

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. WAYNE SHOUP,
LAO YONG AND KIONG MAN, DEFENDANTS. LAO YONG,
DEFENDANT-APPELLANT.**

G.R. No. 11416. October 14, 1916

Ponente: JOHNSON, J.

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JOHNSON, J.:

These defendants were charged with a violation of section 4 of Act No. 2381 of the Philippine Legislature. The complaint alleged:

"That on or about the 12th day of June, 1915, in the city of Manila, Philippine Islands, the said accused, conspiring and confederating together and helping one another, did then and there willfully, unlawfully and feloniously import and bring and assist one another in importing and bringing into the city of Manila, Philippine Islands, a prohibited drug, to wit: 5 kilos and 500 grams of prepared opium, of the value of P5,000. Contrary to law."

On the 16th of June, 1915, the said defendant, Wayne Shoup, was duly arraigned and pleaded guilty. Upon hearing the plea of guilty of said defendant, the Honorable Richard Campbell, judge, imposed upon him the penalty of two years of imprisonment and a fine of P300, to suffer subsidiary imprisonment in case of insolvency, and to pay one-third part of the costs.

Later, upon the 9th of August, 1915, the defendants Lao Yong and Kiong Man were duly arraigned and pleaded not guilty. The cause then proceeded to trial.

After hearing the evidence adduced during the trial of the cause the Honorable Richard Campbell, judge, found that the evidence was not sufficient to show that the defendant, Kiong Man (Liong Ming) was guilty of the crime charged, dismissed the complaint against him and discharged him from the custody of the law, with one-third part of the costs de officio.

On the same day the Honorable Richard Campbell found that the evidence was sufficient to show that Lao Yong was guilty of the crime described in the complaint, and sentenced him to be imprisoned for a period of two years and to pay a fine of P300, in case of insolvency to suffer subsidiary imprisonment and to pay one-third part of the costs. The court further ordered the confiscation of the opium found in the possession of the defendant.

From that sentence the defendant Lao Yong appealed to this court and made the following assignments of error:

"First, the court erred in admitting Exhibit C (including C-1, C-2, C-3); second, the court erred in convicting the defendant upon the uncorroborated evidence of a confessed coconspirator; third, the court erred in convicting the defendant upon a complaint which was defective in this that it did not allege importation from any foreign port or place into the Philippine Islands, and hence did not state any cause of action; fourth, the court erred in convicting the defendant without evidence that the opium in question had been in any foreign port or place; fifth, the court erred in holding that Act No. 2381, in so far as it attempts to regulate foreign commerce, is a valid act of legislation; sixth, the court erred in convicting the defendant."

With reference to the first assignment of error the record shows that there was no Exhibit C presented during the trial of the cause. The appellant, as well as the appellee, have fallen into an error with reference to Exhibit C. An examination of the record has been made in vain to find any Exhibit C united with the record. There is found united with the record a yellow slip of paper, without any mark indicating that it was presented as an exhibit, and three business cards marked C-1, C-2, and C-3. There is nothing in the record to show that Exhibits C-1, C-2, and C-3 were presented as evidence. The record does not show how said exhibits got into the record. The said yellow slip of paper contains the following: "New York Restaurant, 142 Gardenia St., Sampaloc, Manila, P. I." with some Chinese characters on the left hand lower corner, and is evidently the Exhibit B to which reference is made in the record and which was presented as Exhibit B. Several of the witnesses refer to said yellow slip of paper and state what it contained, and it is referred to as Exhibit B. Even though it is not marked as Exhibit B, the record shows that said yellow slip of paper is evidently Exhibit B to which the witnesses referred and which was presented as proof. Said Exhibit B was handed to the defendant, Wayne Shoup, by the defendant Lao Yong. At the time he gave to the said Wayne Shoup the said card (Exhibit B) he also delivered to him some opium, for the purpose of taking it ashore and leaving it at the restaurant mentioned on said yellow slip of paper. Said yellow slip of paper was given to the police authorities by Wayne Shoup. Even admitting that Exhibits C-1, C-2, and C-3 had been obtained in the manner indicated by the appellant, we are of the opinion, after an examination of the record, that they in no way constitute any proof of the guilt of the defendant, Lao Yong, of the crime described in the complaint. It is suggested that the defendant Lao Yong was acting in collusion with the owner of the New York Restaurant in the importation of the opium in question, and that the fact that the business card of the owner of the New York Restaurant was found in the possession of the appellant was proof of that fact. The possession by the appellant of the business card of the owner of said restaurant, may or may not be proof that there was a business relation existing between them. Certainly, in the absence of more corroborative proof, the mere possession of said cards could not be accepted as positive proof that such business relation existed. Even admitting, therefore, that said Exhibits C-1, C-2, and C-3 had been forcibly taken from the trunk of the defendant and appellant, they constitute no proof in themselves of the fact that he was attempting to import opium.

In the second assignment of error the appellant alleges that the lower court committed an error in convicting the defendant on uncorroborated evidence as a confessed coconspirator. The books are full of cases holding that the evidence of an accomplice is admissible and sufficient to warrant a conviction, if the court believes his declarations. (U. S. vs. Balisacan, 4 Phil. Rep., 545.) Although the general rule is that one defendant should not be convicted upon the sole evidence of his codefendants, yet, if their testimony is corroborated, to a certain extent by one of the other witnesses, such testimony will be sufficient whereby to warrant a conviction. (U. S. vs. Ocampo, 4 Phil. Rep., 400; U. S. vs. Ocampo, 5 Phil. Rep., 339.) Lack of corroboration of the testimony of a codefendant or accomplice merely affects the credibility of the witness and does not affect his competency or the admissibility of his testimony. If the uncorroborated testimony of an accomplice satisfies the court of the guilt of the accused, beyond a reasonable doubt, it is sufficient. (U. S. vs. Ocampo, 5 Phil. Rep., 339; U. S. vs. Monzones and Capistrano, 8 Phil. Rep., 579; U. S. vs. Dadacay, 6 Phil. Rep., 1.)

In the present case we not only have the declaration of the accomplice Shoup, but the confession of the defendant, in the presence of police officers. There exists sufficient corroboration of the declaration of the alleged accomplice.

With reference to the third assignment of error that the complaint was defective in that it did not allege importation from a foreign port or place into the Philippine Islands, hence did not state any cause of action, it may be said that the complaint alleged that "the said accused, conspiring and confederating together and helping one another, did then and there willfully, unlawfully, and feloniously import and bring into the city of Manila, Philippine Islands, a prohibited drug." In our judgment that allegation of the complaint was sufficient upon which

to base the admission of evidence showing that the defendant brought into the Philippine Islands from a foreign country a prohibited drug. The word "import" implies the bringing into the country from a foreign port, and not the shipment of merchandise from one port to another in the same country.

With reference to the fourth assignment of error, that there was no evidence showing that the opium in question had been in any foreign port or place, it may be said that the evidence shows that the defendant, while the steamship was in the port of Nagasaki, tried to arrange with his codefendant to assist him in bringing into the Philippine Islands, opium. The record also shows that the opium in question was delivered by the defendant to his codefendant Shoup on board the steamship before the same had anchored in Manila harbor. The opium in question was delivered by the defendant to his codefendant on board the steamship within the waters of the Philippine Islands. The ship came from a foreign port. At the time it was discovered the defendant had had no opportunity to receive the opium on board in any port within the Philippine Islands. We are satisfied from the record that the defendant did bring into the Philippine Islands the prohibited drug in question from a foreign country or port.

With reference to the fifth assignment of error, that Act No. 2381 is an attempt to regulate foreign commerce, it may be said that said Act does not attempt in any way to interfere with foreign commerce. And, moreover, the Philippine Legislature was expressly authorized by the Act of Congress of March 3rd, 1905, to adopt legislation upon the importation and sale of opium in the Philippine Islands. Inasmuch, therefore, as the Legislature of the Philippine Islands was expressly authorized to adopt legislation upon this question, we are of the opinion that said Act is legal and is not an attempt to regulate foreign commerce. It was a police measure. Its purpose was to protect the health, comfort and general welfare of the people of the Philippine Islands.

For all of the foregoing, we are of the opinion that the sentence of the lower court should be affirmed, with costs.

So ordered.

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

Moreland, J., concurs in the result.

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