

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JULIAN ESCAÑO Y DEEN, VIRGILIO USANA Y TOME, AND JERRY LOPEZ CASABAAN, ACCUSED.

G.R. Nos. 129756-58. January 19, 2001

Ponente: DAVIDE JR., C.J.

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DAVIDE JR., C.J.:

For the Court's consideration is a Manifestation and Motion of accused Julian Deen Escaño, praying that the Court's Decision of 28 January 2000[1] acquitting accused-appellants Virgilio T. Usana and Jerry C. Lopez in Criminal Case No. 95-936 be applied to him as co-accused, on the strength of Section 11(a), Rule 122 of the New Rules on Criminal Procedure. He then prays that an order be issued by the Court acquitting him and directing his immediate release from confinement at the New Bilibid Prison.

Escaño, together with accused-appellants Usana and Lopez, was charged before the Regional Trial Court of Makati City, Branch 64, with violation of Section 4, Article II of Republic Act No. 6425, as amended, in Criminal Case No. 95-936. Escaño and Usana were also charged with violation of Presidential Decree No. 1866 in Criminal Cases Nos. 95-937 and 95-938, respectively. The case were consolidated and jointly tried.

In its decision of 30 May 1997, the trial court convicted all three in Criminal Case No. 95-936, Escaño in Criminal Case No. 95-937, and Usana in Criminal Case No. 95-938. Escaño filed a Notice of Appeal but he withdrew the same by motion, which was granted by the trial court in its Order of 17 July 1997.

In filing the instant motion, Escaño relies on a single ground, that is, that the 28 January 2000 Decision of this Court on the appeal interposed by his co-accused is applicable and favorable to him and entitles him to an acquittal pursuant to Section 11(a), Rule 122 of the New Rules on Criminal Procedure. The pertinent provision states as follows:

Section 11. Effect of appeal by any of several accused. -

(a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.[2]

Escaño argues that the Decision of this Court is applicable and favorable to him in that "the factual findings therein equally support the conclusion that not all the elements of the offense charged have been prove[d] and that no criminal liability can, thus, be imputed to [him]."[3]

After evaluating the issue and arguments raised by Escaño, the Office of the Solicitor General manifested no objection to his Manifestation and Motion and recommended that the same be given due course.

We find merit in the instant Manifestation and Motion. Consistent with our ruling in a number of cases,[4] the acquittal of Usana and Lopez based on reasonable doubt should benefit movant Escaño notwithstanding the fact that he withdrew his appeal.

In view of the foregoing, the instant Manifestation and Motion is hereby GRANTED. The decision of 30 May 1997 of the Regional Trial Court, Makati, Branch 64, insofar as Criminal Case No. 95-936 is concerned with regard to accused Julian Deen Escaño, holding him guilty of violation of Section 4, Article II of R.A. No. 6425, as amended, is hereby REVERSED and SET ASIDE; and another is hereby rendered ACQUITTING him on ground of reasonable doubt and ORDERING his immediate release from confinement at the New Bilibid Prison unless his further detention is justified for any lawful ground. The Director of the Bureau of Corrections is hereby directed to report to the Court the release of said accused within five (5) days from notice of this resolution.

SO ORDERED.

Puno, Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

[1] Rollo, 305-318.

[2] The wording of this provision was retained under the Revised Rules of Criminal Procedure, which took effect on 1 December 2000.

[3] Rollo, 340.

[4] *People v. Tujon*, 215 SCRA 559 [1992]; *People v. Perez*, 263 SCRA 206 [1996], citing *People v. Fernandez*, 186 SCRA 830 [1990]; *People v. Ferras*, 289 SCRA 94 [1998]; *People v. Fronda*, G.R. No. 130602, 15 March 2000.

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