

**PONCIANO LAYUG, PETITIONER, VS. THE HON. SANDIGANBAYAN
AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.***G.R. No. 114138. June 16, 1995*

Ponente: PADILLA, J.

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In four (4) separate Informations filed in Criminal Cases Nos. 13517, 13518, 13519 and 13520, petitioner Ponciano Layug was charged with the crime of Estafa through Falsification of Public Documents as defined and penalized under Articles 315 and 171 of the Revised Penal Code.

The Informations are phrased in substantially identical language and differ from each other only as to particulars referring to dates of the commission of the offense and amounts involved. They charge the accused (herein petitioner) of falsifying his daily time records (DTRs) for the months of January, February, March and April 1986 by making it appear therein that he performed his assigned work as Guidance Counselor in the Davao del Sur National High School during the dates shown in said daily time records, thereby enabling him to collect and receive his corresponding salaries for the said months, when in truth and in fact, said accused did not actually perform his duties and functions as Guidance Counselor for the said periods.

A warrant for petitioner's arrest was issued on 9 May 1989 which was referred on 26 May 1989 to the National Bureau of Investigation for implementation. However, it appears that on 17 May 1989, petitioner voluntarily surrendered and posted his bail bond with the Regional Trial Court, Branch 18, Digos, Davao del Sur. Upon arraignment on 21 July 1989, petitioner entered a plea of not guilty to all the charges against him.

After joint trial of the cases, the Sandiganbayan[1] found petitioner guilty beyond reasonable doubt of the crime charged. The dispositive part of its decision dated 31 January 1991 reads as follows:

"WHEREFORE, accused Ponciano M. Layug is hereby declared GUILTY beyond reasonable doubt as principal of the crime of Estafa Thru Falsification of Public Documents defined and penalized under Articles 315 and 171 in relation to Article 48 of the Revised Penal Code in Crim. Case Nos. 13517, 13518, 13519 and 13520. Appreciating in his favor the mitigating circumstance of voluntary surrender and applying the Indeterminate Sentence Law, he is hereby sentenced to suffer, for each case, an indeterminate penalty ranging from TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional as minimum to TEN (10) YEARS and ONE (1) DAY of prision mayor as maximum; to pay a fine of P2,000.00 without subsidiary imprisonment in case of insolvency; to indemnify the government of the Republic of the Philippines in the amount of P612.80 in Crim. Case No. 13517, P421.30 in Crim. Case No. 13518, P229.80 in Crim. Case No. 13519 and P153.20 in Crim. Case No. 13520; and to pay the costs.

SO ORDERED."[2]

Petitioner's motion for reconsideration filed on 15 February 1995 was denied on 23 February 1995 for lack of merit.

In the present petition for review, petitioner Layug assails the Sandiganbayan's decision as contrary to law and not

substantiated by the evidence on record.

Petitioner contends that Exhibit "L",[3] on which the Sandiganbayan based mainly its judgment of conviction, is not a credible record of his attendance in the Guidance Office for the periods involved in the charges.

Petitioner avers that the entries in said Exhibit "L" are mere fabrications and not factual. He cites in particular the testimony of Mrs. Lizbeth Sur, Guidance Counselor, who testified that she made a daily record of petitioner's attendance at the Guidance Office. She declared:

"JUSTICE BALAJADIA

Q

When you monitored the arrival of Mr. Layug you assumed that when he arrived at his desk that was the time he arrived in the office.

A

When he reported at the Guidance Office.

JUSTICE BALAJADIA

Q

That was the time when you recorded it?

A

You did not determine first whether he passed by the library before reporting to his desk. [sic]

A

No, your Honor.

Q

Did Mr. Layug have any classes?

A

I do not know, your Honor.

Q

You did not know?

A

I did not know.

Q

And when Mr. Layug would leave the Guidance Office you assume that he left the school?

A

Yes, your Honor.

Q

You did not determine whether he passed by the library and work there?

A

No, sir because the instruction was to monitor his attendance once he report to the Guidance Office.

PJ GARCHITORENA

Q

Mrs. Sur, when you put a dash that means a working day and Mr. Layug is absent?

A

Yes, your Honor.

Q

And when you have the date encircled, that means a Saturday or a Sunday?

A

Yes, your Honor.

Q

And for the first week of February according to you, in 1986, February 1 was a Saturday and February 2nd was a Sunday?

A

Yes, your Honor.

Q

But February 7 was snap election, is that not so?

A

Yes, your Honor.

Q

And therefore, there was no classes?

A

Yes, your Honor.

Q

Why did you not encircle it, instead you put a dash and that means that like any other working day Mr. Layug did not show up. Because if it was a holiday you would have encircled it, is that not so?

A

Yes, your Honor.

Q

Now refreshing your memory, was not that whole week ending February 7 non--working days?

A

Yes, your Honor.

Q

You did not encircle February 3 to February 7, instead you put dashes to indicate that Mr. Layug was absent, is that not so? Of course he was absent, all of you were absent, is that not correct.

A

(No answer).

Q

Is that not correct Mrs. Sur? The whole week, February 3 to February 7 were not regular working days, and, therefore, it should have been encircled?

A

Yes, your Honor.

Q

In fact you put dash there up to the next working day, is that correct?

A

Yes, your Honor.

Q

And that was February 8?

A

February 10, your Honor.

Q

Was February 10, Monday after election day was a working day?

A

There is a dash.

Q

You put a dash meaning it was a regular school. In actual fact was it a school day.

A

I cannot remember, your Honor.

Q

You are not sure. So, at least for the first week of February your daily time record for the appearance of Mr. Layug is not reliable.

A

Classes were suspended I think from January 27 to February 7, but in the province we have the option to report.

Q

If that is the case even your daily time record of Mr. Layug for the month of January is unreliable because from January 27 to January 31 you also put dashes to indicate that these are regular school days and that Mr. Layug was absent, and yet you did not encircle January 27?

A

Yes, your Honor.

Q

In fact from January 27 to February 7, 1986 you did not even show up in school?

A

I was there.

Q

Why were you there? There was no classes?

A

I was there from January 27 because we have the option to report to the office." (TSN, pp. 81-85, June 6, 1986)

xxx xxx xxx

JUSTICE BALAJADIA

Q

When you encircled a date there your intention was to indicate that the date encircled was a Saturday or a Sunday?

A

Yes, your Honor.

Q

Did you intend to encircle a day which is not a Saturday or a Sunday but a non-working day?

A

No, your Honor.

Q

What indication did you make to show that a day which is not a Saturday or a Sunday was a non-working day?

A

I put a dash.

PJ GARCHITORENA

Q

So, you are telling us that the whole month of February except for the dates where there are time indicated, are all dashes and, therefore, they were non--working days. For the whole month of February there was not a single working day except for the hours indicated there, is that what you mean?

A

No, your Honor.

Q

Now, Mrs. Sur, let us stop playing games and be honest. Did you actually prepare this daily time record on the specific dates of each month represented by this daily time record?

A

Yes, your Honor, I was the one who prepared this one.

Q

That is not the question. The question is, did you fill this up on the specific dates indicated there. That is what you told Atty. Manzano that on each particular day you fill up the particular blank, so we ask you now, do you insist in that answer?

A

These are the times indicated here. I just cannot recall the holidays.

Q

You cannot recall the holidays. So on holidays what did you put?

A

I just put a dash.

Q

So, how would you distinguish? We go back to the old question of Justice Balajadia. How would you distinguish a non-class day where nobody show-up with a regular class day where Mr. Layug did not show up? How would you differentiate?

A

These dates sir I placed dash.

Q

That is not the question. You must listen to the question. As a good guidance counselor [sic] you must listen. So, listen again.

Q

How would you be able to distinguish whether it is not a class day or whether it is a regular class day and Mr. Layug is gallivanting downtown? How would you be able to differentiate by looking at your daily time record.

A

For February, Saturdays and Sundays I put circle.

Q

You answer the question. You see now you are avoiding. That is a bad habit of a guidance counselor. [sic]
Answer the question.

A

I cannot distinguish anymore.

Q

And yet the purpose of this daily time record is precisely to distinguish the dates when Mr. Layug is gallivanting if he is gallivanting, and the dates when he shows up, is that correct?

A

Yes, your Honor.

Q

And when he shows up the purpose at [sic] this daily time record is to determine when he shows up for a short while and when he shows up according to the prescribed schedule, is that correct?

A

Yes, your Honor.

Q

And, therefore in that respect this daily time record has failed to perform its function, at least in February, is that correct.

A

(No answer).

PJ GARCHITORENA

Make it of record that the witness does not answer. Thank you Mrs. Sur, you are now excused." (TSN, pp. 85-88, June 6, 199)[4] [sic]

According to petitioner, even the private complainant, Mr. Ramon Presto, principal of the Davao del Sur National High School, chiefly relied on the inaccurate Exhibit "L" as basis for his knowledge of the attendance at the Guidance Office of petitioner Layug. In other words, Presto's testimony is not based on his own personal knowledge. Thus -

"Direct Examination

PROS. QUERUBIN

Q

Mr. Presto, I am showing to you these Daily Time Records of Mr. Layug for the months of January, February, March and April 1986. Of course, you do not deny that the signatures appearing above the name Ramon Presto is your signature?

A

Yes, sir.

Q

These Daily Time Records, particularly Exhibits "G", "H" and "I", show that Mr. Layug has a perfect attendance for all these three months (January, February and March 1986). Do you know of your own personal knowledge whether this attendance reflected on Exhibits "G", "H" and "I" are correct?

PJ GARCHITORENA

Of your own knowledge.

A

Not correct, sir.

PROS. QUERUBIN

Q

How about the time of arrival and time of departure of Mr. Layug reflected in the Daily Time Record for the month of April 1986, do you know if these time of arrival and time of departure are correct?

A

They are not correct, sir.

PJ GARCHITORENA

Q

How did you know that they are not correct?

A

As shown by the report of the Guidance Counselor that this record is not correct, your Honor.

Q

What you are saying is, on the basis [sic] of the report of some other people, you learned that the statements in the Daily Time Records from January to April 1986 were incorrect?

A

Yes, your Honor.

Q

Did you see him also absent on the dates he said he was present?

A

I did not, your Honor.

Q

So, [sic] your only source of information is the report of the Guidance Counselor.

A

Yes, your Honor.

Q

Is that what has been marked as Exhibit "L"?

A

Yes, your Honor. (TSN, pp. 18-19, June 5, 1990)"[5]

It is clear from the records that the conviction of petitioner rests mainly on the testimonies of the principal witnesses, namely: Mrs. Jesusa Trinidad, Department Head of the Guidance Office; Mrs. Lizbeth Sur, Guidance Counselor; and Mr. Ramon Presto, school Principal.

Mrs. Trinidad testified that she received a memorandum dated 6 January 1986 from the school principal, instructing her to monitor the attendance of Ponciano Layug. She instructed Mrs. Sur and other guidance counselors to also keep a record of Layug's daily attendance. She stated that on two (2) occasions (January and February 1986) she reported to Mr. Presto Layug's irregular attendance and he refused to sign his (Layug's) DTRs for the said months and that she never informed Layug that she was monitoring his attendance everyday.

Mrs. Sur testified that after she was instructed by Mrs. Trinidad to record the attendance and working hours of Layug, she started monitoring his daily attendance; that she was never absent during the period she was monitoring Layug's attendance from January up to April 1986; that her observation of Layug's actual attendance and hours of work is confined to the Guidance Office and that she did not bother to know his whereabouts outside said office. However, she could not explain why she placed dashes (to indicate that Layug was absent during regular working days) instead of circles for Saturdays, Sundays and non--working days in Layug's DTRs.

Mr. Presto admitted he did not personally observe Layug coming to and going from work at the Guidance Office but merely relied on the reports of the guidance counselors. When asked by the trial court why he signed Layug's daily time records for January, February, March and April 1986 despite having been informed of his irregular attendance, Presto claimed he signed these DTRs in good faith, and since there were around 200 DTRs he had to sign, he might have signed those of Layug thru oversight.

This Court has previously held that -

"On appeal, the findings of the trial court on the credibility of witnesses would not normally be disturbed, in deference to the trial court's peculiar advantage of having observed in the first instance, the demeanor or deportment of the witnesses in giving their testimony. But it has been consistently held that this rule of appreciation of evidence must yield to the superior and immutable rule that the guilt of the accused must be proved beyond reasonable doubt. It is fundamental that an accused is presumed innocent. And this presumption must prevail unless overturned by competent and credible proof."[6]

It can readily be seen from the testimonies of prosecution witnesses that there was a concerted effort on the part of said witnesses to pass off Exhibit "L" as an accurate and correct record of the petitioner's daily school attendance and hours of work. Yet, from the admission of Mrs. Sur, the author of said Exhibit "L", it can readily be seen that her record of the regular school days and holidays or non-working days was not precise to say the least. She admitted that she could not distinguish from her record which were working and which were non-working days.

The Court does not agree with the Sandiganbayan that the inconsistencies in the testimony of witness Sur are minor ones. Being the basis for the petitioner's conviction, it had to be true and credible evidence unimpaired by material discrepancies. She was emphatic in her testimony that she was never absent from January to April 1986, personally entering the data on daily attendance of Layug for the said period. Yet, she recorded supposed absences of petitioner even during holidays or non-working days, particularly in January and February 1986. Exhibit "L" cannot thus be considered a credible record of petitioner's attendance in the Guidance office for the period involved therein.

The Court likewise rejects Mr. Presto's posture that he signed the inaccurate or false daily time records (DTRs) of

petitioner in good faith. As early as January 1986, he had received information about Layug's attendance. It is unthinkable that despite his knowledge of the alleged irregular attendance of petitioner, he did not take extra care to segregate and scrutinize petitioner's DTRs starting in January 1986 so as to give himself (Presto) justification not to sign the same. Likewise, if he were diligent and serious enough about pursuing the subject of his memorandum to the department head, he would not have signed the daily time records without her initials.

We do not agree with respondent court that the signature/approval by the principal of petitioner's DTRs is completely irrelevant and immaterial. Without the said signature of the principal, petitioner could not have collected or received his salaries for the corresponding months. If petitioner did not receive his salaries, no damage and prejudice could have been caused the government.

For evidence to be believed, it is basic that it must not only proceed from the mouth of a credible witness; it must be credible in itself such as the common experience and observation of mankind can approve as probable under the circumstances.[7]

Respondent court found the evidence for the defense not convincing as it was not corroborated by other witnesses. Although the evidence for the defense is weak, criminal conviction must come from the strength of the prosecution's evidence and not from the weakness of the defense.[8]

After a thorough review of the evidence and the records, it is the Court's conclusion that the prosecution failed to prove the guilt of petitioner beyond reasonable doubt. The evidence presented by the prosecution is not sufficiently reliable and convincing so as to overcome the constitutional presumption of innocence in favor of the accused. The crime charged has not been proved beyond reasonable doubt or with moral certainty. Hence, petitioner must be acquitted.

WHEREFORE, in view of all the foregoing, the judgment of the Sandiganbayan convicting the petitioner herein is REVERSED and SET ASIDE. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., Bellosillo, and Kapunan, JJ., concur.
Quiason, J., on official leave.

[1] First Division, Justice Minita V. Chico-Nazario ponente, Presiding Justice Francis E. Garchitorena and Justice Jose R. Balajadia, concurring.

[2] Rollo, pp. 68-69.

[3] Report of Attendance of petitioner Ponciano Layug at the Guidance Office for the months of January, February, March and April 1986, signed by the Department Head and other counselors.

[4] Rollo, pp. 19-23.

[5] Rollo, pp. 23-24.

[6] *People vs. Peruelo*, 105 SCRA 226, 235.

[7] *People vs. Eslaban*, 218 SCRA 534; *People vs. Peruelo*, 105 SCRA 226.

[8] *People vs. Magallanes*, 147 SCRA 92.

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