

EDILBERTO PUNO Y SANTA ROMANA, PETITIONER, VS. COURT OF APPEALS, AND SOLICITOR GENERAL, RESPONDENTS.

G.R. No. L-26272. November 29, 1969

Ponente: DIZON, J.

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DIZON, J.:

In the Court of First Instance of Manila Edilberto Puno was charged with having violated the provisions of Article 168 of the Revised Penal Code as follows:

"That on or about August 11, 1962, in the City of Manila, Philippines, the said accused, conspiring and confederating together with others whose true names and identities are still unknown, and helping one another, did then and there willfully, unlawfully and feloniously have in his possession and under his control, and with intent to use, 575 pieces of fifty centavo bills amounting to P287.50, forged and falsified circulating Central Bank notes which are in imitation of, and similar to, those of said denomination lawfully authorized and issued by the Central Bank of the Philippines, the said accused, knowing, as he did, that the said bank notes were forged and falsified."

After trial upon a plea of not guilty Puno was convicted and sentenced to suffer an indeterminate penalty of not less than six (6) years and one (1) day nor more than eight (8) years, eight (8) months and one (1) day, of prision mayor, to pay a fine of P500.00, without subsidiary imprisonment in case of insolvency, and to pay the costs. On appeal, the Court of Appeals affirmed the decision and sentenced him to suffer an increased indeterminate penalty of not less than eight (8) years and one (1) day nor more than ten (10) years, eight (8) months and one (1) day, of prision mayor. As grounds for the reversal of this decision he now claims that said court committed the following errors:

"I.

THE TRIAL COURT AND THE COURT OF APPEALS ERRED IN NOT RECOGNIZING THE INTRINSIC WORTH OF THE DEFENSE AND IN OVERLOOKING TO CONSIDER THE IMPORTANT FACTS AND CIRCUMSTANCES COMING FROM THE PROSECUTION WITNESSES THEMSELVES WHICH EVIDENTLY ESTABLISH APPELLANT'S LACK OF CRIMINAL INTENT.

II.

THE TRIAL COURT AND THE COURT OF APPEALS ERRED IN FINDING THAT THE THIRD ELEMENT OF THE CRIME CHARGED, THAT IS, THE INTENT TO USE OR UTTER SAID CONTERFEIT BILLS IS PRESENT AT THE CASE AT BAR.

III.

THE COURT OF APPEALS ERRED IN INCREASING THE PENALTY METED OUT BY THE TRIAL COURT AS IT EXCEEDED THE LEGAL RANGE THAN THAT PROVIDED FOR UNDER ARTICLE 168

OF THE REVISED PENAL CODE WHICH OUGHT TO BE INTERPRETED IN RELATION WITH
ARTICLE 166 OF THE SAME CODE."

In the first two assignment of errors it is claimed that the evidence of record is not sufficient to establish appellant's unlawful intention to use or utter the counterfeit bills seized from him, while in the third, appellant questions the correctness of the increased penalty imposed upon him by the Court of Appeals.

Appellant admits that in the morning of August 11, 1962, Lt. Sto. Tomas, together with the crew of MPD Patrol Car No. 59, found him at the corner of Economia and Espafila streets, within the jurisdiction of the City of Manila, while he was seated inside a Renault car belonging to an NBI agent, together with the latter, two women and BIR agents Tamula and Parifio; that when Lt. Sto. Tomas and his men searched the car, they found counterfeit fifty-centavo bills in its glove compartment, together with some genuine Philippine money and some Japanese notes—which appellant admitted were his. As a result, the police officers took him to the City Hall where his statement was taken.

It is not denied, however, that while appellant was being interrogated, Sgt. Nestor Gutierrez—who headed another police group—informed Lt. Sto. Tomas that appellant was working as informer for his group, but this notwithstanding, the aforesaid lieutenant allowed the investigation to go on.

To prove that his possession of the counterfeit bills was innocent and that he had no intention of using them for any unlawful purpose, appellant presented evidence to the effect that he had been a PC informer as early as 1954; that on several occasions he was able to bring about the apprehension of smugglers, his usual practice in this connection being to show to the smugglers whose goods he intended to purchase a mixture of counterfeit bills and genuine ones, placing the latter on top, to convince them that he was in a position to pay for their goods; that the Manila Police Department eventually solicited and used his services even before August 11, 1962 for the purpose of busting counterfeiting syndicates; that sometime before the date just mentioned, patrolmen Leoncio Parica and William Adawag of MPD Precinct No. 2 gave him P38.00 and P20.00, respectively, with which to buy counterfeit fifty-centavo Central Bank notes, his instruction in this connection being to bring them to Police Precinct No. 2 and to inform the police team with which he was working as to the source thereof; that the counterfeit bills found in his possession were purchased with the money he had received from patrolmen Parica and Adawag; that as he was about to be on his way to the police precinct to deliver the counterfeit bills to the police on the morning in question, he received information about some smugglers looking for direct buyers of blue seal cigarettes; that thereupon he contacted BIR Agents Tamula and Parino and one NBI agent for the purpose of laying down plans to entrap the smugglers; that pursuant to the plan agreed upon they all proceeded to the corner of Economia and Espafila streets that morning of August 11, 1962 where he had agreed to meet the smugglers, the NBI and BIR agents stationing themselves near the street corner, while he remained seated inside the Renault car of the NBI agent; that while they were there, the MPD group headed by Lt. Sto. Tomas arrived and immediately apprehended him, searched the car and found in its glove compartment the counterfeit fifty-centavo Central Bank notes, genuine Philippine currency and some Japanese notes mentioned heretofore; that thereafter he was taken to the City Hall where he was investigated.

The prosecution, however, maintains the view that appellant's version is not worthy of belief and that, consequently, he should be considered as an illegal possessor of counterfeit bills which he intended to use, in violation of the law.

While it must be admitted that appellant's story is not entirely flawless, we are of the opinion, and so hold, that it can not be branded as highly or inherently improbable and unworthy of belief. The flaws it actually suffers from may be satisfactorily explained.

Take the fact that while he claims having received only a total of P58.00 (P38.00 and P20.00 from patrolmen Parica and Adawag, respectively) with which to purchase counterfeit fifty-centavo notes, actually 575 pieces of counterfeit fifty-centavo central bank notes (the equivalent, at par, of P287.50) were found by Lt. Sto. Tomas and his men in the glove compartment of the Renault car occupied by him at the time of his apprehension. Offhand, this might be taken as discrediting appellant's story, but we must take into consideration that it is entirely possible that, counterfeit bills being illegal, no one really offers them for sale at par nor does anyone buy them also at par. This may be sufficient to explain why with P58.00 appellant was able to acquire the 575 pieces of counterfeit fifty-centavo central bank notes.

The prosecution also stresses the fact that instead of delivering immediately the counterfeit notes to the police group for whom he was working as an informer, appellant had them in his possession for seven days after their acquisition. Neither is this circumstance sufficient to discredit appellant's testimony considering the lack of positive evidence showing that he had been instructed to deliver the counterfeit notes to the police group he was working with immediately after their acquisition. As a matter of fact, upon this point, appellant testified that while he was instructed to turn over the counterfeit money to Precinct 2, he was not given any specific time for the purpose. Asked why he decided to go to Precinct 2 at seven o'clock in the morning of August 11, 1962, he answered that he did not "want the counterfeit money kept for a long time in the house." On the other hand, the testimony of Pat. Adawag also shows that appellant was not given any specific time within which to acquire, or during which he could keep the fake bills in his possession (transcript, p. 17).

The prosecution also emphasizes the fact that Sgt. Gutierrez and policeman Adawag themselves testified that they had not instructed appellant to buy smuggled blue seal cigarettes with the counterfeit bills he was instructed to acquire. This is true, but it must be remembered that the idea of entrapping blue seal cigarette smugglers was born only in the morning of August 11, 1962 when appellant received information regarding some smugglers who were looking for direct buyers of blue seal cigarettes, for which reason he contacted BIR agents Tamula and Parino and one unnamed NBI agent with whom he agreed to entrap them. While this was not in accordance with the project of the MPD group for whom he was working as an informer, We do not believe it can be considered as unlawful and in violation of the law under which appellant was charged. Upon the other hand, that there was really such a plan is shown by the fact that an NBI agent and two BIR agents were with appellant at the street corner where he was apprehended. No one of these agents of the law has been charged either administratively or criminally.

Aside from the foregoing, the following bolsters appellant's defense:

That he was an informer of an MPD group is admitted by Sgt. Gutierrez; by Pat. Adawag and also by Lt. Sto. Tomas himself. In fact the latter admitted that, on several occasions, he had seen appellant at the detective bureau. And the trial judge himself remarked during the trial that both sides had admitted the fact that appellant was a police informer (transcript, p. 21).

Bearing in mind that in a criminal case, to be entitled to acquittal the defendant need not prove his innocence but it would be enough for him to create a reasonable doubt as to his guilt— which in the present case appellant has succeeded in doing—We are constrained to hold that he is entitled to an acquittal on the ground of reasonable doubt.

WHEREFORE, the decision appealed from is set aside and the appellant is acquitted, with costs de oficio.

Reyes, J.B.L., Makalintal, Zaldivar, Sanchez, Ruiz Castro and Fernando, JJ., concur.

Concepcion, C.J., Teehankee and Barredo, JJ., took no part.

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