



Republic of the Philippines
SANDIGANBAYAN
Quezon City

THIRD DIVISION

LEO OCAMPO GONZALEZ, et al.,
Petitioner,

SB-23-SCA-0001 and
SB-23-SCA-0002

-versus-

For: Violation of Sec. 7(d)
of R. A. 6713

PEOPLE OF THE PHILIPPINES
Respondent.

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Present:

CABOTAJE-TANG, A.M.
P.J./Chairperson
FERNANDEZ, B. R., J &
MORENO, R. B., J.

Promulgated on:

APRIL 3, 2024

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RESOLUTION

FERNANDEZ, B. R., J.

For resolution is the Motion of petitioner Leo Gonzalez dated November 6, 2023, principally seeking a reconsideration of the Decision of this Court promulgated on October 4, 2023.

Initially, let us revisit the dispositive portion of the assailed Decision. It reads - -

WHEREFORE, in view of the foregoing, the Petition for Certiorari filed by petitioner Leo O. Gonzalez dated March 6, 2023 is hereby **DENIED** for lack of merit.

SO ORDERED.

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In his Motion, petitioner Gonzalez insists that there was no solicitation in Crim. Case No. 148,279-F-2013 as he did not solicit the amount of P610,000 from prosecution witness Federico Barco (Barco). Neither was there any solicitation in Crim. Case No.148-280,F-2013, since he neither asked nor requested a 10-hectare slice out of the 130-hectare agriculture land occupied by witness Barco located at Arakan, North Cotabato.

Petitioner Gonzalez questions the findings of fact of this Court including its appreciation of the credibility of sole witness Barco, who, according to petitioner Gonzalez, had been caught lying on the material points of his testimony. He also harps on the acquittal and reinstatement of his co-accused Nelia Monica J. Ramintas (Ramintas), which should also pertain to him.

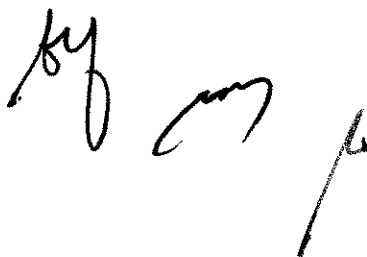
He also contends that the meetings conducted were in compliance with a Mission Order meant to look into Bakbak restaurant while their preliminary surveillance on the Arakan farm of witness Barco was consistent with BIR office practices and policies.

Petitioner Gonzalez further noted that they were able to discover an unreported farm income of witness Barco during their preliminary surveillance of his farm. This was part of the task of data gathering and investigation of the Special Investigation Division (SID), as mandated by BIR Revenue Administrative Order No. 10-2000.

He added that BIR Revenue Memorandum Order No. 54-2000 (Guidelines and Procedures on the Conduct of Surveillance) required the initial gathering of preliminary information before the preparation of the mission order.

When given time (Minutes, November 20, 2023), the prosecution filed its Comment dated December 4, 2023.

The prosecution, in its Comment, maintains that this Court properly gave weight and respect to the testimony of witness Barco, and correctly affirmed the findings of the Regional Trial Court (RTC) on the matter since they were based on findings of fact as determined by the Municipal Trial Court in Cities (MTCC).



It insists that witness Barco was not caught lying. If at all, these may be minor lapses in his recollection of the events which are of an insignificant nature.

Although petitioner Gonzalez alleges that he did not commit anything illegal or irregular, the prosecution maintains that this is negated by the following: (1) petitioner Gonzalez, who was not even named in the Mission Order issued by the Regional Director, actively participated in the surveillance conducted against Bakbak restaurant and in the three meetings that followed after the conclusion of the 10-day operation; (2) petitioner Gonzalez divulged the computation of the tax liabilities allegedly incurred by the business establishment for the previous and taxable year/s for the purpose of allowing the taxpayer to settle with them its tax liabilities. Petitioner even furnished witness Barco a computation of Bakbak restaurant's tax liabilities, which made him and his daughter, Roselle, believe that there was already a final notice of tax assessments and a demand to pay; and, (3) petitioner Gonzalez and his team were not armed with a pass slip, official business slips or travel orders authorizing them to conduct official business outside the premises of the BIR.

Admitting that out-of-office meetings were not expressly prohibited by the BIR rules, the prosecution still maintains that the manner these meetings were conducted by petitioner Gonzalez and his team in three separate occasions bolstered the irregularity of their activities.

The prosecution further noted that the MTCC, the RTC and even this Court found that the farm of witness Barco was neither an extension of Bakbak restaurant nor a branch operating thereof. Likewise, the said farm was already outside their BIR jurisdiction and that they acted only under the pretext of a prelude investigation, supposedly to gather information for case build-up against witness Barco whom petitioner supposedly suspected to be one of the proprietors of Bakbak restaurant.

On the alleged Mission Order, the prosecution insists that the same did not even contain the name of petitioner Gonzalez as one of the five BIR examiners or investigators assigned to conduct surveillance operations against Bakbak restaurant. Clearly, petitioner Gonzalez was not clothed with any authority from the BIR Regional Director in Davao City to

participate in any overt or covert surveillance operation against Bakbak restaurant, much more against the Arakan farm of witness Barco in North Cotabato, outside of petitioner's area of jurisdiction.

It reiterates that with the act of proceeding to Arakan, North Cotabato by petitioner Gonzalez without a mission order is, by itself, anomalous and irregular because (1) the farm of witness Barco was not an extension or branch of Bakbak restaurant being investigated by BIR Davao City; (2) it was not established that witness Barco owned Bakbak restaurant, thus, whatever income he derived from his farm was subject to a different taxation as he was a different taxpayer or entity even though he is related by blood to the proprietor of Bakbak restaurant; and, (3) petitioner Gonzalez had no business going to Arakan, North Cotabato considering that this was already outside the jurisdiction of the Revenue Region where he was assigned.

Relative to the exoneration of Ramintas, the prosecution alleged that this has no effect on the criminal liability of petitioner Gonzalez, as the same is irrelevant. Neither is her reinstatement to her original position important.

We now rule.

After a close review of the subject Motion of petitioner Gonzalez, this Court notes that the posturings of petitioner Gonzalez and the arguments and issues he raised thereat are mere rehash of those already considered and passed upon by the three judicial levels, the Municipal Trial Court in Cities (MTCC), the Regional Trial Court (RTC) and this Court.

Nothing new can be observed from the issues now being raised by petitioner Gonzalez that can alter, amend, revise, or even reverse, the findings of this Court.

For emphasis, the assailed Decision of October 4, 2023 clarified, thus--

“From the discussions and finding of both lower courts, petitioner Gonzalez failed to overcome the positive and candid testimony of Federico Barco, the sole witness of the prosecution.

Although it may be true that the prosecution presented only one witness, however, jurisprudence has consistently



taught us that, so long as the testimony is credible and convincing, one witness may suffice.

It is settled that - -

It is axiomatic that the testimonies of witnesses are weighed, not numbered, and the testimony of a single witness may suffice for conviction if found trustworthy and reliable. That the prosecution had only one eyewitness to implicate appellant hardly negates its cause. There is no law, which requires that the testimony of a single witness needs corroboration except where the law expressly mandates such corroboration. Indeed, the testimony of a single witness, when positive and credible, is sufficient to support a conviction even of murder. Hence, a finding of guilt may be based on the uncorroborated testimony of a single witness when the trial court finds such testimony positive and credible. (People vs. Pirame, G.R. No. 121998, March 9, 2000, 384 PHIL 286-302)

The straightforward testimony of prosecution witness Barco posed alongside the defenses of denial and alibi of petitioner Gonzalez will clearly show that the latter must fail.”

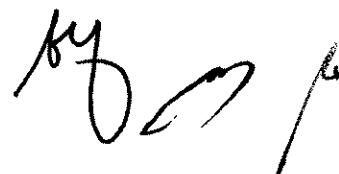
The bare denials of petitioner Gonzalez that he neither solicited money from witness Federico Barco nor requested a 10-hectare slice out of the 130-hectare agricultural land occupied by Mr. Barco in Arakan, North Cotabato fail to persuade.

In *People vs. XXX* (G. R. No. 260639, March 29, 2023), the Supreme Court teaches us that - -

An affirmative testimony is stronger than a negative testimony especially when the former comes from a credible witness. The defenses of alibi and denial, if unsubstantiated by clear and convincing evidence, are inherently weak, self-serving, and undeserving of weight in law. Hence, the positive testimonies of the prosecution witnesses must prevail over the self-serving and unsubstantiated testimony of the defense.

On the alleged inconsistencies raised by petitioner Gonzalez, the Supreme Court, in *Madali vs. People* (G. R. No. 180380, August 4, 2009), held that slight inconsistencies in the declarations of witnesses hardly weaken the probative value of the witnesses' open court testimony, thus - -

It is well settled that immaterial and insignificant details do not discredit a testimony on the very material and significant point bearing on the very act of accused-

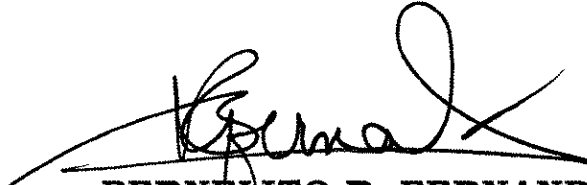


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appellants. As long as the testimonies of the witnesses corroborate one another on material points, minor inconsistencies therein cannot destroy their credibility. Inconsistencies on minor details do not undermine the integrity of a prosecution witness.

WHEREFORE, premises considered, the Motion for Reconsideration of petitioner Leo O. Gonzalez dated November 6, 2023 is hereby **DENIED** for lack of merit.

SO ORDERED.



BERNELITO R. FERNANDEZ
Associate Justice

We concur:



AMPARO M. CABSTAJE-TANG
Presiding Justice/ Chairperson



RONALD B. MORENO
Associate Justice