

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSEPH REYES Y PASCUAL, ACCUSED-APPELLANT.

Ponente: DICDICAN, J.

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DICDICAN, J.:

Subject to adjudication by this Court herein is an appeal from the Decision[1] rendered by Presiding Judge Iluminado M. dela Peña of Branch 28 of the Regional Trial Court of the Fourth Judicial Region in Sta. Cruz, Laguna (“trial court”) on October 25, 2012 in Criminal Case No. SC-13684 convicting herein accused-appellant Joseph Reyes y Pascual (“accused-appellant”) of violation of Section 11 of Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 (“RA 9165”), in the following Information[2] which reads:

“That on June 15, 2009 at about 1:15 o'clock in the morning at Brgy. Lewin, Municipality of Lumban, Province of Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized or permitted by law, did then and there, willfully, unlawfully and feloniously, have in his possession, control and custody two (2) heat-sealed transparent plastic sachet containing 0.02 gram of METHAMPHETAMINE HYDROCHLORIDE (SHABU), a dangerous drug.

“CONTRARY TO LAW.”

On October 1, 2009, upon being arraigned of the charge against him, the accused-appellant entered a plea of not guilty[3]. Subsequently, a pre-trial was conducted on November 4, 2009[4]. A trial on the merits ensued thereafter.

During the trial, the prosecution adduced in evidence the lone testimony of Police Officer 2 Vergel Sayse (PO2 Sayse), a member of the Philippine National Police who was assigned at the Intel Operatives Section of the Lumban Municipal Police Station in Laguna. He was the designated intelligence operative who effected the arrest upon the person of the accused-appellant after the latter was found to be in possession of illegal drugs.

On the other hand, the accused-appellant adduced in evidence his own testimony.

The testimony of Police Chief Inspector Donna Villa P. Huelgas (“PCI Huelgas”) was dispensed with upon the stipulation of the parties that she was the Forensic Chemist who received the request for laboratory examination on the confiscated items taken from the accused-appellant. It was also agreed upon by the parties that it was PCI Huelgas who conducted the necessary examinations, particularly, the physical, chemical and confirmatory examinations on the two transparent plastic sachets which yielded positive for the presence of methamphetamine hydrochloride. Moreover, it was also admitted that Chemistry Report No. LD-121-09[5] was prepared by PCI Huelgas which reduced into writing the results of the afore-mentioned examinations[6].

The prosecution’s recital of established facts is summarized as follows:

On June 15, 2009, at around 1:15 o'clock in the morning, PO2 Sayse, together with Police Officer 2 Amadeo Carpio (“PO2 Carpio”), Police Officer 1 Arvin Mangulat (“PO1 Mangulat”) and Police Officer 1 Alfred Ables

(“PO1 Ables”), were manning a checkpoint at Barangay Lewin, Lumban, Laguna.

Coming from the direction of Sta. Cruz, Laguna, the accused-appellant, together with one Joseph dela Rosa (“dela Rosa”), who were then crossing the checkpoint on board a motorcycle were flagged down by the group of PO2 Sayse on account of their violation of traffic rules and regulations, specifically, driving without a helmet.

Upon being accosted by the team of PO2 Sayse, the accused-appellant started to pull something out from his waist. For fear that the accused-appellant was in possession of a weapon, PO2 Sayse promptly held the hand of the former. At this point, he saw a holster in the waist of the accused-appellant the contents of which were already visible at first glance. From where PO2 Sayse was standing, he saw two plastic sachets inside the accused-appellant's holster. He then ordered the accused-appellant to remove the said holster. Upon possession of the holster, PO2 Sayse proceeded to mark the two plastic sachets with “VTS-1” and “VTS-2”.

Subsequently, PO2 Sayse fully apprised the accused-appellant of his rights and simultaneously caused his arrest. The accused-appellant was then brought to the Municipal Police Station.

At the police station, PO2 Sayse prepared the request for laboratory examination as well as the receipt of object evidence. He then personally transmitted the laboratory request, together with the marked confiscated items, to the Laguna Crime Laboratory.

As evidenced by Chemistry Report No. LD-121-09[7] as prepared by Police Chief Inspector and Forensic Chemical Officer Donna Villa P. Huelgas, the examination result confirmed that the substance was methamphetamine hydrochloride, a dangerous drug.

In an attempt to absolve himself from criminal liability, the accused-appellant vehemently denied the accusation hurled against him.

He claimed that, on June 15, 2009, at around 10:00 o'clock in the evening, he was with Joseph dela Rosa coming from a party which they allegedly attended in Pagsawitan, Sta. Cruz, Laguna. On their way home, they rode a motorcycle which was driven by dela Rosa.

Upon arriving in Barangay Lewin, Lumban, Laguna, they were allegedly stopped by four (4) men in civilian uniform who introduced themselves as police officers. Allegedly, an officer named PO1 Vergel, pointed his gun at them. Frightened, they were forced to alight from the motorcycle. A body frisk was then conducted upon them. The officers allegedly proceeded to take their wallets. The accused-appellant likewise narrated that he even questioned the police officers as to why they were being frisked. The officers allegedly answered that they were found to be in possession of shabu.

Thereafter, the accused-appellant and dela Rosa were brought to the PAC Base. Purportedly, PO2 Carpio, together with their asset, took from the accused-appellant his citizen wrist watch and two silver rings and never returned the same. Also allegedly taken from him was his jacket and money.

The accused-appellant likewise testified that, while they were being transported to the police station, PO2 Carpio spoke with him and told him that he would be released on the same day only if he would give him the amount of P20,000.00.

According to the accused-appellant, he did not commit any crime and that he did not know the persons who arrested him. He also denied that there was a checkpoint at the time that they were accosted. He even denied that he was in possession of any holster which contained illegal drugs.

Finding the testimony of the police officer credible, the court a quo rendered a Decision on October 25, 2012, the dispositive portion of which reads:

“WHEREFORE, premises considered, this Court finds the accused JOSEPH REYES y PASCUAL, GUILTY BEYOND REASONABLE DOUBT of violation of Section 11, Article II, R.A. 9165 and he is sentenced to suffer the penalty of imprisonment for an indeterminate term of twelve (12) years and one (1) day, as minimum to fourteen (14) years and eight (8) months as maximum and to pay a fine of Three Hundred Pesos (P300,000.00).

xxx xxx xxx

“SO ORDERED.”

Not satisfied with the foregoing decision, herein accused-appellant interposed the instant appeal raising as lone error the following act that was purportedly committed by the trial court, to wit:

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF VIOLATION OF SEC. 11, R.A. NO. 9165, DESPITE THE PROSECUTOR'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The primordial issue brought before this Court for resolution is whether the court a quo erred in convicting herein accused-appellant beyond reasonable doubt of the crime of illegal possession of a dangerous drug.

After a careful and thorough review of the facts, law and issues of this case, we affirm the trial court's conviction of the accused-appellant.

The accused-appellant asserted that the trial court erred in convicting him of the charge against him because the prosecution purportedly failed to establish its case against him with moral certainty.

The crime of illegal possession of shabu is penalized under Section 11 of Republic Act No. 9165 which pertinently provides as follows:

“Section 11. Possession of Dangerous Drugs. – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x

“Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

x x x

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine, or cocaine hydrochloride marijuana resin or marijuana resin oil, methamphetamine hydrochloride or 'shabu,' or other dangerous drugs such as, but not limited to, MDMA or 'ecstasy,' PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.”

For the criminal offense of illegal possession of a dangerous drug, the elements are: (a) the accused was in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) such possession is not authorized by law; and (c) the accused freely and consciously possessed the drug[8].

Based on the evidence offered and submitted by the prosecution, the above elements were duly established in the present case. The accused-appellant was found in possession of two heat-sealed sachets of shabu, an item or

object that is identified to be a prohibited or dangerous drug. Such possession by the accused-appellant of the same was not authorized by law and the accused-appellant freely and consciously possessed the said dangerous drug.

In the same manner, taking the circumstances surrounding his arrest into account, the failure of the police officers to initially file criminal charges against him for failing to wear a helmet does not, in any manner, change the fact that he was found in possession of illegal drugs. More importantly, the search conducted upon him was valid because the discovery of the plastic sachets of shabu was a result of a valid and regular conduct of a police checkpoint.

Searches conducted in checkpoints are valid for as long as they are warranted by the exigencies of public order and are conducted in a way least intrusive to motorists[9]. Although the general rule is that motorists and their vehicles as well as pedestrians passing through checkpoints may only be subjected to a routine inspection, vehicles may be stopped and extensively searched when there is probable cause which justifies a reasonable belief of the men at the checkpoints that either the motorist is a law offender or the contents of the vehicle are, or have been, instruments of some offense[10]. As there was probable cause to conduct a body frisk upon the accused-appellant, the incidental discovery of the shabu was valid.

Against the evidence of the prosecution, the accused-appellant merely denied the accusations against him and raised the defense of frame-up. However, the defense of denial and frame-up had been invariably viewed by the Supreme Court with disfavor for it can easily be concocted and is a common and standard defense ploy in prosecutions for violation of the Dangerous Drugs Act[11].

In order to prosper, the defense of denial and frame-up must be proved with strong and convincing evidence[12]. In the case before us, the accused-appellant miserably failed to present any evidence in support of his claims. Aside from his self-serving assertions, no plausible proof was presented to bolster his allegations.

The disquisition of the Supreme Court in the case of *People v. Agulay*[13] is instructive to wit:

“Apart from his defense that he is a victim of a frame-up and extortion by the police officers, accused-appellant could not present any other viable defense. Again, while the presumption of regularity in the performance of official duty by law enforcement agents should not by itself prevail over the presumption of innocence, for the claim of frame-up to prosper, the defense must be able to present clear and convincing evidence to overcome this presumption of regularity.”

Verily, we note that the accused-appellant did not file any complaint for frame-up against the police officers. Such inaction belies his claim of frame-up. His allegations therefore are simply implausible.

Nonetheless, the accused-appellant alleged that the drug specimen which was seized from him had not been sufficiently identified and, hence, should not have been admitted in evidence by the trial court. The accused-appellant is trying to prevail upon us that the evidence's chain of custody was not preserved and the shabu that was seized from him could not, with moral certainty, be said to be the same one that was adduced in evidence before the trial court.

The foregoing contentions are utterly amiss. *Corpus delicti* has been defined as the body, foundation or substance of a crime.[14] The dangerous drug itself constitutes the very *corpus delicti* of the offense and the fact of its existence is vital to a judgment of conviction.[15]

Here, the *corpus delicti* of the crime charged against herein accused-appellant had been established by the prosecution. The existence of the *corpus delicti* in this case was clearly established by the unequivocal testimony of PO2 Sayse during his testimony on direct examination.

Be that as it may, the accused-appellant kept on harping on alleged lapses in the procedure observed by the apprehending officers, like the delay in the transmittal of the confiscated items by PO2 Sayse to the crime laboratory by reason of a power interruption. Furthermore, according to the accused-appellant, no inventory was conducted and no photograph of the confiscated items were made and taken in violation of the procedural requirements of the Dangerous Drugs Act.

Section 21 of RA 9165, in part, reads:

“Section 21. xxx

“(1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof;

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination; xxx”

Ideally, the procedure on the chain of custody should be perfect and unbroken. However a testimony about a perfect chain is not always the standard as it is almost always impossible to obtain an unbroken chain[16]. Strict compliance with the requirements of Section 21 of R. A. No. 9165 may not always be possible under field conditions[17]. The police operates under varied conditions, many of them far from ideal and cannot, at all times, attend to the niceties of procedures in the handling of confiscated evidence[18], as in the case at hand. The power outage was a situation beyond the control of the police officers. The Supreme Court has consistently held that what is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, because the same will be utilized in ascertaining the guilt or innocence of the accused[19].

The foregoing notwithstanding, Section 21 (a) of Article II of the Implementing Rules and Regulations of RA 9165 (“Implementing Rules”) likewise provides that:

“(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items;” (Emphasis supplied)

As can be gleaned from the language of Section 21 of the Implementing Rules, it is clear that the failure of the law enforcers to comply strictly with it is not fatal.[20] The procedural rule laid down in Section 21 of RA 9165 is not an iron-clad rule. Contrary to what the accused-appellant impressed upon us, non-observance of the said rule does not automatically translate into an acquittal. It does not render accused-appellant's arrest illegal nor the evidence adduced against him inadmissible.[21] What is essential is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence

of the accused[22].

An astute perusal of the records of the instant case would affirm that there was substantial compliance with the law and the integrity of the drug seized from the accused-appellant was preserved. Contrary to accused-appellant's claim, there was no broken chain in the custody of the seized item, found to be shabu, from the time when PO2 Sayse seized the shabu up to the time when it was turned over to the PNP Crime Laboratory Office for laboratory examination.

In cases involving violations of Dangerous Drugs Act, credence should be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary. In this regard, the defense failed to show any ill motive or odious intent on the part of the police operatives to impute such a serious crime that would put in jeopardy the life and liberty of an innocent person, such as in the case of appellant. Incidentally, if these were simply trumped-up charges against him, it remains a question why no administrative charges were brought against the police operatives. Veritably, in weighing the testimonies of the prosecution witnesses vis-à-vis those of the defense, it is a well-settled rule that in the absence of palpable error or grave abuse of discretion on the part of the trial judge, the trial court's evaluation of the credibility of witnesses will not be disturbed on appeal[23].

Concomitant to the foregoing, there is no compelling reason for us to reverse the findings of fact of the trial court. After a careful evaluation of the record of the case, we find that there was no error committed by the trial court to disregard its factual findings that the accused-appellant committed the crime charged against him.

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DENYING the appeal filed in this case. The Decision dated October 25, 2012 rendered by Branch 28 of the Regional Trial Court of the Fourth Judicial Region in Sta. Cruz, Laguna in Criminal Case No. SC-13684 is hereby AFFIRMED.

SO ORDERED.

Paredes[*] and Galapate-Laguilles,**] JJ., concur.

[*] Acting Senior Member, Office Order No. 258-14-ABR dated June 2, 2014.

[**] Acting Junior Member, Office Order No. 258-14-ABR dated June 2, 2014.

[1] Record, Criminal Case No. SC-13684, pp. 80-84.

[2] Ibid, p. 2.

[3] Ibid, Order, p. 18.

[4] Ibid, Pre Trial Order, pp. 32-34.

[5] Ibid, p. 12.

[6] Ibid, Order, pp. 47-48.

[7] Ibid, p. 12.

[8] People v. Naquita, G.R. No. 180511, July 28, 2008.

[9] People v. Usana, 323 SCRA 754, 767 (2000).

[10] Valmonte v. De Villa, 185 SCRA 665, 670 (1990).

[11] People v. Hernandez, G.R. No. 184804, June 18, 2009, 589 SCRA 625, 642.

[12] Ibid.

[13] G.R. No. 181747, September 26, 2008, 566 SCRA 571, 599-600.

[14] People v. Tuniao, G.R. No. 185710, January 19, 2010.

[15] Lopez v. People, G.R. No. 172953, April 30, 2008.

[16] Asiatico v. People, G.R. No. 195005, September 12, 2011.

[17] People v. Sanchez, G.R. No. 175832, October 15, 2008.

[18] Ibid.

[19] People v. Campomanes, G.R. No. 187741, August 9, 2010, 627 SCRA 494, 507.

[20] People v. Pagkalinawan, G.R. No. 184805, March 3, 2010.

[21] People v. Naquita, G.R. No. 180511, July 28, 2008.

[22] Ibid.

[23] People v. Sembrano, G. R. No. 185848, 16 August 2010, 628 SCRA 328, 342 citing People v. Lamado, G. R. No. 185278, 13 March 2009, 581 SCRA 544, 552 and People v. Remerata, G. R. No. 147230, 449 Phil. 813, 822 (2003).

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