

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JACINTO VICTORIA, DEFENDANT AND APPELLANT.

G.R. No. 3808. October 18, 1907

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

Jacinto Victoria, as the clerk of the firm of Bryan, Landon & Co., made some repairs to an electrical installation at the house of Pedro de la Cruz, for the sum of P30, which was the price agreed between them, Victoria and Cruz, according to the testimony of the latter. Jacinto Victoria stated to the firm that the price agreed upon was P10, and the bill against Pedro de la Cruz was made out for the latter sum. But Pedro de la Cruz finally received a bill for P30 from the firm, which the latter had signed, the "1" having been transformed into a "3" and another handwritten "P." was placed over the sign "P," which was typewritten, and he paid the P30. The firm, however, received but P10 from Victoria, who was the person who presented the bill for collection, 'Subsequently the firm became aware that the bill had been altered and that P30 had been paid for the materials and labor, out of which they only received P10, as already stated above; hence the reason for the filing of the complaint. The alteration discovered was very roughly made on the bill and the same appears on record.

The accused testified that he had no authority from Bryan, Landon & Co. to enter into contracts for an installation without previously consulting the company in respect of the price, which in the present case had been contracted for P10 with Pedro de la Cruz, and that he had presented to the latter a bill for P10, and that P10 was the sum he paid to the company.

The following facts have been proved: (1) The alteration made on the private document in question; (2) the status of the accused, Jacinto Victoria, as clerk of the firm of Bryan, Landon & Co.; (3) the receiving of the P30 by the latter as such clerk and handing over to his principal but P10, the same which he previously and deceitfully said was the price agreed with Pedro de la Cruz; and (4) that the author of the alteration made by substituting the figure "1" by the figure "3" so that "30" appeared in lieu of "10," and thus to profit to the extent of P20, is no other than the accused.

Therefore, the court below did not err in convicting the accused as guilty of the crime of falsification of a private document.

Nor did the court err in considering that the crime of falsification of a private document had been committed, notwithstanding the fact that the appellant alleges that no loss was incurred either by the firm of Bryan, Landon & Co., who received what they expected to receive, or by Pedro de la Cruz, who paid what he had agreed to pay; the crime was committed from the fact that the agent deceitfully and fraudulently collected more money than his employer had authorized him to collect either prior to commencing the work or after it was completed, when the voucher for the amount due was issued, which voucher was altered in order to accomplish his purpose. He who, being merely an employee of a mercantile firm, as in the present case, enters into a contract in the line of business carried on by his employer and for account, and risk of the latter, is not entitled to receive for himself any amount

whatever by reason of his services in connection therewith, as he would otherwise be entitled to do if he worked for his own personal account and risk, and had contracted with a firm like Bryan, Landon & Co. to supply the materials, and with another person, as in the case of Pedro de la Cruz, to do work for him in the installation of an electric plant.

The fact of an agent informing his employer that the price for the installation was P10, and the other interested party that the price was P30, afterwards altering the former's bill in order to collect a larger sum from the latter, in pursuit of his fraudulent purpose involves the characteristics of the crime of estafa, besides that of falsification, which was employed as a means to an end, because by adopting deceitful tactics he obtained a price which he would not have secured by telling the truth.

The accused is therefore guilty of the crime of falsification of a private document with prejudice to a third person, both because of the discredit caused to his employer and for the gain which he unduly obtained from another by means of the document issued by the former, subsequently falsified as to the amount to be paid for the work. No distinction is made in article 304 of the Penal Code between parties prejudiced nor does it stipulate which shall bear the loss.

The complaining witness alleges in his information "that the accused appropriated to himself P20, which were part of the P30 paid him by Pedro de la Cruz, which sum of P30 it was the duty of the accused to deliver to Bryan, Landon & Co. as paid by Pedro de la Cruz for the installation of ten lights made by Bryan, Landon & Co., but the complaining witness himself says at the end thereof, "all to the damage and prejudice of Pedro de la Cruz in the sum of P20."

Owing to the status of the accused, the mitigating circumstances of article 11 can not be taken into consideration.

Consequently, the penalty imposed by article 304 of the Penal Code being applicable, without either aggravating or extenuating circumstance to be considered, we hereby sentence Jacinto Victoria to one year eleven months and twenty-one days of presidio correccional and a fine of 625 pesetas, to the accessories thereof, to make restitution of P20 to Pedro de la Cruz, and to pay the costs in both instances. So ordered.

Torres, Johnson, Willard, and Tracey, JJ., concur.

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