

**ALFONSO C. DACUMOS, PETITIONER, VS. THE HON.
SANDIGANBAYAN AND THE PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

G.R. No. 95000. April 16, 1991

Ponente: CRUZ, J.

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CRUZ, J.:

The Court has carefully considered the arguments of the parties in their respective pleadings and finds no reason for reversing the decision of the Sandiganbayan convicting the petitioner of direct bribery.

As found by the respondent court, the petitioner, a revenue examiner of the Bureau of Internal Revenue stationed at San Pablo City, offered to settle the tax liability of R. Revilla Interiors, in the amount of P73,307.31 by pulling out its assessment papers from the office of the BIR Commissioner and procuring a tax clearance. For such service, he would require a fee of P35,000.00 (later reduced to P30,000.00). Gregorio Samia, the manager of the firm, pretended to go along with him but reported the matter to the National Bureau of Investigation, which arranged an entrapment. This was effected on October 28, 1986, near the Rizal Cafe in Makati. Samia, meeting with the petitioner there, told him he had only P1,000.00 then but would deliver P9,000.00 to him that same evening at his residence and pay the balance of P20,000.00 in November. The petitioner wrote his address on the back of a receipt, which he gave Samia. Samia tendered the white envelope containing P1,000.00 previously dusted with fluorescent powder, but the petitioner accepted it only when they had left the eatery and he was nearing his car outside. He put the envelope in his pocket. The NBI agents closed in, identified themselves, and placed him under arrest. The petitioner's reaction was to draw out the envelope and throw it on the ground. One of the agents retrieved it. At the NBI headquarters, the petitioner's hands were found positive for fluorescent powder, as so were the envelope itself and the bills inside.

The petitioner claims the charges against him were fabricated. He argues *inter alia* that he could not have promised to remove the assessment papers from the Commissioner's office as he had no access to that place; that at the time of his supposed offer the tax liability of the firm had not yet been ascertained and that in any case the percentage tax imposed on it was mandatory and not subject to adjustment. He stresses that as a tax examiner with 29 years service he would not have been "so crude and so rash" as to demand money from Samia whom he barely knew. He said he had met Samia at the Rizal Cafe only because the latter was "irritatingly insistent" on securing his help regarding the firm's tax amnesty. It was Samia who had urged the envelope on him but he had rejected it twice, first when they were at the restaurant and later when they were outside. He also faults the respondent court for misappreciating the evidence and for obvious bias in favor of the prosecution.

The issues he raises are mainly factual. The petitioner has not shown that the findings thereon of the respondent court are tainted with arbitrariness or are not supported by substantial evidence. His charge that he was "framed" because Samia resented his refusal to be bribed is not convincing. It is belied by his proven acts. The implausibility of his promises does not mean they were not made or that they did not appear to be credible,

coming as they did from one with his long experience in the BIR and appeared to know his way around. The Court finds it especially remarkable that he met Samia at a private place instead of his office at the BIR, considering that they were supposed to be discussing official business and it was Samia who he says was requesting his assistance.

It was within the discretion of the respondent court to weigh the evidence of the parties and to admit such of it as it regarded as credible and reject those that it considered perjurious or fabricated. Every trial court must have that leeway. If the Sandiganbayan chose to believe Samia and not the petitioner or Exhibit F-1, the NBI report, rather than Exhibit 5, the petitioner's alleged assessment report, this would not necessarily prove that its decision was biased and arbitrary.

The Court is not inclined to believe that Samia would be so vindictive as to falsely incriminate the petitioner with the serious charge of bribery simply because the petitioner refused to reduce the tax assessment of R. Revilla Interiors. Samia was not even directly involved in that assessment. As for Exhibit 5, the respondent court cannot be faulted for not accepting it in the absence of corroboration that the petitioner actually filed it only on October 17, 1986 (to show that he could not have offered to reduce the assessment of the taxpayer company earlier in September, as alleged). On the other hand, the technical report on the test conducted by the NBI for fluorescent powder on the petitioner's hands invited easy acceptance.

While protesting his innocence, the petitioner has failed to rebut the evidence of the prosecution that has sufficiently established his guilt and shifted the burden of proof to him. He has not discharged that burden by just contending that the decision is based on "speculations, conjectures and assumptions" and that the conclusions drawn therefrom are "mistaken, absurd and fallacious." The thrust of his defense is that the respondent court should have believed him instead of the People, but he has not convinced us that the trial court has erred. In short, he has failed to prove, in this petition for certiorari where only questions of law may be raised, that he is entitled to a reversal of his conviction.

The petitioner seems to be suggesting in the conclusion to his petition that judgment was rendered against him because he happens to be a tax collector, whom he says "history, even from Biblical times, depicts ... as the most unpopular and vilified adjunct of any society." The plea does not persuade. It suffices to observe that he was convicted not because he is a tax collector but because he accepted a bribe.

We find, on the basis of the evidence of record, that the constitutional presumption of innocence has been overcome and that the guilt of the petitioner has been established beyond reasonable doubt. ACCORDINGLY, the assailed decision is AFFIRMED and the petition DENIED, with costs against the petitioner.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

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