

RICARDO S. SANTOS, JR., PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 167671. September 03, 2008

Ponente: CORONA, J.

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CORONA, J.:

In this petition for review on certiorari under Rule 45 of the Rules of Court, petitioner Ricardo S. Santos, Jr. assails the July 26, 2004 decision[3] and April 7, 2005 resolution[4] of the Court of Appeals (CA).

On October 8, 1969, four separate informations for malversation of public funds thru falsification of public documents were filed in the Court of First Instance[5] of Rizal (CFI), Branch V, Quezon City against petitioner and nine others.[6] These cases were docketed as Criminal Case Nos. Q-9783, Q-9784, Q-9787 and Q-9788.[7] After trial, the CFI found petitioner and his co-accused Pedro Velasco[8] guilty beyond reasonable doubt as principals of the complex crime of malversation thru falsification of public documents under Articles 217 and 171 of the Revised Penal Code (RPC).[9] All of the accused who were convicted appealed the consolidated decision[10] of the CFI to the CA. However, all of them except petitioner died during the pendency of the appeal. In the dispositive portion of its assailed decision, the CA held:

WHEREFORE, the instant appeal is PARTIALLY GRANTED. The assailed decision of the then Court of First Instance of Rizal, Branch V, Quezon City, in Criminal Case[s] Nos. Q-9783, Q-9784, Q-9787 and Q-9788, is hereby MODIFIED, in that the accused-appellant Ricardo S. Santos, Jr. is ACQUITTED in Criminal Case[s] Nos. Q-9783, Q-9784 and Q-9788, but is held guilty beyond reasonable doubt of the crime of FALSIFICATION OF PUBLIC DOCUMENT, as defined and penalized under Article 172, paragraph 1, of the Revised Penal Code, in relation to Article 171, paragraph 2, of the same code xxx[11]

The CA held that petitioner was a principal by inducement,[12] based on the testimony of state witness Henry Cruz[13] that petitioner induced him to sign the travel expense voucher (Exhibit AA-1), subject of Criminal Case No. Q-9787 in exchange for receiving a share of the proceeds of the claim even if he was not entitled thereto.

Petitioner finds it incredulous that the CA believed the testimony of Cruz with respect to "Exhibit AA-1" but not Cruz's testimony with respect to "Exhibits G, H, I, W, X, X1 and X2." [14] Hence, petitioner argues that the CA erred in finding him guilty, as a principal by inducement, of falsification of a public document.

We disagree.

The credibility of a witness is left primarily to the judgment of the trial judge. He is in a vantage position to assess the witness' demeanor, conduct and attitude under grueling examination because he has the direct opportunity to observe the witness on the stand.[15] The factual findings of the appellate court are also given great weight especially if in complete accord with the findings of the lower court.[16] In holding that the evaluation of the testimonies of witnesses must be left to the trial court as the agency in the best position to observe the witnesses' demeanor on the witness stand,[17] the CA merely applied a well-settled rule. We find no reason to rule otherwise.

The CA acquitted petitioner in Criminal Case Nos. Q-9783, Q-9784 and Q-9788 after it found:

[That] the testimonies of both prosecution witnesses, Henry Cruz and Tolentino C. Mendoza [did] not establish with moral certainty the culpability of the accused-appellant for the falsification of the subject travel expense vouchers.[18]

This pronouncement did not state that Cruz lied. The CA merely stated that Cruz's testimony was insufficient or inadequate to sustain petitioner's conviction for falsification in Criminal Case Nos. Q-9783, Q-9784 and Q-9788. In Criminal Case No. Q-9787 however, the CA found Cruz's testimony in relation to "Exhibit AA-1" sufficient to prove that petitioner committed the crime of falsification of public documents under paragraph 1, Article 172 in relation to paragraph 2, Article 171 of the RPC.

Falsification of documents under paragraph 1 of Article 172 refers to falsification by a private individual or a public officer or employee who did not take advantage of his official position, of public, private or commercial documents. Its elements are:

1)

that the offender is a private individual or a public officer or employee who did not take advantage of his official position;

2)

that he committed any of the acts of falsification enumerated in Article 171; and

3)

that the falsification was committed in a public, official or commercial document.[19]

Petitioner was a disbursing officer of the Bureau of Lands.[20] He was a public official. While the CFI did not state in its decision that petitioner took advantage of his position in the government in committing the crime, the CA made a more definite pronouncement to this effect.[21] Petitioner's functions as disbursing officer did not include the duty to make, prepare or otherwise intervene in the preparation of the falsified travel expense voucher. His function was only to pay payees of treasury warrants and other cash vouchers or payrolls.[22] Nonetheless, he took the liberty of intervening in the preparation of the travel expense voucher in question. The first element for the crime under paragraph 1 of Article 172 of the RPC was present.

The second element was likewise there. Petitioner allegedly committed the crime by "causing it to appear that persons participated in an act or a proceeding when they did not in fact so participate." [23] Its requisites are:

1)

that the offender caused it to appear in a document that a person or persons participated in an act or proceedings; and

2)

that such person or persons did not in fact so participate in the act or proceeding.[24]

Both the CFI and the CA found that petitioner asked Cruz to sign the falsified voucher on the promise of a share of the proceeds, even if Cruz was not entitled it.

Petitioner claims that he could not have induced Cruz to falsify the travel expense voucher because he did not have the power of supervision or control over Cruz. We disagree. The power of supervision or control over

another does not preclude inducement. A person may be induced to commit a crime in two ways: (1) by giving a price or offering a reward or promise and (2) by using words of command.[25] In this case, petitioner was found by both the CFI and the CA to have offered Cruz a share of the proceeds in exchange for his act of falsification. That promise was the inducement for the falsification.

Finally, the parties never disputed the finding that the travel voucher was a public document. We see no reason to depart from the findings of the CFI and CA.

WHEREFORE, the petition is hereby DENIED. The July 26, 2004 decision and April 7, 2005 resolution of the Court of Appeals are AFFIRMED.

Costs against petitioner.

SO ORDERED.

Puno, C.J. (Chairperson), Carpio, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] In the CFI decision, he was referred to as Ricardo Santos.

[2] The Court of Appeals was originally impleaded as a respondent but the Court excluded it pursuant to Section 4, Rule 45 of the Rules of Court.

[3] Penned by Associate Justice Perlita J. Tria-Tirona and concurred by Associate Justices Ruben T. Reyes (now Associate Justice of the Supreme Court) and Jose C. Reyes, Jr. of the Sixth Division of the Court of Appeals. Rollo, pp. 56-75.

[4] Id., p. 88.

[5] Now Regional Trial Court.

[6] The co-accused were: Vedasto Martinez, Delfin Mamboyoc, Isagani Sabiniano, Ramon Alam, Benjamin Nabong, Pedro Velasco, Henry Cruz, Crisanta Santos and Corazon Nepomuceno. The CFI dismissed the case against Benjamin Nabong, Crisanta Santos and Corazon Nepomuceno on a demurrer to evidence. Henry Cruz became a state witness. The CFI acquitted after trial Ramon Alam. Rollo, pp. 13-14, 16.

[7] Q-9783 pertained to the travel expense voucher of Rene Planas. Q-9784 pertained to three travel expense vouchers of Constante Siagan. Q-9787 pertained to two travel expense vouchers of Henry Cruz. Q-9788 pertained to three travel expense vouchers of David dela Pena. Id., pp. 59-60.

[8] Vedasto Martinez, Delfin Mamboyoc and Isagani Sabiniano were found guilty beyond reasonable doubt as principals in the crime of malversation under Article 217 of the Revised Penal Code. Decision of the CFI dated December 11, 1979. Id., p. 53

[9] Id.

[10] Id., pp. 34-54.

[11] Id., p. 74.

[12] "[T]he prosecution was able to prove beyond reasonable doubt the guilt of the accused-appellant, as principal by inducement, of the crime of falsification of public document as defined and penalized under Article 172, paragraph 1, in relation to Article 171, paragraph 2, of the Revised Penal Code, for the falsification of travel expense voucher xxx in Criminal Case No. Q-9787." Id., p. 73.

[13] Henry Cruz was one of the accused in Criminal Case No. Q-9787. In fact, the travel expense voucher allegedly falsified was in his name. He was later on discharged as a state witness.

[14] Treasury warrants which were issued pursuant to travel expense vouchers subjects of Criminal Case Nos. Q-9783, Q-9784 and Q-9788. Rollo, p. 72.

[15] See *People v. Major Comiling*, G.R. No. 140405, 4 March 2004, 424 SCRA 698, 720.

[16] *Lantin v. CA*, G.R. No. 127141, 30 April 2003, 402 SCRA 202, 207.

[17] Rollo, p. 73.

[18] *Id.*, p. 72.

[19] REYES, LUIS B., *THE REVISED PENAL CODE*, Book Two, Fifteenth Edition (2001), Rex Book Store, Inc., p. 219.

[20] Rollo, p. 49.

[21] *Id.*, p. 73.

[22] *Id.*, p. 223.

[23] *REVISED PENAL CODE*, Book Two, Title Four, Art. 171, par. 2.

[24] Reyes, Luis B., *THE REVISED PENAL CODE*, Book Two, Fifteenth Edition (2001), Rex Book Store, Inc., p. 207.

[25] *People v. Yanson-Dumancas*, 378 Phil. 341, 351 (1999).

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