

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. JOSEPH L. WILSON AND ALFREDO DOLORES, DEFENDANTS AND APPELLANTS.

G.R. Nos. 30012-30015. March 09, 1929

Ponente: OSTRAND, J.

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OSTRAND, J.:

The defendant Alfredo Dolores was accused with Joseph L. Wilson in criminal cases Nos. 35408 (G. R. No. 30012), 35426 (G. R. No. 30013), and 35447 (G. R. No. 30014) of the crimes of falsification of a telegraphic dispatch, estafa through falsification of a mercantile document, and falsification of a mercantile document, respectively. In the information filed in criminal case No. 35408, it is alleged that "on or about the 26th day of September, 1927, in the City of Manila, Philippine Islands, the said accused being then employees of the San Carlos Milling Company, a business firm doing business in this city, conspiring and confederating together, did then and there willfully, unlawfully, feloniously, with grave abuse of confidence and with intent of gain, falsify a cable or telegraphic dispatch, to wit: a cablegram in the following manner: the said accused, taking advantage of their positions as employees of the aforesaid San Carlos Milling Company of which Alfred D. Cooper was then the manager, prepared and caused to be prepared on the front page of a cablegram form used by the Commercial Pacific Cable Co., of said city, the following code cablegram:

" 'SCARLOSCO HONOLULU "

"WYSUXMOOJL."

which, deciphered, reads as follows:

" 'Scarlosco—San Carlos Milling Co., Ltd.

" 'Honolulu—Honolulu Wysux—Deposit Irving Bank—Columbia Trust Co., New York for account China Banking Corporation, Manila, account San Carlos Milling Co., Ltd., \$—————; instruct Irving Bank-ColumBia Trust Co., advise Manila of deposit by cable. " 'MOOJL—100,000'

and wrote on the back thereof in typewriter at the space provided for the name and address of the sender the following :

"'ALFRED D. COOPER"

'By (Sgd.) ALFREDO DOLORES

" '227 David, Manila'

thereby causing it to appear that the above-mentioned cablegraphic message was prepared and sent by and under the authority and with the knowledge and consent of Alfred D. Cooper, then manager of the San Carlos Milling Company wherein the said accused were then employed, when in truth and in fact, as the said accused very well knew, the said Alfred D. Cooper never authorized, nor had any knowledge of, nor gave his permission to the preparation and sending of the said cablegraphic message; that the said accused, once having forged and falsified

the above-mentioned cablegraphic message in the manner above described, presented the same to the office of the Commercial Pacific Cable Company for due transmission."

The information filed in criminal case No. 35426 charges that "on or about September 29, 1927, in the City of Manila, Philippine Islands, the above named defendants, who were then employees or clerks of a mercantile concern known as 'San Carlos Milling Co., Ltd.' duly organized in this locality, with grave abuse of confidence and with the intention to defraud and prejudice said institution and the local banking institution known as 'Bank of the Philippine Islands,' acting upon a common agreement, and cooperating with each other and conspiring together, falsified a mercantile document, to wit, a check against the Bank of the Philippine Islands for the sum of two hundred thousand pesos, by forging and simulating at the bottom and in the indorsement of said check the signatures of Newland Baldwin, Manager of the San Carlos Milling Co., Inc., and falsely causing it to appear that said Newland Baldwin intervened in said check, when in fact said Newland Baldwin never had such intervention, so that the aforesaid check, once falsified, reads as follows:

" 'No A-352046

" 'THE BANK OF THE PHILIPPINE ISLANDS " 'OFFICIAL DEPOSITORY OF THE PHILIPPINE GOVERNMENT

" 'MANILA, P. I., September 29, 1927

"Pay to San Carlos Milling Co., Ltd., or order Pesos Two Hundred Thousand & 00/100 only (P200,000), Philippine currency.

""SAN CARLOS MILLING CO., LTD.

" 'BY NEWLAND BALDWIN

" 'For Agent'

that once said check was falsified, prepared, and drawn as above stated, the said accused, continuing the collusion and conspiracy plotted by them, presented it for payment to the Bank of the Philippine Islands, falsely and fraudulently stating and representing to said Bank and its officers that the check was authentic and duly signed by Newland Baldwin, manager of said company, San Carlos Milling Co., Ltd., in the ordinary course of its business, the accused herein having succeeded, through said falsification and deceitful representations, in collecting the amount of the check aforesaid in the Bank of the Philippine Islands, to wit, two hundred thousand pesos (P200,000), which said defendants misappropriated and converted to their personal use and benefit, to the damage and prejudice of said institutions, to wit, the San Carlos Milling Co., Ltd., and the Bank of the Philippine Islands, in the aforesaid sum of two hundred thousand pesos (P200,000), Philippine currency, equivalent to 1,000,000 pesetas."

The information filed in criminal case No. 35447 reads as follows:

"That on or about September 28, 1927, in the City of Manila, Philippine Islands, the above named defendants, who were then employees or clerks of a mercantile concern known as San Carlos Milling Co., Ltd., of this locality, with grave abuse of confidence and with the intention to prejudice said institution, acting upon a common agreement and cooperating with each other and conspiring together, did willfully, unlawfully, and criminally falsify, in a mercantile document, to wit, the 'Manager's Check' No. 17444 of the China Banking Corporation, of September 28, 1927, issued in favor of the San Carlos Milling Co., Ltd., for the sum of two hundred thousand and one pesos (P200,001), the signature of one Newland Baldwin, manager of said San Carlos Milling Co., Ltd., by forging, simulating, and imitating it in the indorsement on the back of said document, and falsely causing it to appear in said indorsement that Newland Baldwin intervened therein, when in fact said Newland Baldwin never had such intervention so that, once falsified, said indorsement reads as

follows:

" 'For deposit only with Bank of the Philippine Islands, to credit of account of San Carlos Milling Co., Ltd.,

" 'BY NEWLAND BALDWIN "

For Agent"

Upon being arraigned on the above-quoted informations, the defendant Alfredo Dolores pleaded not guilty and, upon motion by the prosecution, and with the conformity of the attorneys for the defense, a joint trial of the above-mentioned cases with respect to the defendant Alfredo Dolores was had.

The trial court found the defendant Alfredo A. Dolores guilty as principal, by direct participation and in conspiracy with Joseph L. Wilson, of the crimes alleged in the informations filed in criminal cases Nos. 35408, 35426 and 35447, and sentenced him in criminal case No. 35408, for the crime of falsification of a telegraphic dispatch with the presence of the aggravating circumstance of abuse of confidence, to four years, nine months and eleven days of prision correccional, to the corresponding accessory penalties, and to pay one-half of the costs of the proceedings; in criminal case No. 35426, for the crime of estafa through falsification of a mercantile document, to eight years of presidio mayor, to the corresponding accessory penalties, and to pay one-half of the costs of the proceedings; and in criminal case No. 35447, for the crime of falsification of a mercantile document, with the presence of the aggravating circumstance of abuse of confidence, to four years, nine months, and eleven days of prision correccional, to pay a fine of 12,500 pesetas, with subsidiary imprisonment in case of insolvency, to the corresponding accessory penalties, and to pay one-half of the costs of the proceedings. From these judgments the defendant Dolores appealed.

The evidence fully sustains the findings of the court below and leaves no doubt whatever as to the appellant's guilt, but his counsel insists that the court erred (1) in holding that "in preparing and in sending the false cablegram, Exhibit A (case No. 35408), as well as in preparing and in negotiating the check no less false, Exhibit C (case No. 35426) and in later collecting its value, and in likewise preparing the false commercial documents, Exhibits A and B, of the criminal case No. 35447, it was the idea of the said accused to benefit himself and damage another," and (2) in holding that the defendant Alfredo Dolores wanted to defraud and damage or, more correctly, defrauded and damaged the San Carlos Milling Co., Ltd., and the Bank of the Philippine Islands.

Under the first assignment of error, counsel argues that the defendant Dolores did nothing but carry out the orders of his superior, Joseph L. Wilson, and that he, consequently, is exempt from criminal responsibility. This argument is entirely groundless. In order to work exemption from criminal responsibility for obeying the orders of a superior, it must be shown that both the person who gives the order and the person who executes it are acting within the limitations prescribed by law. That is not the case here. In his brief, the Attorney-General well and truly says:

"The evidence of record clearly shows that the defendant Alfredo Dolores took direct part in, and cooperated with his codefendant Joseph L. Wilson by means of acts prior to, and simultaneous with, the perpetration of the crimes in question. He cooperated in the drafting of the checks and other documents for the falsification of which he is now prosecuted, and he was the one who cashed said check and withdrew the money from the bank. He furthermore received from Joseph L. Wilson the sum of P10,000 as his share in the embezzled amount. It cannot be maintained, therefore, that Alfredo Dolores merely obeyed his superiors, and that he was not informed of the fact that his co-defendant, Joseph L. Wilson intended to embezzle said money.

"Moreover, the behavior of the defendant Alfredo Dolores subsequent to the commission of the crimes in question clearly shows his guilt. It is proven that after the withdrawal of the amount of P200,000 from the Bank of the Philippine Islands, he was seen in secret conversation with Joseph L. Wilson in Calle Herran, Paco; that from that

day he had been hiding from the authorities; that he had registered at the Plaza Hotel under the name of Jose Gil; that he went to Sorsogon and Albay, where he represented himself as Patricio Lopez; that in Albay he attempted to board a foreign vessel, but did not succeed in this attempt. The flight of a person after the commission of an offense, while it does not constitute a presumption of guilt, is nevertheless a circumstance indicative of his guilt (U. S. vs. Sarikala, 37 Phil., 486; U. S. vs. Virrey, 37 Phil., 618)."

The second assignment of error evidently relates to case G. R. No. 30013 (estafa through falsification of a mercantile document) and requires no refutation. The conspirators carried away P200,000, and, of course, someone suffered the loss. Whether the loss fell on the San Carlos Milling Co., Ltd., or on the Bank of the Philippine Islands is immaterial ; it is sufficient that it was sustained by a person or persons, other than the perpetrators of the crime. It is to be observed that the trial court, at the request of the interested parties, made no pronouncement as to the indemnity and that, therefore, the civil responsibility is not involved in the cases before us.

The judgments appealed from are affirmed with the costs against the appellant. So ordered.

Johnson, Street, Malcolm, Villamor, Johns, Romualdez, and Villa-Real, JJ., concur.

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