p. 8.

76 See William J. Brennan, Jr., supra note 59, at 288, citing Anderson, *What Price Conviction?*, AMERICAN BAR ASSN. SECTION OF CRIMINAL LAW PROCEEDINGS 41 (1958); Fletcher, Pretrial Discovery in State Criminal Cases, 12 Stan. L. Rev. 293, 319 (1960); Comment, Pre-Trial Disclosure in Criminal Cases, 60 YALE L.J. 626, 646 (1951), Cf. 4 MOORE, FEDERAL PRACTICE ¶ 26.02 (3d ed. 1962).

Further, the argument is premised on a "expansive" Request for Admission which is not sanctioned by the rules.

To be sure, Rule 26 does not give the parties the unbridled discretion to include in their request for admission any matter related to the case. The scope of matters that a party may request the adversary to admit is limited by Section 1 of Rule 26 and has been clarified by relevant jurisprudence. Section 1 of Rule 26 clearly states that a Request for Admission should only pertain to (1) the genuineness of relevant documents or (2) the veracity of a relevant matter of fact. Thus, in *Development Bank of the Philippines v. Court of Appeals*,[77] the Court held that matters of law, conclusions, or opinions cannot be subject of a Request for Admission and are therefore not deemed impliedly admitted under Rule 26.

Moreover, in a catena of cases,[78] the Court has clarified that the very subject matter of the complaint or matters which have already been admitted or denied by a party are not proper subjects of a request for admission. The Court explained that "[a] request for admission is not intended to merely reproduce or reiterate the allegations of the requesting party's pleading but should set forth relevant evidentiary matters of fact, or documents described in and exhibited with the request, whose purpose is to establish said party's cause of action or defense."[79]

As applied to criminal cases, the essential elements of the crime alleged in the Information are not proper matters of a Request for Admission. An accused's request for admission therefore will not deprive the public prosecutor of the discretion and control on what evidence should be presented during trial because the burden to prove each and every element of the crime charged in the information or any other crime necessarily included therein remains with the prosecution. As explained, Request for Admission, as a discovery tool, simply aids the parties in establishing undisputed and uncontroverted facts leading to reduced trial time and costs.

Proceeding from the foregoing, I find that respondent Ang's *Request for Admission* does not fall under Rule 26 of the Rules of Court. As aptly pointed out in the *ponencia*[80] and by some of our Colleagues, some of the matters contained in respondent Ang's *Request* intimately relate to the factual allegations of the Information[81] or the essential elements of the crimes charged which the prosecution is obliged to prove,[82] while other matters are mere

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77 G.R. No. 153034, September 20, 2005, 470 SCRA 317, 326.

78 *Po v. Court of Appeals*, G.R. No. L-34341, August 22, 1988, 164 SCRA 668; *Concrete Aggregates Corporation v. Court of Appeals*, G.R. No. 117574, January 2, 1997, 266 SCRA 88, 94; *Lañada v. Court of Appeals*, G.R. Nos. 102390 & 102404, February 1, 2002, 375 SCRA 543, 553; See *Duque v. Yu, Jr.*, G.R. No. 226130, February 19, 2018, 856 SCRA 97.

79 *Po v. Court of Appeals*, id. at 670.

80 See *ponencia*, p. 24.

81 See Separate Concurring Opinion of Justice Leonen, pp. 11-15.

82 See Concurring Opinion of Justice Perlas-Bernabe, p. 8.

conclusions and opinions.[83] These matters are not proper subjects of a Request for Admission and therefore cannot be deemed impliedly admitted pursuant to Rule 26. Hence, it was a grave and serious error on the part of the trial court to declare the matters contained in respondent Ang's *Request for Admission* as the People's implied and judicial admissions in the consolidated criminal cases filed against respondents. In this regard, the nullification of the Joint Orders dated February 12, 2015, July 24, 2015, March 10, 2016, and September 5, 2016 issued by the trial court was proper.

All told, I submit that the Court should not absolutely bar the accused from availing of mechanisms which may aid in his defense. The inherent imbalance in our criminal justice system and the constitutional rights of the accused, which courts are duty bound to protect, should prompt the Court to afford the accused all available remedies, including relevant discovery procedures, such as a Request for Admission under Rule 26 of the Rules of Court.

Unfortunately, however, in the present case, respondent Ang improperly availed of such discovery procedure. The matters contained in her *Request for Admission* are beyond the scope of Rule 26 and cannot therefore be considered as the People's implied and judicial admissions in the consolidated criminal cases filed against respondents.

In this light, I vote to grant the petition.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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[83] See Separate Concurring Opinion of Justice Leonen, pp. 15-17.

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Deputy Clerk of Court En Banc
OCC En Banc, Supreme Court