

ROMEO ALARCON, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, ET AL., RESPONDENTS.*G.R. No. L-21846. March 31, 1967*

Ponente: SANCHEZ, J.

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The charge is estafa thru falsification of an official or public document. The Court of First Instance of Manila found petitioner herein guilty thereof and sentenced him to an indeterminate penalty ranging from 1 year, 10 months and 21 days of prison correccional, as minimum, to 5 years 2 months and 7 days also of prison correccional, as maximum, with the accessories of the law, to pay a fine of P2,000.00, with subsidiary imprisonment in case of insolvency, and to pay the costs. The Court of Appeals affirmed. The case is now before us for review.

Following are the facts:

"x x x that on January 30, 1959, Alarcon paid the ar-rastre fee in the sum of P36.75 as per receipt Exhibit G, for four cases of camphor chests from Hongkong; that on February 2, 1959 by delivery permit Exhibit C, containing a falsified certification by a fictitious customs examiner (Exhibit C-1) that he had examined the cargo and authorized delivery thereof and without the permit having been processed and audited as required by standard procedure nor custom duties and taxes paid, the accused Romeo Alarcon who is a representative of Magpayo & Basa Brokerage (Exhibit J) requested for, and obtained from Guillermo Enriquez, a checker of the Manila Port Service, the four cases of camphor chests and gate pass Exhibit E after Alarcon's companion exhibited falsified written authority from the consignee to withdraw the goods and in proof thereof signed at the back of the delivery permit, right hand margin, Exhibit C; that when the truck which Alarcon hired arrived at Gate 1, he gave the gate pass to the gatekeeper Vicente Bagason, who let the truck pass as evidenced by the latter's signature (Exh. E-2); that Alarcon was in the truck that brought the cargo to 101 Mayon Street, Quezon City, and later paid the truck driver P40.00 for his services; that the cargo consisted of four cases containing four sets of camphor chests as shown in the photograph Exhibit L, which were subsequently recovered from Mrs. Soledad Montalbo at 101 Mayon Street who gave the statement, Exhibit K adopted by the defense as Exhibit 1, that the accused Romeo Alarcon upon receipt from her of the delivery permit undertook to secure the release of the cargo for P200.00, the accused to take care of everything including customs duties and taxes; that Rufino Achacoso whose name appears as the consignee denied having imported the articles listed in the delivery permit Exhibit C, or having executed the application for permit to import commodities for personal use, Exhibit B, or owning residence certificate Exhibit A which was necessary in the execution of the application, Exhibit B, which residence certificate is different from his as to number, place and date of issue and contains false data regarding his place and date of birth and residence."

Petitioner's claim that he neither forged the delivery permit nor caused it to be forged, is ruled out, because: (1) Rufino Achacoso, whose name appears as the consignee, did not import the camphor chests in question. (2) Petitioner's averment that when he got hold of the falsified delivery permit it was already falsified, was "based on evidence for the defense which was not given credence by the trial court" and by the Court of Appeals. (3) To procure release of the goods, petitioner used said falsified delivery permit and his companion had to exhibit

another falsified document - a written authority from the supposed consignee - to withdraw the goods. It was on the basis of these forged papers that Guillermo Enriquez, a checker of the Manila Port Service, released the goods to petitioner and gave him the corresponding gate pass. (4) Petitioner, at the time, was a representative of Magpayo & Basa Brokerage. Yet, he acted by himself. He did not merely work for the release of the camphor chests from the Manila Port Service. He gave the gate pass to the gatekeeper; hired the truck which took out the camphor chests; went with the truck and accompanied the shipment to 101 Mayon Street, Quezon City where said camphor chests were recovered; himself paid the truck driver P40.00 for his services.

Considering the patent irregularity of the transaction, the extra-ordinary interest in the goods displayed by petitioner and the circumstances of the case, no reasonable and fairminded man would say that said petitioner - a customs broker's representative - had no knowledge of the falsification. A rule, well-buttressed upon reason, is that, in the absence of satisfactory explanation, one found in possession of and who used a forged document, is the forger or one who caused the forgery, and, therefore guilty of falsification.[1]

Correctly, the trial court declared:

"The professed innocence and good faith of the accused is inherently incredible and negated by the circumstances of the case and by the evidence for the prosecution. There is no question that the delivery permit (Exhibit C) is falsified, because the signature above the words 'Customs Examiner' is fictitious and the certification stamped thereon that the goods detailed in the permit has been examined by the Customs Examiner and their release authorized implying re-lease by the No-Dollar Import Office and payment of customs duties and taxes; and without such certificate and signature, the checker of the Manila Port Service would not have issued the gate pass (Exhibit E) which enabled the accused and his confederate to obtain the release to them of the camphor chests detailed in the delivery permit, without said chests being examined and processed by the Customs people nor Customs duties and taxes paid thereon. The guilty participation of the defendant is further shown by his payment of the arrastre service (Exhibit G) as admitted by him and under the suspicious circumstances surrounding the whole transaction. x x x"

The judgment of the Court of Appeals under review, confirming that of the trial court, is hereby affirmed. Costs against petitioner.

SO ORDERED.

Concepcion, C.J., Reyes, Dizon, Regala, Bengzon, Zaldivar, and Castro, JJ., concur.
Makalintal, J., took no part.

[1] People vs. de Lara, 45 Phil. 754, 760-761; People vs. Cu Unjieng, 61 Phil. 906, 922; People vs. Canta, 40 O.G. No. 15, 11 Supp. pp. 46, 48-52; People vs. Loteyro, et al., 50 O.G. No. 2 pp. 632, 635; People vs. Dala, 50 O.G. No. 6, pp. 2675, 2677; People vs. Manan-sala, G.R. No. L-13142, January 30, 1959.

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