

ELISEO MANERO Y OBISPO, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. L-49824. February 20, 1981

Ponente: CONCEPCION JR, J.

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CONCEPCION JR, J.:

This is a petition for review on certiorari of the decision of the Court of Appeals in CA-G.R. No. 19778-CR affirming, with a modification of the penalty imposed, the judgment of the Circuit Criminal Court of Manila in Criminal Case No. CCC-VI-2002 convicting the petitioner of the crime of robbery.

Upon an information which reads:

"That on or about March 20, 1975, in the City of Manila, Philippines, the said accused, a Patrolman-Investigator of the Western Police District, assigned to Precinct 2, MPF, did then and there willfully and feloniously, with intent of gain and by means of intimidation, to wit: by telling Rosito Dizon and Teodoro Castillo that they were being pointed to as the buyer of a stolen Seiko watch and threatening to arrest them if they would not give the amount of P1,000.00, extort, take, steal and carry away the following:

Cash Money. P600.00
One (1) Seiko Watch 300.00

belonging to Rosito Dizon and Teodoro Castillo, against their will, all valued at P900.00, to the damage and prejudice of said owners in the aforesaid sum of P900.00, Philippine currency."

the Circuit Criminal Court of Manila, after trial on the merits, rendered judgment as follows:

"WHEREFORE, accused is hereby found guilty beyond reasonable doubt as principal of the crime of robbery and there being proved the aggravating circumstances of taking advantage of public position without any mitigating circumstances to offset the same, the Court sentences him to an indeterminate penalty ranging from two (2) years of prision correccional as minimum to eight (8) years and one (1) day of prision mayor as maximum, to return to the victim Rosito Dizon the sum of P500 taken from him and to pay the costs. No pronouncement as to the wrist watch it having been returned by the accused to victim Teodoro Castillo.

"SO ORDERED."

From this judgment, petitioner appealed to the Court of Appeals which affirmed the judgment of conviction, thus:

"WHEREFORE, the decision appealed from being in accordance with law and the evidence is hereby AFFIRMED subject to the aforestated modification as regards the imposition of penalty whereby appellant is sentenced to suffer an indeterminate penalty ranging from one (1) year, seven (7) months and eleven (11) days of prision correccional as minimum to five (5) years, five (5) months and eleven (11) days of prision correccional as maximum and to return to the victim Rosito Dizon the sum of FIVE HUNDRED (P500.00) PESOS taken from him and to pay the costs."

Petitioner moved for a reconsideration of the decision of the Court of Appeals. This was denied. Hence, the present petition on the submission that -

"I

"THE COURT OF APPEALS COMMITTED A GRAVE ABUSE OF DISCRETION IN RECOGNIZING THE EVIDENCE FOR THE PROSECUTION AND IN NOT HOLDING THAT THE EVIDENCE ON RECORD DOES NOT CONSTITUTE PROOF BEYOND REASONABLE DOUBT TO SUSTAIN THE CONVICTION OF THE PETITIONER.

"II

"THE COURT OF APPEALS COMMITTED A GRAVE ABUSE OF DISCRETION IN NOT HOLDING THAT THE CONSTITUTIONAL RIGHTS OF THE PETITIONER TO COUNSEL, TO SILENCE, AND AGAINST SELF-INCRIMINATION, HAD BEEN VIOLATED, THEREBY PRECLUDING ANY VALID JUDGMENT OF CONVICTION AGAINST HIM."

Basically, the petition asks Us to review the evidence on record to determine whether or not the guilt of the petitioner has been proven beyond reasonable doubt. We are, in other words, asked to make Our own findings of fact independently of those made by the Court of Appeals. Decidedly, such a course of action would go against the general rule that the findings of facts of the Court of Appeals is conclusive on the parties and on this Court. There are, however, exceptions to this rule, such as when (1) the conclusion is a finding grounded entirely on speculation, surmise and conjectures; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the Court of Appeals went beyond the issues of the case and its findings are contrary to the admission of both appellant and appellees; (6) the findings of fact of the Court of Appeals are contrary to those of the trial court; (7) said findings of facts are conclusions without citation of specific evidence on which they are based; (8) the facts set forth in the petition as well as the petitioner's main and reply briefs are not disputed by the respondents; and (9) when the finding of fact of the Court of Appeals is premised on the absence of evidence and is contradicted by evidence on record.[1]

Guided by the general rule and the established exceptions thereto and considering the circumstances leading to the petition, We find it necessary to go into the record of this case.

In the disposal of petitioner's appeal, which discussed no less than seventeen points in support of the contention that the trial court erred in believing the evidence for the prosecution and disbelieving the evidence for the defense, the Court of Appeals, after reciting the evidence of the prosecution and that of the defense, merely cited the doctrine that "the matter of appraising the testimony of witnesses is best and most competently performed by the trial judge who unlike appellate tribunals, can weigh such testimony in the light of the declarant's demeanor and behavior on the witness stand, hence the finding of the trial court in this regard command great weight and respect because of its first-hand opportunity to observe the witnesses at close range." The Court of Appeals likewise discredited the petitioner's enumeration of inconsistencies in the testimonies of the two state witnesses by referring to the doctrine that "inconsistencies among witnesses are not unusual and do not affect credibility."

Such an approach to the matter presented by the petitioner's appeal in the respondent court is a deviation from the settled manner by which an appeal from a conviction should be considered.

In the case of *Tagoranao vs. Court of Appeals*, G.R. No. L-32218, February 11, 1971, 37 SCRA 490, it was stated that the basic nature of the appeal in a criminal case remains to be a trial de novo and to the appellate court is reserved the power to review the whole record and take into account any error it may perceive in the consideration of the whole record, regardless of the appellant's assignment of errors. The need to examine the whole body of evidence adduced in the trial is based on a reason as basic as the constitutional presumption of innocence in favor of the accused. Thus, "the fundamental reason for this method of review is the high regard that the law has for the presumption of innocence which it accords all persons accused of an offense which must be given full effect inspite of procedural and technical errors such accused or counsel may themselves commit against their interest either thru honest mistake or inadequate knowledge."

It cannot be said that there was compliance with the required manner of review if, as in the questioned decision, there is nothing more than the bare statement that it has been done, followed by a citation of the general principle on the matter of appraisal of the credibility of witnesses. The numerous questions posed by the petitioner in his brief before the Court of Appeals discussing at length the errors imputed on the trial court should have been accorded some measure of importance. At least, reasons resulting from a study of and dealing on the conflicting testimonies as to what transpired in the case should have been given by the Court of Appeals in support of its affirmance of petitioner's conviction. The observation made in *Tagoranao* may well apply in this case, for, "certainly an attack on the credibility of witnesses which gives detailed reasons therefore with page references to the oral evidence in the record x x x deserves more consideration than to be simply cast aside by a sweeping statement of a general principle."

According to the respondent Court itself, "the basis of conviction of appellant (the petitioner) for the crime of robbery is not on the amount given to the appellant at Mar's Restaurant at about 4:00 p.m., but on the amount of P500.00 taken by the appellant from Dizon and Castillo in that morning in front of the Tondo Church.[2]

Indeed, the Court of Appeals should have considered the issues presented by the petitioner's appeal in accordance with the guideline formulated by this Court in appeals directly filed with it from the trial court. In such instances, We have consistently held that the general rule of appreciation of evidence stating that the findings of the trial court on the credibility of witnesses should normally not be disturbed on appeal "must bow to the superior and immutable rule that the guilt of the accused must be proved beyond reasonable doubt, because the law presumes that a defendant is innocent and this presumption must prevail unless overturned by competent and credible proof." [3] This has been Our guide in deciding appeals in criminal cases and We see no reason why the Court of Appeals should not likewise be guided in its disposition of criminal matters.

We thus proceed to determine whether or not the petitioner is guilty beyond reasonable doubt of the crime of

robbery.

As summarized by the Court of Appeals, the evidence for the prosecution is:

"Rosito Dizon, a vendor and dealer of jewelries, and Teodoro Castillo, a buy and sell agent, were invited by two policemen in civilian clothes on March 19, 1975 to the Police Precinct No. 2 for questioning in connection with a stolen Seiko watch allegedly bought by them. At the precinct, Pat Manero (appellant) informed Rosito Dizon and Teodoro Castillo that they were being pointed to by one of the detained persons therein as the persons who bought the stolen Seiko watch whereupon they informed Pat. Manero that they have no fault and they have committed no wrong. Then Pat. Manero told them he could do something about it if they will give him (accused) the sum of P1,000.00, intimating at the same time that he was influential with the Fiscals Office. Considering that it was already nearing curfew time and they (Castillo and Dizon) did not have enough money they were told by the accused that they will be released the following morning for them to borrow the money demanded. On March 20, 1975, at about 4:00 a.m., upon being awakened by the accused, they (Dizon and Castillo) rode in the jeep of the accused and stopped at a restaurant known as Sinagtala Restaurant where Dizon, upon prodding by the accused-appellant, was able to borrow the amount of P200.00 from one named Talia, which amount Dizon placed in his breast pocket together with the amount of P300.00 he had in his possession. Considering that Castillo had no cash money then, he was instructed by the accused to pawn his Seiko watch with one Jimmy but the for-mer retorted that 'it was quite embarrassing to borrow money as Jimmy might get angry' (TSN, p. 29, June 3, 1975). Thus, in view of the fact that the amount of P1,000.00 was not completed the accused told Dizon and Castillo that he was bringing them back to the precinct, and when they reached the Tondo Church that was the time that the accused asked for the amount of P500.00 which the accused saw Dizon place in his breast pocket. Although Dizon was holding on to his pocket and saying 'don't get my money yet, you can get it later, we have to talk about it' (TSN, p. 38, June 3, 1975) just the same accused who was already angry and talking in a loud voice eventually got the P500.00 from his pocket, and the watch of Doro (Castillo). Thereafter the accused warned Dizon that if he will not be able to complete the P1,000.00, which will be given to him (accused) at the Mars Restaurant at 2:00 o'clock p.m., he (accused) will consider that they did not talk about anything and the watch will be his and they will be arrested. Consequently, the incident was reported to the MPIS, Metrocom, who contrived the entrapment of the accused with Sgt. Colanta as the team leader. Eventually, the accused was placed under arrest and charged of the crime of robbery."[4]

Upon the other hand, as also summarized by the respondent appellate court, the petitioner's defense is:

"Accused-appellant is a patrolman of the Manila Metropolitan Police assigned at Precinct 2. On March 19, 1975, at 4:00 o'clock p.m. a case of robbery hold up, with suspects unknown, was reported by the victim George Lim. Whereupon, Pat. Manero advised George Lim to come back to the precinct as soon as he could identify the suspects. On the same date (March 19, 1975) at 9:00 o'clock in the evening, George Lim identified Bonifacio Cabiling as the suspect who was then with Pat. Cañares and Pat. R. Alfonso, together with Rosito Dizon and Teodoro Castillo who were pointed to by Bonifacio Cabiling as the alleged buyers of the stolen watch. Then Pat. Manero conducted the investigation. He took down the statement of George Lim, the statement of Bonifacio Cabiling, and lastly the joint statement of Rosito Dizon and Teodoro Castillo. Thereafter appellant prepared the booking sheet and arrest report of Bonifacio Cabiling and a police investigation report and a letter to the Fiscal which were all submitted to the desk officer. Accused-appellant did not place Dizon and Castillo under arrest considering that, according to him, the evidence against them was weak but just the same appellant informed Dizon and Castillo that a complaint of accessory after the fact of the crime of robbery will be filed against them with the Fiscal's Office. The following morning, after curfew time, when accused was in the jeep and about to leave the precinct, Dizon and Castillo asked him where was his way

or if he was going to pass C.M. Recto. The accused replied that he was bound for Quezon City. Whereupon, Dizon and Castillo requested for a ride up to Florentino Torres St. and C.M. Recto, to which request the accused granted. While together in the jeep, Dizon and Castillo were pleading to him not to file the case against them in the Fiscal's Office but the accused retorted that the Fiscal has the discretion considering that a report had already been submitted with the Fiscal's Office. Before Dizon and Castillo alighted from the jeep at the corner of F. Torres and C.M. Recto, accused happened to mention in the course of their conversation that he used to go to a certain restaurant located at F. Torres St., which he pointed. Then Dizon asked him whether he frequented the place, to which query the accused answered that in that afternoon of March 20, 1975, he was to get something, the graduation ring of his daughter and his cigarette lighter, without however, specifying what time. Whereafter, in the afternoon of March 20, 1975, at around 4:00 o'clock p.m. accused went to the Mars Restaurant (the restaurant he pointed to Dizon and Castillo in the morning of even date). Upon his arrival thereat he asked for Victorina Mercado but his niece told him that Victorina left only a while ago and suggested that he wait for her. Then accused talked with Policarpio Tiongson to get his lighter but the latter told him that it was not yet repaired. While waiting for his niece he invited Policarpio Tiongson for a bottle of beer, which the latter accepted. After placing their order for beer Rosito Dizon arrived, thereupon Policarpio Tiongson invited him to sit down with them at their table prompting the accused to ask Policarpio Tiongson whether the latter knows Rosito Dizon and Policarpio Tiongson replied that they were friends. Immediately thereafter two men in civilian clothes arrived and proceeded to their table, suddenly one grabbing accused's hands prying them open and asking for the money and the other lifting both his arms, raising him up and grabbing his firearm which was tucked on the right side waistline, without even identifying themselves. After the accused was disarmed, he then saw Rosito Dizon pull out money from his breast pocket and placed it in front of the table. Two men then arrived, one with a gun, and slapped the accused two times and told him they were METROCOM people and there was no policeman to them. He was dragged out of the restaurant twisting his arms and hitting him in the nape and finally brought to Camp Crame, where he was told to count the money by Sgt. Colanta and subjected to ultraviolet ray examination at the PC Laboratory, and eventually detained at the stockade for three months and a half without any investigation being conducted. The accused denied the accusation against him and asserted that he never demanded money from Dizon and Castillo."[5]

The respondent appellate court then mentioned the following facts as uncontroverted:

"That Dizon and Castillo were brought to the precinct for investigation they having been pointed to by Bonifacio Cabiling as the buyers of the stolen Seiko watch of George Lim; that Dizon and Castillo were investigated by Pat. Manero, the accused-appellant herein, and their joint statement taken (Exh. "L"); that Dizon and Castillo spent the evening of March 19, 1975 at the precinct in view of the fact that it was already curfew time when the investigation was terminated; that Dizon and Castillo rode in the jeep of Manero at around 4:00 o'clock in the morning; that Manero was arrested by the MPIS, Metrocom, in the afternoon of March 20, 1975."[6]

From the immediately foregoing list of uncontroverted facts, it is clear that Rosito Dizon and Teodoro Castillo, the supposed victims of the crime imputed to the petitioner, were brought to the police precinct, not by the petitioner but by two other policemen, for investigation as they had been pointed to by one Bonifacio Cabiling as the buyers of the stolen Seiko watch of one George Lim. These two policemen, Pat. Alfonso and Pat. Cañares respectively declared that:

"Pat. Alfonso

"Q - Did he (Cabiling) name the persons to whom he sold the Seiko watch?

A - Yes, sir.

Q - What names did he give you?

A - A certain Totoy Dizon and a certain Teodoro

(t.s.n., Sept. 23, 1975, p. 98)

xxx xxx xxx

Q - What did Rosito Dizon say when you were investigating him about this stolen 'Seiko' watch?

A - He admitted that he and Teodoro Castillo bought the watch.

Q - From whom?

A - From Bonifacio Cabiling.

Q - How about Castillo, when you investigated Castillo, what did Castillo say?

A - He was trying to talk with the complainant just for him to return the watch." (Id., pp. 101-102)."[7]

"Pat. Cañares

"Q - What is the full name of this Dizon whom Cabiling pointed to as one of the buyers?

A - Rosito Dizon, sir.

Q - Upon being pointed to by Cabiling, what did you do with the person of Rosito Dizon?

A - After we invited Dizon, Dizon told us that one Mr. Castillo was also one of the buyers. (Id., p. 41)

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Q - What did Dizon tell you when you pointed out that he was being pointed to by Cabiling to be the buyer of the stolen watch?

A - Dizon told us that he is willing to recover the stolen watch, if not, pay the amount of the stolen watch."
(Id., pp. 45-46)[8]

Dizon and Castillo were, therefore, duly arrested suspected buyers of a stolen wrist watch when they were brought before the petitioner for investigation. The trial court itself stated, on this point, that "the fact that Rosito Dizon and Teodoro Castillo were placed under arrest and referred to the accused (the petitioner) for investigation for having allegedly brought a watch from Bonifacio Cabiling, who in turn allegedly robbed it from George Lim has never been disputed." [9] Given this fact, it is difficult to accept the recital in the complaint that the petitioner intimidated Dizon and Castillo by telling them "that they were being pointed to as the buyers of a stolen Seiko watch and threatening to arrest them if they would not give the amount of P1,000.00 x x x." Plainly, the acts which the complaint mark out as constitutive of petitioner's intimidation of Dizon and Castillo are, per the record, antecedent facts accomplished by persons other than the petitioner.

The prosecution's theory, nonetheless, ties the petitioner to the crime of robbery with the statement that the petitioner "told them (Dizon and Castillo) he could do something about it if they will give him (the petitioner) the sum of P1,000.00, intimating at the same time that he was influential with the Fiscal's Office." The circumstances surrounding this alleged proposal made by the petitioner being what they are, We are doubtful whether it was in truth, made. Dizon and Castillo had been duly placed under arrest and were before the petitioner for investigation. At that point of time, whatever fear may have been entertained by Dizon and Castillo, if fear there really was, was inspired not by the petitioner nor by any act of the latter but by the very fact of their having been arrested. And a proposal to "do something" about their case under such a situation would not likely come from the petitioner, unless it is shown that the latter is one prone to corruption and misuse of authority. There was no such showing in this case. On the contrary, the petitioner exhibited an exemplary record as a policeman: he was thrice cited by his superiors for refusing to accept a bribe, was commended for minimizing armed robberies, was twice the recipient of Letters of Appreciation and has been recommended for promotion on the basis of known honesty and integrity. [10] Upon the other hand, it was Dizon who was shown to have a list of criminal cases to his name: he has been charged with qualified theft and trespass and has been convicted of theft and robbery. [11] At that meeting then between Dion who has a established criminal record, arrested anew as a suspect in another crime and the petitioner who has, more than an unblemished work history, compiled a series of official citations for work well done, it is highly doubtful, as We have said earlier, that it would be the latter who would advance the proposal that something be done to the case he was investigating.

Moreover, it is also in the list of uncontroverted facts that petitioner performed his official duty, i.e., "that Dizon and Castillo were investigated by Pat. Manero x x x and their joint statement taken." According to the petitioner's version, he "took down the statement of George Lim, the statement of Bonifacio Cabiling and lastly, the joint statement of Rosito Dizon and Teodoro Castillo" and that thereafter he "prepared the booking sheet and arrest report of Bonifacio Cabiling and a police investigation report and a letter to the fiscal which were all submitted to the desk officer." Considering the fact that the petitioner had done all that was necessary for him to do in the Dizon-Castillo case, it is not easy to believe that, as maintained by the prosecution, the petitioner insisted in his demand for P1,000.00, released Dizon and Castillo the following morning for them to borrow the money

demanded and took Dizon's P500.00 and Castillo's wrist watch when the two failed to complete the P1,000.00 originally demanded, with a threat of forfeiture of the things taken and of arrest should Dizon and Castillo fail to complete the amount by 1:00 o'clock p.m. Even harder to believe is the drift of petitioner's story that Dizon and Castillo, after they had been released following the completion of their investigation by petitioner, were still intimidated by the petitioner into parting with their money and wrist watch. Certainly, if the petitioner were really minded to extort money from Dizon and Castillo, he could have delayed either the completion or the submission of his investigation report. Petitioner, however, completed his duty. After that, story of robbery through an intimidating demand for money on account of the investigated case becomes incredible.

One particular indication of incredibility in the prosecution's theory is the alleged return of the wrist watch, earlier taken by the petitioner, to Castillo in the late afternoon at Mars Restaurat.¹² Castillo testified that Dizon asked for the watch so that it could be pawned because the money was still lacking and that the petitioner gave the watch to him as demanded by Dizon. This alleged return of the watch by the petitioner flies against the prosecution's evidence that when the petitioner angrily took Dizon's money and Castillo's watch earlier, it was with a warning that, should there be a failure to complete the amount of P1,000.00 by 1:00 p.m., the petitioner "will consider that they did not talk about anything and the watch will be his and they will be arrested."

It must be noted furthermore that, contrary to the observation of the trial court, which was apparently sustained by the Court of Appeals, the testimonies of Dizon and Castillo regarding the petitioner's demand for and taking of their property were wholly uncorroborated. The person, one named Talia, from whom Dizon allegedly borrowed the P200.00 which formed part of the P500.00 allegedly given to the petitioner was never presented in court. Dizon's wife, his child and a neighbor, all of whom, per Dizon's and Castillo's testimonies, witnessed the demand made by petitioner for P1,000.00 while they (Dizon, Castillo and petitioner) were aboard petitioner's jeep were, just like Talia, never placed on the witness stand. And it is not accurate to say that Dizon corroborated Castillo's testimony or that Castillo corroborated that of Dizon. Both testimonies proceeded from a single source - from arrested suspects of a crime turning against their investigator. Verily, We have here a situation where We must rule on the credibility of one's word against the other's. And as We have just delineated, there are reasons to doubt the prosecution's version of the incident under study. Surely, the evidence on record is not entirely incompatible with a finding that, rather than a demand coming from petitioner, it was Dizon who offered to fix the case but this offer was turned down by petitioner who went on and regularly performed his duties and who, by so doing, touched off Dizon's practiced mind into hatching a plot against an uncooperative intended protector.

The alleged "entrapment" should not, therefore, preclude the acquittal of the petitioner. And more so because apart from the fact that an eyewitness to the incident at Mar's Restaurant in the afternoon of March 20, 1975 declared that Dizon did not succeed in his attempt to hand marked money to the petitioner, the testimony of the leader of the team that was supposed to have conducted the operations was so flawed with inconsistencies relating to the very manner and method by which the petitioner was "arrested" that no definitive finding on whether or not the petitioner was caught with marked money can be made therefrom. On top of this, as observed by the Court of Appeals, which We earlier noted, the basis of the conviction of petitioner by the lower court was the amount allegedly taken in front of the Tondo Church and not the money supposedly taken during the "entrapment" at Mar's Restaurant.

WHEREFORE, the decision of the Court of Appeals and its Resolution denying reconsideration in CA-G.R. No. 19778-CR is hereby reversed and set aside. Upon reasonable doubt, petitioner is acquitted of the crime of robbery. Costs de oficio.

SO ORDERED.

Barredo, (Chairman), Fernandez, Abad Santos, and De Castro, JJ., concur.

Aquino, J., took no part.

[1] Tolentino vs. de Jesus, No. L-32797, March 27, 1974, 56 SCRA 167, citing cases on the rule and its exceptions. Tolentino was then cited in Duran vs. CA, No. L-39758, May 7, 1976, 71 SCRA 68.

[2] Id., p. 51.

[3] People vs. Alto, Nos. L-18600 and L-18661, November 29, 1968, 26 SCRA, reiterated in People vs. Pagkalinagan, L-29948, November 26, 1970, 36 SCRA 113.

[4] Ibid., pp. 3-5

[5] Ibid., p. 5.

[6] Supplemental Reply of Petitioner, pp. 14-25, citing the indicated T.S.N.

[7] Ibid., p. 15.

[8] Rollo, p. 54.

[9] Ibid., pp. 28, 30.

[10] Ibid.

[11] Ibid., p. 54, Brief filed by the Petitioner as Appellant before the Court of Appeals, at p. 29, citing T.S.N. of July 10, 1975, pp. 30-33.

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