

PEOPLE OF THE PHILIPPINES, PLAINTIFF,

Ponente: CARANDANG, J.

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CARANDANG, J.:

In his Motion for Reconsideration, appellee Roderick Gamit argues that he cannot be held civilly liable in this case because the prosecution failed to present any proof that he received any amount of money from the private complainant. He also attacks the credibility of the prosecution witnesses. Particularly, he submits that the statements made by Maritess Duran during the direct examination was different from those which she stated in her affidavit. Also, appellee contends that Mario Duran admitted in open court that he received a certain amount from the appellee in exchange of padding the prices of the materials that the latter purchased from Iral Hardware Store. Hence, the prosecution should have first proved that conspiracy existed between Mario Duran and the appellee before the former's testimony may be given in evidence.

The instant motion has no merit.

The foregoing arguments advanced by the appellee are mere rehashes of the issues he put forward in his Appellee's Brief. Suffice it to say that the prosecution has convincingly proven by preponderance of evidence that the appellee misappropriated a part of the money which the appellant gave him for purchasing construction materials (Criminal Case No. 1733-M-2006) and dog food (Criminal Case No. 1734-M-2006). Appellee's bare denials cannot overcome the direct, positive, and straightforward assertions of the prosecution witnesses especially since he did not show that said witnesses were harboring any ill-motive against him.

Also, an examination of both the testimony and the sworn statement of Maritess Duran does not support the contention of the appellee that they are substantially different from each other. On the contrary, they uniformly show that appellee was the one who requested Ms. Duran to falsify the delivery receipts to make it appear that he purchased a larger quantity of dog food than what he actually purchased.

Lastly, the insistence by the appellee on the application of provision of Section 30, Rule 130 of the Rules of Court has already been squarely resolved in Our 27 February 2014 Decision. To reiterate, the evidence adduced in court by the conspirators as witnesses are not declarations of conspirators, but direct testimony to the facts to which they testified.^[1] In this case, Mario Lamud's testimony was presented by the prosecution as a direct evidence and definitely not an extrajudicial declaration by a co-conspirator. Hence, Section 30, Rule 130 of the Rules of Court is not applicable.

WHEREFORE, premises considered, the instant Motion for Reconsideration is DENIED for lack of merit.

SO ORDERED.

Gonzales-Sison and Sorongon, JJ., concur.

[1] People vs. Magsalin, 115 SCRA 747.

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