

Republic of the Philippines
DEPARTMENT OF JUSTICE
Office of the City Prosecutor
OLONGAPO CITY

MEMORANDUM FOR : EMILIE FE M. DE LOS SANTOS
City Prosecutor

RE : I.S. No. III-10-INV- 16I-01195
ROY LEONARD ANDERSON,
Complainant,

-versus-

MURTO NEL and
LAURA JANE NEL,
Respondents.

For Carnapping

D/A : 09/26/2016

D/R : 01/18/2017

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RESOLUTION

The complainant alleges that sometime in May to June 2014, he purchased from Chris Dela Cruz six (6) motor scooters with plate numbers 3527UZ, 3526UZ, NA27428, NA10571, 5813XH and 9185SF. The said motor scooters were reclaimed scooters by different Rusi dealerships where the original purchaser failed to keep up with payments. The said scooters were purchased purposely to be rented out through Jessabel Balutan's single proprietorship business known as Scootz Scooter Rentals.

Jessabel Balutan is an employee of the complainant at My Cyberstaff, Inc. In lieu of receiving salary at the said company, Jessabel Balutan requested that the complainant assist her in the creation of her scooter rental business in order to have an independent source of income. Thus, the complainant purchased the six (6) motor scooters to be rented through Scootz Scooter Rentals. On the other hand, respondent Murto Nel, a friend of the complainant, agreed to assist Jessabel Balutan in managing her scooter business.

However, during the operation of the business, it was found out that respondent Murto Nel had been using all the funds generated from the said scooter business for his personal gain. None of the funds were being paid to Jessabel Balutan. Murto Nel's acts being contrary to the agreement, the complainant, on July 2, 2015, demanded the return of the six (6) motor scooters that were in the possession of Murto Nel.

Due to the refusal of Murto Nel to return the motor scooters, the complainant reported a theft case with the police, who in turn assisted the complainant in seizing five of the six motor scooters subject of this case, bringing the same to the police station. The police were not able to seize the 6th motor scooter because respondent Lara Jane Nel began screaming at them, saying that the motor scooter belonged to her.

Because Chris Dela Cruz, the vendor/seller of the said scooters could not at that time produce the original deed of sale for motor scooters bearing plate number 5813XH and 3527UZ, the police returned them to respondent Murto Nel and gave the complainant the four others.

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Before the complainant filed the case with this Office, respondent Murto Nel painted black the two scooters (with plate number 5813XH and 3527UZ) and sold it to the manager/owner of the Cowgirl Bar in Barrio Barretto, Olongapo City. The remaining scooter is being used by respondent Laura Jane Nel as her personal vehicle. The complainant approached the purchaser of the other scooter who told him that Murto Nel gave him documents allegedly from the police, saying that Murto Nel owned the scooter but declined to show the complainant said papers.

The complainant alleges that since the respondents do not have deeds of sale of the scooters bearing plate number 5813XH and 3527UZ and still registered in the name of the original owner, said scooters are presumed to be carnapped unless proven otherwise.


Attached to the complaint is an Affidavit of Christopher R. Del Cruz, stating that he sold the above-mentioned six (6) motor scooters sometime in May to June 2014 only to Roy Leonard Anderson and nobody else.

The respondents denied the allegations in the Complaint and countered that it was Murto Nel who bought the motor scooters subject of this case. They aver that the case was filed by the complainant merely to harass them and to gain leverage against them for the case they filed against herein complainant which is pending in Court.

After a scrutiny of the records of the case, the undersigned is of the considered view that the respondent could be indicted for Carnapping motor scooters bearing plate number 5813XH and 352UZ. All the elements are present, to wit: (1) the taking of a motor vehicle which belongs to another; (2) the taking is without the consent of the owner; and (3) the taking is done with intent to gain [People v. Calabroso, 340 SCRA 332, 342]. The defense interposed by the respondent being evidentiary in nature, would be best ventilated in a full-blown trial. As held in Quiambao vs. Desierto, G.R. No. 149069, September 20, 2004, "...counter-allegations of respondents essentially delve on evidentiary matters that are best passed upon in a full-blown trial. The issues upon which the charges are built pertain to factual matters that cannot be threshed out conclusively during the preliminary stage of the case."

WHEREFORE, finding probable cause, the undersigned recommends the filing of the corresponding Information for Carnapping under RA 6539 otherwise known as the "Anti-Carnapping Act of 1972" against respondent Murto Nel. On the other hand, the case against Laura Jane Nel is recommended dismissed for insufficiency of evidence.

Olongapo City, January 18, 2017.


MAUREEN M. DANGWA
Associate City Prosecutor (Pros. I)
MCLE Compliance No. V-0022466
Date Issued: June 14, 2016

APPROVED/DISAPPROVED:



EMILIE FE M. DE LOS SANTOS
City Prosecutor
MCLE Compliance No. V-0002299
Date Issued: May 08, 2014

7/6/17

I.S. NO. 111-10-INV-16I-01195

Roy Leonard Anderson vs. Murto Nel and Laura Jane Nel

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Copy furnished:

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