

## THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. F. LULING, DEFENDANT AND APPELLANT.

*G.R. No. 11162. August 12, 1916*

Ponente: JOHNSON, J.

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### JOHNSON, J.:

This is an appeal by the defendant from a sentence imposed by the Court of First Instance of the city of Manila.

From the record it appears that on the 14th of May, 1915, the prosecuting attorney of the city of Manila presented a complaint in the Court of First Instance of the city of Manila, in which the defendant was charged with an infraction or violation of section 316 of Act No. 355 of the United States Philippine Commission. The complaint alleged:

"That on or about May 10, 1915, in the city of Manila. Philippine Islands, the said accused, being a wharf watchman employed in such capacity in the customs service of the Government of the Philippine Islands, did, willfully, directly, unlawfully, and criminally, solicit of and receive from one Rufino Elorz or Rufino Elord the sum of P100, in order that he might secure through customs brokers, the importation and delivery to the said Rufino Elorz or Elord, of certain rolls of paper in which a large quantity of opium was hidden ; an act committed with violation of law."

Upon said complaint the defendant was duly arrested, arraigned, tried, found guilty and sentenced by the Honorable James A. Ostrand to pay a fine of P1,000, and in default of such payment to suffer the corresponding subsidiary imprisonment, not to exceed six months, and to pay the costs.

From that sentence the defendant appealed to this court. In this court the appellant alleges that the provisions of section 316 of Act No. 355, in so far as it requires the accused to prove his innocence, is unconstitutional, and further that the evidence adduced during the trial of the cause does not show that he is guilty of the crime charged.

In support of the first assignment of error the appellant cites several paragraphs of section 5 of the Act of Congress of July 1, 1902. He alleges that said section (316) is unconstitutional in that the state is without right or authority to enact a law by virtue of the terms of which certain facts only shall constitute prima facie proof of guilt. Said section 316 of Act No. 355 provides that:

"Any officer or employee in the customs service of the Government of the Philippine Islands who shall, excepting for lawful duties or fees, solicit, demand, exact, or receive from any person, directly or indirectly, any money, or thing of value, in connection with or pertaining to the importation, exportation, appraisement, entry, examination or inspection of goods, wares, or merchandise, including herein any baggage, or liquidation of the entry thereof, on conviction thereof shall be fined not exceeding five thousand dollars, or be imprisoned at hard labor not more than ten years, or both, in the discretion of the court. And evidence of such soliciting, demanding, exacting, or receiving, satisfactory to the court in which such trial is had, shall be regarded as prima facie evidence that such soliciting, demanding, exacting, or receiving was contrary to law, and shall put upon the accused the burden of proving that such act was innocent and not with unlawful intention. The reception of a gift by any officer or employee in the Philippine customs service from any importer or exporter,

either directly or indirectly, shall prima facie be deemed to be a violation of the provisions of this section."

The question which the appellant raises has frequently been presented to the courts for solution and has uniformly been decided against his contention.

No rule has been better established in criminal law than that every man is presumed to be innocent until his guilt is proved beyond a reasonable doubt. In a criminal prosecution, therefore, the burden is upon the state to prove every fact and circumstance constituting the crime charged, for the purpose of showing the guilt of the accused. (U. S. vs. Gooding, 12 Wheat., 460; State vs. Anderson, 51 La. Ann., 1181; Commonwealth vs. McKie, 1 Gray (Mass.), 61; People vs. Downs, 123 N. Y., 558; Farris vs. Commonwealth, 14 Bush. (Ky.), 362.)

While that is the rule, many of the States have established a different rule and have provided that certain facts only shall constitute prima facie evidence, and that then the burden is put upon the defendant to show or to explain that such facts or acts are not criminal. (Sanders vs. State, 104 [94] Ind., 147; Fuller vs. State, 12 Ohio St., 433; U. S. vs. Gooding, 12 Wheat., 460; People vs. Perini, 94 Cal., 573; People vs. McWhorter, 93 Mich., 641; People vs. Downs, 123 N. Y., 558.)

It has been frequently decided, in case of statutory crimes, that no constitutional provision is violated by a statute providing that proof by the state of some material fact or facts shall constitute prima facie evidence of guilt, and that then the burden is shifted to the defendant for the purpose of showing that such act or acts are innocent and are committed without unlawful intention. (Commonwealth vs. Minor, 88 Ky., 422.)

In some of the States, as well as in England, there exist what are known as common law offenses. In the Philippine Islands no act is a crime unless it is made so by statute. The state having the right to declare what acts are criminal, within certain well defined limitations, has a right to specify what act or acts shall constitute a crime, as well as what proof shall constitute prima facie evidence of guilt, and then to put upon the defendant the burden of showing that such act or acts are innocent and are not committed with any criminal intent or intention.

We are of the opinion that said section 316 does not violate any of the provisions of the Act of Congress of July 1, 1902.

With reference to the second assignment of error, after a careful examination of the evidence we find that the defendant did, on or about the 10th of May, 1915, receive from one Rufino Elord the sum of P100, and that he, at that time, was an employee in the customs service of the Government of the Philippine Islands; that said money was received by the defendant in connection with the importation of goods, wares, and merchandise within the meaning of said section 316, and that the same was not received for lawful duties or fees, but was received for the purpose of directly facilitating the importation into the Philippine Islands of a large quantity of opium, contrary to law, and that he was an employee in the customs service of the Government of the Philippine Islands at the time and place mentioned in the complaint.

After a careful examination of the record, we are convinced that no error has been committed by the lower court. Its sentence is therefore hereby affirmed, with costs. So ordered.

Torres, Moreland, Trent, and Araullo, JJ., concur.

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