

JAIME MANLAPAZ, PETITIONER, THE COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. L-56589. January 12, 1987

Ponente: NARVASA, J.

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NARVASA, J.:

For having allegedly extorted four packs of "Philip Morris" cigarettes from Wilfredo Oliveros, petitioner Manlapaz, a police officer in Malabon, was charged with robbery under an information reading as follows:

*** That on or about the 13[th] day of October, 1974, in the municipality of Malabon, province of Rizal, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, being a member of the Malabon Police Force then in uniform and taking advantage of his position, with intent of gain, and by means of threats and intimidation, did then and there willfully, unlawfully and feloniously demand and extort from one Wilfredo Oliveros four (4) packages of Philip Morris cigarettes valued at P10.00, to the damage and prejudice of the said Wilfredo Oliveros in the aforementioned amount of P10.00.

Contrary to law."[1]

After Manlapaz pleaded not guilty on arraignment, the prosecution filed a motion to dismiss on the ground that the complainant (Oliveros) had executed an affidavit of desistance substantially to the effect that the evidence at his disposal was not sufficient to establish the guilt of the accused beyond reasonable doubt.[2] The motion was denied. Trial ensued, after which the Lower Court rendered judgment finding Manlapaz guilty of the crime of light coercion, sentencing him to suffer imprisonment of eleven (11) days of *arresto menor*.

Manlapaz appealed to the Court of Appeals. In that Court, the case had to be referred to a Special Division of Five Justices because the members of the Fourth Division, to which the appeal was initially assigned, could not agree on a verdict. The Special Division eventually promulgated judgment, its conclusions having been reached by a vote of 3 to 2. Justice Cuevas, with whom concurred Justices Griño-Aquino and Zosa, adjudged Manlapaz guilty of robbery, not merely of light coercion. On the other hand, Justices Pascual and Villazor, in separate dissenting opinions, voted to acquit Manlapaz. The dispositive portion of the majority decision reads:

**** IN VIEW OF THE FOREGOING CONSIDERATIONS, accused-appellant's conviction is affirmed but for the Crime of ROBBERY (not for Unjust Vexation) as charged in the information, defined and penalized under Art. 294, par. 5 of the Revised Penal Code and there being no mitigating nor any aggravating circumstance affecting his criminal liability thus subjecting him to the imposition of the penalty in its medium period, he is, therefore, hereby sentenced to an indeterminate penalty of four (4) years, two (2) months and one (1) day as the maximum, to eight (8) years and one (1) day of *prision mayor* as the maximum; to return to the offended party the four (4) packs of Philip Morris Cigarettes he extorted from the latter and in case of inability to do so to indemnify appellant in the amount of Ten Pesos (P10.00) representing the value thereof; and to pay costs.

SO ORDERED."[3]

The case is now before this Court on Manlapaz' petition for review on certiorari, to which due course has been given, and in which the following issues are raised, viz:

- "1. Whether or not the Court of Appeals gravely abused its discretion in considering the uncorroborated testimony of the lone prosecution witness as basis for the conviction of petitioner when such evidence is insufficient to overcome the constitutional presumption of innocence;
2. Whether or not the Court of Appeals correctly applied the provisions of the Indeterminate Sentence Law and imposed on petitioner the correct and proper penalty; and
3. Whether or not the instant appeal by certiorari was filed on time."

Basically, the petitioner would have this Court review and reverse the conclusions of fact of the majority decision of the Special Division of the Court of Appeals. This is a function that this Court does not as a rule undertake. The established principle is that the factual findings of the Court of Appeals are final and may not be reviewed on appeal to this Court.[4] There are, however, certain exceptions to the rule, which the Court has recognized and accepted at one time or another,[5] these being: (1) when the conclusion is grounded entirely on speculation, surmises and conjectures; (2) when the inference is manifestly mistaken, absurd and impossible; (3) where there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the Court, in making its findings, went beyond the issues of the case, and the same are contrary to the admissions of both the appellant and the appellee; (6) when the findings of the Appellate Court are contrary to those of the trial court; (7) when the findings are without citation of specific evidence on which they are based.

It is petitioner's submittal that his case falls within one of the recognized exceptions to the rule, more particularly, that the respondent Court's findings are manifestly mistaken or absurd.

The Cuevas (majority) Opinion considered as a "decisive" factor against the appellant the fact that the complainant had signed and submitted to the Trial Court an affidavit of desistance which the former had himself personally or through another drawn up.[6] It is difficult to perceive the logic of such a conclusion. The fact is that there is no indication whatever in the record that the affidavit of desistance was other than a voluntary and intelligent act of the complainant. Indeed, its submission to the Court by the fiscal himself, indicates that in the latter's view the affidavit was not in any way flawed. And whether it was prepared by the appellant himself or by another at his instance, as is the admitted fact, is in the premises a circumstance of no moment, and cannot detract from what appears on the record to be an essentially voluntary act on the complainant's part of signing the same and consenting to its presentation to the Court.

The case turns upon the testimony of a single witness (the complainant himself). There is, to be sure, nothing extraordinary about a judgment of conviction being made to rest solely on the sworn declarations of one witness, so long as those declarations are otherwise credible and convincing. Except in treason cases, no requirement exists that corroboration of the testimony of a single witness is necessary for conviction. But in this case the complainant's testimony cannot, upon analysis, in any sense be deemed credible and convincing. His testimony is not only contradicted by the evidence of the defense, it is also tainted by unlikely and unusual contradictions.

Whereas his memory was avowedly quite strong at the time of giving his sworn statement on October 15, 1974 specifically as regards the individual identities of the three other police officers whom he implicated in the offense,[7] it was surprisingly faulty only ten months later, when he testified before the Lower Court on August 8, 1975, at which time he declared that he could remember only the name of Manlapaz, but not those of the other three.[8]

In his sworn statement of October 15, 1974, he declared that it was Pat. Tadeo who had approached him to inquire

as to who had granted him a permit for beer to be drunk in his store. However, when he took the witness stand, he stated that it was Pat. Umali (not Tadeo), who had approached him to make the inquiry.[9]

Again, in his sworn statement of October 15, 1974, he declared that Pat. Tadeo had called three (3) policemen to his (complainant's) store. But on the witness stand on August 8, 1975, he said that Pat. Tadeo had called only the accused Manlapaz, and the two (2) other uniformed patrolmen had joined them later.[10]

In the same sworn statement he said that when called by Pat. Tadeo, the three (3) uniformed police officers were in the restaurant drinking beer, but his testimony in Court on August 8, 1975 was that Pat. Manlapaz (the accused) was in the market when he was called by Pat. Umali (not Tadeo), and that the two (2) other policemen were not with Manlapaz, but were just strolling around the vicinity.[11]

Why there should be these many inconsistencies with respect to what are otherwise non-controversial, prosaic details of the complainant's narrative not unreasonably engenders doubt as to the narrative's veracity. Taken singly, these inconsistencies may not justify rejection of the complainant's testimony as undeserving of credit. Considered conjointly, however, they cogently conduce towards eschewal of credence to his declarations.

Apart from these unaccountable contradictions, the record discloses the complainant's obvious bias against the accused?appellant. His testimony was that he would know Manlapaz anywhere, even if "you turn out his skin", because Manlapaz was arrogant and was "making (the cause of) many cases." [12] In fact, his animus against Manlapaz did not escape the notice of defense counsel who at one point remarked that he was "**** trying to avoid mentioning ****" (the other) policemen whom he had implicated in his complaint.[13]

On the other hand, no such infirmities are discernible in the testimonial proofs of the defense. Appellant Manlapaz' assertion on the witness stand, that the four (4) packs of cigarettes subject of the case had not been extorted from the complainant, but had in truth been freely given to him and his companions by a certain Efren Gatchalian,[14] is adequately corroborated by the testimony of Pat. Sergio Cruz.[15] It is also in measure confirmed by the complainant himself, who deposed that Efren Gatchalian, his compadre, had indeed been drinking beer with appellant Manlapaz and his companions on that occasion.[16] The same Efren Gatchalian was mentioned by complainant as an alleged witness to the robbery-extortion incident. However, it does not appear that any serious effort was made by complainant to procure Gatchalian's appearance to corroborate said claim or to rebut Manlapaz' assertion that it was he (Gatchalian) who gave the cigarettes.

As it now turns out, the complainant and the fiscal were correct in moving for the dismissal of the case shortly after arraignment on the basis of their assessment that the evidence at their disposal was not sufficient to establish the guilt of the accused.[17] The state of the evidence impels concurrence with that assessment, and a pronouncement that the findings of fact in the decision appealed from are manifestly mistaken. The conclusion here reached and declared makes unnecessary consideration and resolution of the other errors imputed by the petitioner to the Appellate Court.

WHEREFORE, the decision appealed from is reversed, and the petitioner, Jaime Manlapaz, is, on reasonable doubt, acquitted of the crime charged. No costs.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Cruz, and Feliciano, JJ., concur.

[1] Record, p. 1

[2] Record, p. 33.

[3] Rollo, p. 54

[4] Sec. 2, second paragraph, Rule 45; Baniqued vs. C.A., 127 SCRA 50; Moran, Jr. vs. CA, 133 SCRA 88; Collector of Customs vs. Intermediate Court of Appeals, 137 SCRA 3; Espiritu vs. C.A., 137 SCRA 50; Premier Insurance & Surety Corp. vs. Intermediate Appellate Court, et al., 141 SCRA 423; Director of Lands vs. Funtillar, 142 SCRA 57.

[5] Collated from Tolentino vs. de Jesus, 56 SCRA 167; Carolina Industries Inc. vs. CMS Stock Brokerage, Inc. et al., 97 SCRA 734; Manero vs. CA, 102 SCRA 817; Moran, Jr. vs. Court of Appeals, supra; Sacay vs. Sandiganbayan, 142 SCRA 593, citing numerous cases; Director of Lands vs. Funtillar, et al., supra.

[6] Rollo, p. 54

[7] Exhibit "A"

[8] pp. 4-5, TSN August 8, 1975

[9]p. 5, Id.

[10] Id.

[11]Id.

[12] p. 4, Id.

[13] p. 5, Id.

[14] pp. 2-3, TSN September 10, 1975

[15] pp. 9-11, TSN January 21, 1976

[16] p. 7, TSN August 8, 1975

[17] Record, p. 33

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