752 PHIL. 424

FIRST DIVISION

[G.R. No. 171672, February 02, 2015]

MARIETA DE CASTRO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

BERSAMIN, J.:

The court should prescribe the correct penalties in complex crimes in strict observance of Article 48 of the *Revised Penal Code*. In *estafa* through falsification of commercial documents, the court should impose the penalty for the graver offense in the maximum period. Otherwise, the penalty prescribed is invalid, and will not attain finality.

Antecedents

The petitioner, a bank teller of the BPI Family Savings Bank (BPI Family) at its branch in Malibay, Pasay City, appeals the affirmance of her conviction for four counts of *estafa* through falsification of a commercial document committed on separate occasions in October and November 1993 by forging the signatures of bank depositors Amparo Matuguina and Milagrosa Cornejo in withdrawal slips, thereby enabling herself to withdraw a total of P65,000.00 and P2,000.00 from the respective savings accounts of Matuguina and Cornejo.

The antecedent facts were summarized in the assailed decision of the Court of Appeals (CA),[1] as follows:

> As culled from the evidence, Matuguina and Cornejo left their savings account passbooks with the accused within the space of a week in October – November 1993 when they went to the bank's Malibay branch to transact on their accounts. Matuguina, in particular, withdrew the sum of P500 on October 29 and left her passbook with the accused upon the latter's instruction. She had to return two more times before the branch manager Cynthia Zialcita sensed that something wrong was going on. Learning of Matuguina's problem, Zialcita told the accused to return the passbook to her on November 8. On this day, the accused came up with the convenient excuse that she had already returned the passbook. Skeptical, Zialcita reviewed Matuguina's account and found three withdrawal slips dated October 19, 29 and November 4, 1993 containing signatures radically different from the specimen signatures of the depositor and covering a total of P65,000. It was apparent that the accused had intervened in the posting and verification of the slips because her initials were affixed thereto. Zialcita instructed her assistant manager Benjamin Misa to pay a visit to Matuguina, a move that led to

the immediate exposure of the accused. Matuguina was aghast to see the signatures in the slips and denied that the accused returned the passbook to her. When she went back to the bank worried about the unauthorized withdrawals from her account, she met with the accused in the presence of the bank manager. She insisted that the signatures in the slips were not her, forcing the accused to admit that the passbook was still with her and kept in her house.

Zialcita also summoned Juanita Ebora, the teller who posted and released the November 4 withdrawal. When she was asked why she processed the transaction, Ebora readily pointed to the accused as the person who gave to her the slip. Since she saw the accused's initials on it attesting to having verified the signature of the depositor, she presumed that the withdrawal was genuine. She posted and released the money to the accused.

On the same day, November 8, Zialcita instructed Misa to visit another depositor, Milagrosa Cornejo, whom they feared was also victimized by the accused. Their worst expectations were confirmed. According to Cornejo, on November 3, she went to the bank to deposit a check and because there were many people there at the time, she left her passbook with the accused. She returned days later to get it back, but the accused told her that she left it at home. Misa now showed to her a withdrawal slip dated November 4, 1993 in which a signature purporting to be hers appeared. Cornejo denied that it was her signature. As with the slips affecting Matuguina, the initials of the accused were unquestionably affixed to the paper.

Zialcita reported her findings posthaste to her superiors. The accused initially denied the claims against her but when she was asked to write her statement down, she confessed to her guilt. She started crying and locked herself inside the bathroom. She came out only when another superior Fed Cortez arrived to ask her some questions. Since then, she executed three more statements in response to the investigation conducted by the bank's internal auditors. She also gave a list of the depositors' accounts from which she drew cash and which were listed methodically in her diary.

The employment of the accused was ultimately terminated. The bank paid Matuguina P65,000, while Cornejo got her refund directly from the accused. In the course of her testimony on the witness stand, the accused made these further admissions:

(a) She signed the withdrawal slips Exhibits B, C, D and H which contained the fake signatures of Matuguina and Cornejo;

(b) She wrote and signed the confession letter Exhibit K;

(c) She wrote the answers to the questions of the branch cluster head Fred Cortez Exhibit L, and to the auditors' questions in Exhibit M, N and O;

(d) Despite demand, she did not pay the bank.[2]

Judgment of the RTC

On July 13, 1998, the Regional Trial Court in Pasay City (RTC) rendered its judgment,[3] finding the petitioner guilty as charged, and sentencing her to suffer as follows:

> (a) In Criminal Case No. 94-5524, involving the withdrawal of P20,000.00 from the account of Matuguina, the indeterminate sentence of two years, 11 months and 10 days of *prison correccional*, as minimum, to six years, eight months and 20 days of *prision mayor,* as maximum, and to pay BPI Family P20,000.00 and the costs of suit;
> (b) In Criminal Case No. 94-5525, involving the withdrawal of P2,000.00 from Cornejo's account, the indeterminate sentence of three months of *arresto mayor*, as minimum, to one year and eight months of *prision correccional,* as maximum, and to pay BPI Family P2,000.00 and the costs of suit;
> (c) In Criminal Case No. 94-5526, involving the withdrawal of P10,000.00 from the account of Matuguina, the indeterminate sentence of four months and 20 days of *arresto mayor,* as minimum, to two years, 11 months and 10 days of *prision correccional*, as maximum, and to pay BPI Family P10,000.00 and the costs of suit; and
> (d) In Criminal Case No. 94-5527, involving the withdrawal of P35,000 from Matuguina's account, the indeterminate sentence of two years, 11 months and 10 days of *prision correccional,* as minimum, to eight years of *prision mayor,* as maximum, and to pay BPI Family P35,000.00 and the costs of suit.

Decision of the CA

On appeal, the petitioner contended in the CA that: (1) her conviction should be set aside because the evidence presented against her had been obtained in violation of her constitutional right against self-incrimination; (2) her rights to due process and to counsel had been infringed; and (3) the evidence against her should be inadmissible for being obtained by illegal or unconstitutional means rendering the evidence as *the fruit of the poisonous tree*.

On August 18, 2005, the CA promulgated its decision[4] affirming the judgment of the RTC, to wit:

> In summary, we find no grounds to disturb the findings of the lower court, except the provision of the dispositive portion in case 94-5525 requiring the accused to pay BPI Family P2,000. This must be deleted because the accused had already paid the amount to the depositor.

> IN VIEW OF THE FOREGOING, the decision appealed from is AFFIRMED, with the modification that the award of P2,000 to the complainant in case 94-5525 be deleted.
>
> SO ORDERED.

Issues

In this appeal, the petitioner still insists that her conviction was invalid because her constitutional rights against self-incrimination, to due process and to counsel were denied. In behalf of the State, the Office of the Solicitor General counters that she could invoke her rights to remain silent and to counsel only if she had been under custodial investigation, which she was not; and that the acts of her counsel whom she had herself engaged to represent her and whom she had the full authority to replace at any time were binding against her.

Ruling of the Court

The appeal lacks merit.

We first note that the petitioner has accepted the findings of fact about the transactions that gave rise to the accusations in court against her for four counts of *estafa* through falsification of a commercial document. She raised no challenges against such findings of fact here and in the CA, being content with limiting herself to the supposed denial of her rights to due process and to counsel, and to the inadmissibility of the evidence presented against her. In the CA, her main objection focused on the denial of her right against self-incrimination and to counsel, which denial resulted, according to her, in the invalidation of the evidence of her guilt.

Debunking the petitioner's challenges, the CA stressed that the rights against self-incrimination and to counsel guaranteed under the Constitution applied only during the custodial interrogation of a suspect. In her case, she was not subjected to any investigation by the police or other law enforcement agents. Instead, she underwent an administrative investigation as an employee of the BPI Family Savings Bank, the investigation being conducted by her superiors. She was not coerced to give evidence against herself, or to admit to any crime, but she simply broke down bank when depositors Matuguina and Cornejo confronted her about her crimes. We quote with approval the relevant portions of the decision of the CA, *viz*:

> The accused comes to Us on appeal to nullify her conviction on the ground that the evidence presented against her was obtained in violation of her constitutional right against self-incrimination. She also contends that her rights to due process and counsel were infringed. Without referring to its name, she enlists one of the most famous metaphors of constitutional law to demonize and exclude what she believes were evidence obtained against her by illegal or unconstitutional means – evidence constituting *the fruit of the poisonous tree*. We hold, however, that in the particular setting in which she was investigated, the revered constitutional rights of an accused to counsel and against self-

incrimination are not apposite.

The reason is elementary. These cherished rights are peculiarly rights in the context of an official proceeding for the investigation and prosecution for crime. The right against self-incrimination, when applied to a criminal trial, is contained in this terse injunction – *no person shall be compelled to be a witness against himself.* In other words, he may not be required to take the witness stand. He can sit mute throughout the proceedings. His right to counsel is expressed in the same laconic style: he shall enjoy *the right to be heard by himself and counsel*. This means inversely that the criminal prosecution cannot proceed without having a counsel by his side. These are the traditional rights of the accused in a criminal case. They exist and may be invoked when he faces a formal indictment and trial for a criminal offense. But since Miranda vs Arizona 384 US 436, the law has come to recognize that an accused needs the same protections even before he is brought to trial. They arise at the very inception of the criminal process – when a person is taken into custody to answer to a criminal offense. For what a person says or does during custodial investigation will eventually be used as evidence against him at the trial and, more often than not, will be the lynchpin of his eventual conviction. His trial becomes a parody if he cannot enjoy from the start the right against self-incrimination and to counsel. This is the logic behind what we now call as the *Miranda doctrine.*

The US Supreme Court in *Miranda* spells out in precise words the occasion for the exercise of the new right and the protections that it calls for. The occasion is *when an individual is subjected to police interrogation while in custody at the station or otherwise deprived of his freedom in a significant way*. It is when custodial investigation is underway that the certain procedural safeguards takes over – *the person must be warned prior to any questioning that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning.*

We must, therefore, be careful to note what the *Miranda* doctrine does not say. It was never intended to hamper the traditional law-enforcement function to investigate crime involving persons *not under restraint*. The general questioning of citizens in the fact-finding process, as the US Supreme Court recognizes, which is not preceded by any restraint on the freedom of the person investigated, is not affected by the holding, since the compelling atmosphere inherent in in-custody interrogation is not present.

The holding in *Miranda* is explicitly considered the source of a provision in our 1987 bill of rights that *any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel,* a provision identical in language and spirit to the earlier Section 20, Article IV of the 1973 Constitution. People vs. Caguioa 95 SCRA 2. As we can see, they speak of the companion rights of a person under investigation to remain silent and to counsel, to ensure which the fruit of the