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EN BANC

[G.R. Nos. 57333-37. September 16, 1986]

CECILIA C. BARRETTO and ROBERT SORIANO, *petitioners, vs.* **HONORABLE SANDIGANBAYAN, FIRST DIVISION,** *respondent.*

SYLLABUS

1. **REMEDIAL LAW; CRIMINAL PROCEDURE; DISCHARGE OF ACCUSED AS STATE WITNESS; TESTIMONY MAY BE SUBSTANTIALLY CORROBORATED BY OTHER EVIDENCE IN ALL ITS MATERIAL POINTS.**— Section 9 (c), Rule 119 of the Rules of Court requires, as one of the essential conditions for the discharge of an accused in order to be utilized as state witness, that his testimony can be substantially corroborated in its material points. The testimony of Magadia failed to meet this condition, and yet, the respondent court believed her and utilized her testimony to convict the petitioners. We have repeatedly cautioned trial courts in receiving and evaluating the testimony of a discharged accused to subject such testimony to close scrutiny. In *People vs. Tabayoyong,* we held that the testimony of a self-confessed accomplice or co-conspirator imputing the blame to or implicating his co-accused cannot, by itself and without corroboration, be considered as proof to a moral certainty that the latter committed or participated in the commission of the crime; thus, it is required that the testimony be substantially corroborated by other evidence in all its material points.

2. **ID.; EVIDENCE; FINDINGS OF FACT OF THE TRIAL COURT GENERALLY ACCORDED GREAT RESPECT; DOCTRINE NOT APPLICABLE IN CASE AT BAR.**— As a rule, the findings of fact of the trial court are generally accorded great respect, and will not be disturbed by the appellate court. However, in the case at bar, we are convinced that the trial court overlooked material facts and circumstances in the appreciation of the evidence which, properly considered, would affect the result of the case. Judging from the acts done by Esperanza Magadia, she appears to be the most guilty. As such, she has the strongest motive to point to petitioners as the guilty

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parties, in exchange for her discharge and eventual acquittal. On the other hand, it is hard to believe that petitioner Barretto, as head of the Project Compassion Office, would jeopardize her position for the paltry amounts involved, totalling only P520.00.

3. **ID.; CRIMINAL PROCEDURE; JUDGMENT; CONVICTION CANNOT BE BASED FROM TESTIMONY OF A POLLUTED SOURCE; CASE AT BAR.**— With the testimony of Magadia, the petitioners would certainly have been acquitted as there would have been no evidence to link them to the commission of the offense. The judgment of conviction was based on the sole testimony of the accused-turned-state witness, Esperanza Magadia. Such testimony, coming from a polluted source, cannot be the basis of a judgment of conviction, without being corroborated in its material points by other evidence.

D E C I S I O N

YAP, *C.J.*:

Cecilia Barretto, Esperanza Magadia and Robert Soriano were charged in five separate informations before the Sandiganbayan with the crime of Estafa Through Falsification of Public Documents. The five cases, docketed as Criminal Cases Nos. 1812, 1813, 1814, 1815 and 1816, involved the amounts of P130.00, P100.00, P90.00, P100.00 and P100.00, respectively, or a total of P520.00.

Except as to the particulars regarding the dates of the commission of the offenses and the amounts involved, the informations uniformly alleged that Cecilia C. Barretto, Chief of the Project Compassion Office in the Province of Batangas, and Esperanza Casapao-Magadia and Robert Soriano, both casual employees in said office, taking advantage of their public positions, and in conspiracy with one another, committed the crime as follows, to wit:

"x x x the accused Esperanza Casapao-Magadia upon the direction of accused Cecilia C. Barretto prepared and accomplished the form of a document captioned as Time Book and Payroll of the Project Compassion's Office, for the period covering x x x by making it

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appear thereon that one Leticia Austria y Serrano, a separated casual employee of the said Project Compassion's Office, rendered actual services and worked for the said period and the corresponding wages therefor was x x x Philippine Currency, the said accused after preparing the aforesaid Time Book and Payroll upon order of accused Cecilia C. Barretto, knowingly wilfully, unlawfully and feloniously, without authority from the said Leticia Austria y Serrano, falsified, affixed and signed the signature of the latter, and accused Cecilia C. Barretto, as Chief of the Project Compassion's Office, knowing fully well that the said Time Book and Payroll concerning Leticia Austria y Serrano, a casual employee separated by her is falsified, nonetheless signed and affixed her signature thereto, and thereafter that the two accused, together with her co-accused Robert Soriano y Soriano, who knowing fully well that the signature above the name of Leticia Austria is falsified and does not belong to Leticia, acted and signed as a witness to the authenticity of the said signature, and all the accused in the pursuit of their criminal design to defraud the national government conspiring and confederating together, acting in common accord and mutually helping one another, through Robert Soriano y Soriano, by virtue of and with the use of said falsified Time Book and Payroll which was presented by accused Robert Soriano y Soriano, to the Office of the Provincial Treasurer of Batangas, the entity then in custody of the funds, the amounts of . . ., Philippine Currency, was released to the said Robert Soriano y Soriano, purportedly as wages for the services of the said Leticia Austria y Serrano, as casual employee of the Project Compassion's Office, when in truth and in fact she was already separated from said office, and as such she did not work nor render services for the period covered by Time Book and Payroll, nor did she sign her name in said Time Book and Payroll, and thereafter, the said Robert Soriano y Soriano delivered the said amount to accused Cecilia C. Barretto who misapplied and converted the aforesaid amount to her personal use and benefit, thereby prejudicing and damaging the national government in the amount of . . ., Philippine Currency, which offense was committed in relation to their office."

The cases were tried jointly by agreement of the parties. After the presentation of two witnesses, the complainant and the paymaster, the prosecution asked for postponement. The prosecution then filed a motion to discharge accused Esperanza Magadia to be utilized as state witness. This motion was granted by the respondent court over petitioners' objections. Trial was thereafter resumed, and the prosecution, after presenting

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Esperanza Magadia as state witness, closed its case. The petitioners then took the witness stand, after which the defense rested its case.

On June 11, 1981, the respondent court promulgated its decision convicting petitioners of the crime charged in the five informations filed against them, sentencing Cecilia Barretto to suffer the indeterminate penalty of FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) DAY of *prision correccional*, as minimum, to TEN (10) YEARS and ONE (1) DAY of *prision mayor*, as maximum, and to pay a fine of P3,500.00, for each of the aforementioned five (5) cases, and to pay the costs; sentencing Robert Soriano to suffer the indeterminate penalty of ONE (1) YEAR, EIGHT (8) MONTHS and ONE (1) DAY of *prision correccional*, as minimum, to FOUR (4) YEARS, NINE (9) MONTHS and ELEVEN (11) DAYS of *prision mayor*, as maximum, and to pay a fine of P3,500.00, for each of the aforementioned five (5) cases, and to pay the costs; and ordering accused Cecilia Barretto and Robert Soriano, jointly and severally, to pay the Provincial Government of Batangas the total sum of P520.00, representing the amount of which the latter was defrauded in these cases.

The decision is now before this Court for review on appeal by *certiorari*.

In a resolution promulgated on November 20, 1984, we affirmed the judgment of conviction, but modified the penalty meted out to petitioners to a total "not to exceed three-fold the length of time corresponding to the most severe of the penalties imposed on each of them."

The petitioners filed a motion for reconsideration, to which no objection was interposed by the Solicitor General. We granted the motion, reconsidered our resolution of November 20, 1984, and gave due course to the petition.

Upon review of the evidence, we find that in arriving at its judgment convicting Barretto and Soriano, the respondent court relied on the uncorroborated testimony of the accused-turned-state witness, Esperanza Magadia. Section 9(c), Rule 119 of

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the Rules of Court requires, as one of the essential conditions for the discharge of an accused in order to be utilized as state witness, that his testimony can be substantially corroborated in its material points. The testimony of Magadia failed to meet this condition, and yet, the respondent court believed her and utilized her testimony to convict the petitioners.

We have repeatedly cautioned trial courts in receiving and evaluating the testimony of a discharged accused to subject such testimony to close scrutiny. In *People vs. Tabayoyong,*[1] we held that the testimony of a self-confessed accomplice or co-conspirator imputing the blame to or implicating his co-accused cannot, by itself and without corroboration, be considered as proof to a moral certainty that the latter committed or participated in the commission of the crime; thus, it is required that the testimony be substantially corroborated by other evidence in all its material points.

In the case at bar, the accused-turned-state witness Magadia admitted having falsified the payroll, but tried to exculpate herself by shifting the responsibility to her co-accused. She claimed that she merely acted upon the orders of Barretto who was her superior and whom she could not refuse for fear that she would not renew her appointment. Magadia's testimony on this point is not corroborated by any evidence. Not only that, there is evidence in the records of this case showing that Barretto did not have the appointing power.

Magadia likewise made it appear that Soriano received the salary pertaining to Austria and delivered the same to Barretto. This statement not only stands uncorroborated, but is pure speculation on the part of Magadia. It is merely based on her observation that Austria used to go inside the office of Barretto.

In giving credence to the testimony of Magadia, the respondent court capitalized on the fact that her testimony at the trial was a mere repetition of her written declaration before the NBI on February 8, 1979, or long before her discharge to become a state witness and therefore "was not tailored to earn her discharge, but given in the interest of truth." What the court failed to note

[1] 104 SCRA 724.

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in its decision was that Magadia gave two statements to the NBI. She gave an earlier statement on January 30, 1979, in which she admitted having falsified the signatures of Austria in the payrolls, but did not implicate Barretto. It is apparent that her later statement was made in an effort to exculpate herself by pointing to her chief, Cecilia Barretto, as the person responsible for the scheme of falsifying the payrolls. The trial court obviously failed to consider this.

As a rule, the findings of fact of the trial court are generally accorded great respect, and will not be disturbed by the appellate court. However, in the case at bar, we are convinced that the trial court overlooked material facts and circumstances in the appreciation of the evidence which, properly considered, would affect the result of the case.

Judging from the acts done by Esperanza Magadia, she appears to be the most guilty. As such, she has the strongest motive to point to petitioners as the guilty parties, in exchange for her discharge and eventual acquittal. On the other hand, it is hard to believe that petitioner Barretto, as head of the Project Compassion Office, would jeopardize her position for the paltry amounts involved, totalling only P520.00.

Without the testimony of Magadia, the petitioners would certainly have been acquitted as there would have been no evidence to link them to the commission of the offense. The judgment of conviction was based on the sole testimony of the accused-turned-state witness, Esperanza Magadia. Such testimony, coming from a polluted source, cannot be the basis of a judgment of conviction, without being corroborated in its material points by other evidence.

WHEREFORE, the decision of the respondent court in Criminal Cases Nos. 1812 to 1816 is REVERSED and set aside. Petitioners are hereby ACQUITTED, and declared without liability of whatever nature arising from the incidents of this case.

SO ORDERED.

Teehankee, C.J., Feria, Fernan, Narvasa, Melencio-Herrera, Alampay, Gutierrez, Jr., Cruz, Paras, and *Feliciano, JJ.,* concur.