

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALLAN REY G. MATIRA, ACCUSED-APPELLANT.

Ponente: QUIJANO-PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/11da48968fc7/>

QUIJANO-PADILLA, J.:

Subject of this appeal is the Joint Judgment[1] dated June 18, 2012 of the Regional Trial Court (RTC), Branch 34, Tacloban City, in Criminal Cases Nos. 97-02-95 and 97-02-96, finding accused-appellant Allan Rey G. Matira guilty of violating Sections 4 and 8, Article II of Republic Act (RA) No. 6425, as amended or the Dangerous Drugs Act of 1972. Section 4 of RA No. 6425 pertains to illegal sale of dangerous drugs, while Section 8 pertains to illegal possession of dangerous drugs.

The Informations charging herein accused-appellant of illegal sale and illegal possession of dangerous drugs read this wise, respectively:

For Criminal Case No. 97-02-95 (Violation of Sec. 4, Art. II, RA No. 6425):

“That on or about the 29[th] day of January, 1997, in the City of Tacloban, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there, wilfully (sic), unlawfully and feloniously sell, deliver or distribute eight (8) sticks of marijuana cigarettes having a total weight of 2.1 grams, to PO1 WILLIAM S. GO (poseur-buyer), a member of NARCOM Operatives, at P50.00 with Serial No, QN519634, marked money.

CONTRARY TO LAW.”[2]

For Criminal Case No. 97-02-96 (Violation of Sec. 8, Art. II, RA No. 6425):

“That on or about the 29th day January, 1997, in the City of Tacloban, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without any lawful authority, did, then and there, wilfully (sic), unlawfully and feloniously have in his possession folded white handkerchief with brown lines containing marijuana fruiting tops weighing 6.6 grams, a prohibited drug.

CONTRARY TO LAW.”[3]

The facts, as presented by the prosecution, rely mainly on the testimonies of its witnesses PO1 William Go[4], SPO2 Antero Ripalda[5], and Police Inspector Victoria de Guzman.[6]

Witness PO1 Go testified that, on January 28, 1997, around 5:00 o'clock in the afternoon, at the gate of Asian Development Foundation College (ADFC), he was introduced by a confidential informant to accused-appellant Matira. PO1 Go claimed that he posed as a user who wanted to buy some marijuana cigarettes worth fifty pesos (P50.00), but he was informed by accused-appellant that he did not have enough supply and he was told to return the next day at the same time in Froy and Char Store.

PO1 Go narrated that, on the next day, January 29, 1997 at 8:00 o'clock in the morning, he informed their Commander, P/Supt. Senador Jacob, about the intended purchase of marijuana from accused-appellant. He then received instructions from his commander to coordinate with PO2 Versoza and SPO2 Ripalda.

Then, in the afternoon at around 5:00 o'clock PO1 Go went to the agreed place, at Froy and Char Store. Meanwhile, his companions PO2 Versoza and SPO2 Ripalda positioned themselves about fifteen meters from Froy and Char Store. PO1 Go waited a while, and as soon as accused-appellant arrived, the former asked the latter if he could buy marijuana worth one hundred pesos (P100.00). But accused-appellant turned down the request and answered that he only had fifty-peso worth of marijuana. Hence, PO1 Go handed his marked fifty peso bill and accused-appellant handed him a crumpled piece of paper containing eight sticks of marijuana, which he knew to be actual marijuana cigarette sticks through smelling. At that juncture, he then scratched his head, as a pre-arranged signal. As soon as the signal was seen by his companions, PO2 Versoza and SPO2 Ripalda immediately approached the scene and arrested accused-appellant.

After the arrest, PO1 Go and his companions brought accused-appellant to their office. PO1 Go claimed that he was in possession of the marijuana cigarettes while going to their office, and that he gave the same to SPO3 Rodulfo Casio, the Intelligence Investigator who, made a marking of letter "A" on the piece of paper containing the marijuana cigarettes. He added that it was PO2 Versoza who was instructed to deliver the contrabands to the crime laboratory for examination and analysis. He then identified the fifty peso bill which he used as marked money. He claimed that he placed his initials on the said marked money as witnessed by a Barangay Chairman. This marked money, according to PO1 Go, was one of the two fifty peso bills given to him by P/Supt. Jacob.

The testimony of witness SPO2 Ripalda, meanwhile, corroborated PO1 Go's testimony. He claimed that he saw accused-appellant handed something to PO1 Go, and when PO1 Go gave the pre-arranged signal, he and PO2 Versoza immediately arrested accused-appellant. SPO2 Ripalda, moreover, added that after they arrested accused-appellant, PO2 Versoza, his companion, searched accused-appellant's pockets. PO2 Versoza, according to SPO2 Ripalda, recovered the marked money from accused-appellant's right pocket, and they also recovered from his pocket an undetermined quantity of marijuana leaves that were wrapped in a paper, which was further wrapped in a handkerchief. He described that the handkerchief has dark brown lining in its sides with small brown squares. He identified the handkerchief which contained dried leaves and seeds. He also identified the marijuana cigarettes, which according to him, he saw only in the office after the arrest. He said that he was able to identify the marijuana cigarettes because PO1 Go marked them with initials in the office. He also said that he saw PO1 Go prepared, at their office, before the buy bust operation the marked money on which the latter signed his initials on a fifty peso bill.

Witness SPO2 Ripalda also added that the confiscated contrabands were submitted for chemical analysis and he came to know this because he saw their Commanding Officer signed the request for examination and that he knows it was PO2 Versoza who delivered the request to the crime laboratory.

PO2 Versoza was, however, not presented during trial.

On the other hand, the testimony of witness Police Inspector de Guzman centered on her finding that the contents of the contrabands submitted for examination were positive for marijuana, a prohibited drug. She testified that she received a paper marked with Exhibit "A" and inside were eight sticks of marijuana cigarettes. She claimed that she was the one who placed the markings Exhibit "A-1" and series on each stick on the day she examined the contents thereof. She also testified that the marijuana fruiting tops she tested was contained in a handkerchief marked with the letter "B", and she did not know who made such marking. She added that she was able to examine the contents of the handkerchief on January 31, 1997 a day after she received the same.

The defense centered on the testimonies of accused-appellant[7] corroborated by the testimonies of his mother[8] and one Jonathan Duran.[9] They also presented Nimfa Paciencia[10] and, as hostile witness, P/Supt. Senador Jacob.[11]

Accused-appellant Matira denied that he met with PO1 Go on January 28, 1997 at around 5:00 o'clock in the afternoon because he attended his class at ADFC. He also testified that on January 29, 1997, he passed by the Froy and Char Store across his school to buy a candy before attending his classes. And, when he was crossing the street toward ADFC, he was arrested by a police officer by pointing a gun at his back and was told that someone wanted to talk to him. He later on knew that the police officer who arrested him was PO1 Go. He said that his arrest was witnessed by a classmate, Jonathan Duran. PO1 Go then boarded accused-appellant in a tricycle driven by PO1 Go's companion, who could not be identified by accused-appellant whether such driver was a police officer or not. At that time, accused-appellant requested Jonathan Duran to accompany him, so Duran also boarded the tricycle. Accused-appellant and PO1 Go were inside the tricycle's sidecar, while Duran boarded at the back of the driver.

Accused-appellant then narrated that PO1 Go brought him near Holy Infant College, where PO1 Go dropped by and entered in a house, which he learned later on to be the residence of P/Supt. Jacob. He did not disembark the tricycle, and after five minutes, PO1 Go went out of the house and brought him to the police station in Kampetic police station. Upon arrival in Kampetic police station, accused-appellant instructed Duran to inform his mother of his plight. He narrated that when he was brought inside the station, there was only one police officer who was inside, whom he knew later as SPO3 Casio. He was detained in a cell for about an hour and then later brought out and was instructed to empty his pockets of all his belongings. When he was asked to sign a paper, he refused to do so. He then was brought back inside the cell. While in the detention cell, accused-appellant saw PO1 Go rolling some leaves into some papers and writing on a fifty peso bill. He also saw SPO2 Ripalda entered the station and asked PO1 Go whether Matira was already arrested, to which PO1 Go answered "he is already here."

Accused-appellant believed that his fabricated arrest was because of money. He recalled that there was a similar case filed against him before where SPO2 Ripalda was the complainant which was dismissed by the prosecutor's office.

Witness Duran corroborated accused-appellant's testimony. He testified that while he was near Froy and Char Store, he saw a tricycle that suddenly stopped and a man, alighting from it, suddenly pointed a .45 caliber gun at the back of accused-appellant. Duran said that he later on learned the name of accused-appellant's arrestor to be PO1 William Go. He said that he accompanied accused-appellant when the latter was boarded in and handcuffed to the tricycle. He further testified that Go told him to tell and ask accused-appellant's mother for P100,000.00.

Meanwhile, the testimony of witness Amelia Matira, accused-appellant's mother, centered on how PO2 Ripalda tried to make negotiations with her on the release of her son in exchange for money. She refused to give any money, so her son was brought to the Prosecutor's Office for inquest proceedings.

Hostile witness P/Supt. Jacob, on the other hand, testified he instructed his officers, Go, Ripalda, and Versoza to do their job and conduct the needed buy-bust operation after he was told by the latter that they have suspected drug pushers or users in their area. He said that he received information of accused-appellant's arrest in the morning of January 29, 1997, but later on changed his testimony that the arrest was done in the afternoon. He also testified that he saw accused-appellant after the arrest when his men dropped by his rented house near Holy Infant College, there he saw his men boarded a jeep and a tricycle. He could not, however, remember where accused-appellant was boarded. He also admitted that the request for laboratory examination was not personally signed by him but the same was signed by his first sergeant.

The defense also presented witness Paciencia, a staff of Tacloban City Prosecution Office, to testify on the existence of I.S. No. 96-30-35, a criminal complaint for violation of the Dangerous Drugs law against herein accused-appellant wherein SPO2 Ripalda was the complainant. She also presented a Resolution of Prosecutor

Homeres dismissing the said criminal complaint.

After joint trial, the trial court convicted accused-appellant of illegal sale and possession of marijuana under Sections 4 and 8, respectively, of Article II of R.A. No. 6425 as amended in a Joint Judgment that ruled as follows:

“WHEREFORE, premises considered, the herein accused ALLAN REY G. MATIRA is hereby found GUILTY of the crime charged in CRIMINAL CASE NO. 97-02-95 (Violation of Section 4, Article II, R.A. 6425 as Amended) and is likewise found GUILTY of the offense charged in CRIMINAL CASE NO. 97-02-96 (Violation of Section 8, Article II, R.A. 6425 as Amended), and is hereby sentenced as follows:

For CRIMINAL CASE NO. 97-02-95: To suffer a penalty of imprisonment ranging from SIX (6) MONTHS of Arresto Mayor as minimum to TWO (2) YEARS, FOUR (4) MONTHS AND ONE (1) DAY of prision correccional as maximum.

For: CRIMINAL CASE NO. 97-02-96:

To suffer a penalty of imprisonment ranging from SIX (6) MONTHS of arresto mayor as minimum to ONE (1) YEAR AND ELEVEN (11) DAYS of prision correccional as maximum.

The prohibited/dangerous drugs subject matters of these cases are hereby ordered forfeited. The Branch Clerk of Court of this Court is hereby ordered to safe keep the said prohibited/dangerous drugs until the finality of this Judgment and until further disposition.

COSTS against the accused.

SO ORDERED.”[12]

In convicting the accused, the trial court relied on and gave credence to the testimony of prosecution witnesses on the conduct of a test-buy and a buy-bust operation. The trial court even used as proof the contrabands that were seized from accused-appellant as it noted how these contrabands were properly wrapped by a paper and a handkerchief. It then underscored that the same contrabands that were seized from accused-appellant were the same contrabands that were found to be positive of marijuana as evidenced by the laboratory examination report. The trial court did not give credence on the defense's assertion of frame-up because it found the claim of extortion to be incredible. Thus, the trial court concluded that every element of the crime of illegal sale and illegal possession was proven.

Aggrieved by this ruling, accused-appellant, through this appeal, comes to this Court assigning to the trial court these errors:

“1. THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE SELF-SERVING AND CONCOCTED TESTIMONIES OF THE TWO POLICEMEN THAT THERE WAS A BUY-BUST OPERATION AGAINST THE ACCUSED ON JANUARY 29, 1997 AT 5:00 P.M.

2. THE TRIAL COURT SERIOUSLY ERRED IN PRESUMING REGULARITY IN THE PERFORMANCE OF THE POLICEMEN TO ESTABLISHED (SIC) NON-COMPLIANCE WITH MANDATORY PROCEDURES IN DRUG OPERATION.

3. THE TRIAL COURT ERRED IN NOT FINDING THAT THE FIRST CRUCIAL LINK IN THE CHAIN OF CUSTODY WAS NOT PROPERLY ESTABLISHED.

4. THE TRIAL COURT SERIOUSLY ERRED IN NOT ADMITTING THE TESTIMONY OF POLICE OFFICER VERZOSA AS HEARSAY FOR HIS FAILURE TO TESTIFY IN COURT THAT HE ALLEGEDLY RECOVERED THE MARKED MONEY AND MARIJUANA FRUITING TOPS FROM THE POSSESSION OF ACCUSED.

5. THE TRIAL COURT SERIOUSLY ERRED IN PRESUMING REGULARITY IN THE PERFORMANCE OF THE POLICEMEN, CONTRARY TO EVIDENCE SUGGESTING ILL-MOTIVE ON THE PART OF SPO2 RIPALDA.

6. THE TRIAL COURT COMMITTED REVERSIBLE ERROR IN NOT GIVING CREDENCE TO THE UNREBUTTED TESTIMONY OF DEFENSE EYEWITNESS JONATHAN DURAN ON THE MANNER IN WHICH ACCUSED WAS ARRESTED BY THE POLICEMEN.”[13]

In his Brief,[14] accused-appellant mainly argues that there was no valid buy-bust operation that occurred, and even assuming that there was one, the procedure in conducting the same was very irregular as it never complied with the chain of custody rule in drug cases. He also questions the credibility of the witnesses presented by the prosecution whose testimonies contain apparent inconsistencies. Finally, he contends that the trial court should have given more weight on the testimony of defense witness Jonathan Duran who corroborated accused-appellant's testimony on the illegality of his arrest.

The Office of the Solicitor General (OSG) in its Brief,[15] meanwhile, chiefly contends that accused-appellant was caught in flagrante delicto during a buy-bust operation and that the police officers who conducted the same are presumed to have regularly performed their duties.

We find merit on accused-appellant's appeal.

Well-entrenched is the rule that in all criminal prosecutions, the accused is presumed innocent of the charge laid unless the contrary is proven beyond reasonable doubt. The burden lies on the prosecution to overcome such presumption of innocence by presenting the quantum of evidence required. In so doing, the prosecution must rest on its own merits and must not rely on the weakness of the defense. And if the prosecution fails to meet the required amount of evidence, the defense may logically not even present evidence on its own behalf. In which case, the presumption prevails and the accused should necessarily be acquitted.[16]

After a judicious perusal of the pieces of evidence presented by the prosecution, We hold that the prosecution failed to prove the guilt of accused-appellant beyond reasonable doubt.

Accused-appellant insists that there was no buy-bust operation that actually took place because he was just arrested in the middle of the street by PO1 Go who, after alighting from a tricycle, suddenly poked a gun on his back and ordered him to board the tricycle. Meanwhile, the prosecution adheres to the valid buy-bust operation conducted by the police officers, which resulted in the arrest of accused-appellant in flagrante delicto.

Prosecution, in proving the conduct of the buy-bust operation, presented two witnesses, PO1 Go and SPO2 Ripalda. The prosecution would want the court to believe that the buy-bust operation was properly and validly done which resulted in the apprehension of accused-appellant.

However, We find significant irregularities in the alleged conduct of the buy-bust operation as shown in the testimonies of prosecution's witnesses.

First, we note the very unusual conduct of the alleged test-buy operation, the circumstances of which, was known

only to PO1 Go alone. He admits that after receiving information from a confidential informant that accused-appellant was a drug pusher, he did not tell anyone about his plan to conduct a test-buy. He just informed his chief P/Supt. Jacob about the test-buy on the following day. And, he did not bother to check the reliability of the information he received. He testified thus:

“Atty. Rojas (Q) - In your testimony regarding the incident on the 28th January, you told the court that you were alone when you met your confidential informant?

A - Yes sir.

Q - So, could I be correct to say that you had no backup as what happened on the following day?

A - There was none.

XXXX

XXXX

Q - So, in that operation of January 28, 1997 you were just a lone ranger, your office did not know about it, none of your co-Narcom agents knew about it?

A - Yes sir.

Q - And considering that affidavit which you identified as your own you never mentioned about a test buy operation, the input of your affidavit is that on the 28th January 1997 when you approached the suspect you wanted to purchased (sic) from him a marijuana, the only [thing] that prevented you from actually purchasing was the unavailability according to you of the stuff as claimed by Mr. Matira, correct?

A - Yes sir.

Q - You also mentioned partially in your direct that sometime at around 11:00 o'clock in the morning of January 28, 1997 you were informed by your confidential informant about the suspect being a drug pusher?

A - Yes sir.

XXXX

XXXX

Q - Did you or did you not informed (sic) Senador Jacob about what your confidential informant told you on January 28, 1997 at 11:00 o'clock in the morning?

A - I did not, only on the following day.

XXXX

XXXX

Q - As Narcom agent and a veteran of three years, that was the first time that you came across the name Allan Matira as pusher?

A - Yes sir.

Q - When you heard about Allan Matira being a pusher according to the information, did you go to your office and look over your records of persons who were suspected by your office to be drug pusher and drug users?

A - I did (sic) no longer look for SPO3 Casio to informed (sic) him.

Q - Now, since this is (sic) wrong information especially coming from a non-member of your unit because he is only confidential informant, did you not tell your Chief of (sic) this information because you might be leveling somebody who is innocent as drug pusher?

A - I was not able to informed (sic) my co-agents especially so that we are few in the unit.”[17]

Second, the testimonies of PO1 Go, SPO2 Ripalda and P/Supt. Jacob give doubt whether there was indeed a definite plan to conduct a buy-bust operation. The three mentioned that they coordinated with each other but their testimonies reveal inconsistencies on vital informations, these are, the name and identity of accused-appellant and a conduct of background information. An analysis of their testimonies points that they are not consistent in the identity and character of the accused-appellant, which puts doubt on whether the buy-bust operation was planned in the first place.

PO1 Go testified that during such coordination he told PO2 Versoza and SPO2 Ripalda his plan to conduct a buy-bust against accused-appellant; that he mentioned to them accused-appellant's name and the schedule of the test-buy. When asked what the reaction of SPO2 Ripalda upon the mention of accused-appellant's name, PO1 Go said that SPO2 Ripalda just replied “let's go to the area”, to wit:

“XXXX

Atty. Rojas (Q) - In the process of coordinating with the two agents you of course mentioned the name of

Allan Matira to your co-agents, the question goes like this, when you mentioned the name Allan Matira to agent Repalda (sic), what was his reaction if any?

A - I (sic) did not react, he simply said let's go to the area.

Q - Did not Repalda tell you that he was the mean (sic) complainant in the case before the City Prosecutor's Office against Allan Matira?

A - He did not mentioned (sic) that.

xxxx.”[18]

However, it appears that SPO2 Ripalda claimed that the name of the accused-appellant was never revealed and he did not bother to ask it, to wit:

“Court (Q) – So, just to be sure Mr. Witness, your boss gave out the name of the suspect as Allan Matira, is that correct?

A - He did not divulge the name of the suspect, sir.

Q - When you were planning that buy bust operation, did SPO1 Go mention the name of Allan Matira?

A - He did not your Honor.

xxxx

xxxx

Q - So up to the time of the execution of the buy bust operation, you did not know the name of Allan Matira?

A - I know the name Allan Matira after the buy bust operation, sir.

xxxx

xxxx

Atty. Rojas (Q) - You did not ask the name of the suspect?

A - I did not mind to know the suspect's name because I might be suspected as a source of leakage of the operation, sir.

Q - When you were alone with Versoza and Go, it did not also come to your mind to ask the name of the suspect?

A - I did not bother to ask the name of the suspect, sir.

xxxx.”[19]

However, P/Supt. Jacob testimony reveals that when he coordinated with his men, the identity of accused-appellant was known to them, only that he did not instruct his men to conduct a background check on accused-appellant's identity, to wit:

“Atty. Rojas (Q) – At the time of the arrest of Allan Matira in this case, did you know that he had been arrested also for violation of prohibited drugs?

A - I could not recall anymore, Sir.

Q - Previously, you affirmed the fact that in the morning of January 29, 1997, you had a conference with agent William Go and two other Narcom Agent[s] wherein they told you of an impending buy-bust operation against accused Allan Matira. In this conference, did your agents tell you that Allan Matira had already been arrested, had been charged before the Fiscal's Office and that the charge against the accused before the Fiscal's Office had been dismissed?

A - No, Sir. My men did not say anything if Allan Matira was arrested before but they told me that there is now a subject for drug buy-bust operation. So I told them, go ahead. I did not ask anymore if Allan Matira has a previous record involving the same case.

xxxx

xxxx

Q - In that conference in the morning of January 29, 1997, you did not ask your men whether this person of Allan Matira had been the subject of any previous action made by your Office regarding violations of previous (sic) drugs act?

A - I did not ask that anymore. My only instruction to them was to conduct surveillance to all suspected drug pushers and users in the area, and then conduct a buy-bust operation so that we would not be charged of illegal arrest. I did not ask them anymore if who is that Matira as long as he is doing illegal activities in the area, of course we have to arrest him or we have to conduct a buy-bust operation.

xxxx.”[20]

Certainly, the above inconsistencies shown by the testimonies of the prosecution witnesses as regards vital informations, such as, the identity and character of the accused-appellant who would be subjected to a buy-bust operation give doubt on the existence of the buy-bust operation, as it may appear that there was not even a definite plan in conducting such buy-bust operation.

In addition to the irregular conduct of the buy-bust operation, the police officers who allegedly conducted the same even failed to follow the standard operating procedures when conducting seizures of illegal drugs. It is clear

that nothing in the testimonies of prosecution witnesses shows that they prepared the needed inventory and the taking of pictures of the contraband in the presence of the accused-appellant. They never gave any justification why these were not followed considering that they themselves testified that they coordinated with each other about the planned buy-bust operation.

When the crime was allegedly done, Section 1 of Dangerous Drugs Board Regulation No. 3, Series of 1979, as amended by Board Regulation No. 2, Series of 1990 was the relevant rule in the purview of R.A. No. 6425. The provision mandates that all prohibited and regulated drugs shall be physically inventoried and photographed in the presence of the accused who shall be required to sign the copies of the inventory and be given a copy thereof, to wit:

“Section 1. All prohibited and regulated drugs, instruments, apparatuses and articles specially designed for the use thereof when unlawfully used or found in the possession of any person not authorized to have control and disposition of the same, or when found secreted or abandoned, shall be seized or confiscated by any national, provincial or local law enforcement agency. Any apprehending team having initial custody and control of said drugs and/or paraphernalia, should immediately after seizure or confiscation, have the same physically inventoried and photographed in the presence of the accused, if there be any, and/or his representative, who shall be required to sign the copies of the inventory and be given a copy thereof. Thereafter, the seized drugs and paraphernalia shall be immediately brought to a properly equipped government laboratory for a qualitative and quantitative examination.

xxxx.”[21]

Clearly, these irregularities and inconsistencies give doubt on whether there indeed existed a buy-bust operation on the face of contrary evidence presented by the defense. Indeed, We are mindful of the some police officers who tend to abuse their authority as it would be easier for them to feign an arrest and plant evidence. In the words of the Supreme Court, “on account of the built-in danger of abuse that it carries, a buy-bust operation is governed by specific procedures on the seizure and custody of drugs, separately from the general law procedures geared to ensure that the rights of persons under criminal investigation and of the accused facing a criminal charge are safeguarded.”[22]

With these irregularities and inconsistencies, the defense of frame-up as interposed by accused-appellant becomes more plausible especially because the defense presented an eyewitness, Jonathan Duran, who witnessed the illegal arrest of accused-appellant. He corroborated accused-appellant's testimony regarding the latter's illegal arrest.

The testimony of Jonathan Duran reveals, that after the accused-appellant was boarded in a tricycle, PO1 Go before going to the station even dropped by a house near Holy Infant College. This fact is admitted by P/Supt. Jacob when he testified that he was informed of the arrest of accused-appellant at his house and saw that his men took a jeep and a tricycle. But this fact was never mentioned in the testimonies of PO1 Go and SPO2 Ripalda because the two only mentioned that after the arrest of accused-appellant, they proceeded immediately to their office.

More importantly, what gives more weight to the defense of frame-up was the significant lapses in the chain of custody of the allegedly seized contrabands.

It is a jurisprudential guideline that in the prosecution of illegal possession or illegal sale of dangerous drugs, the dangerous drugs itself constitutes the very corpus delicti of the offense. Hence, it is of paramount importance that the existence of the drug, the corpus delicti of the crime, be established beyond doubt.

To successfully prosecute a case involving illegal drugs, the identity and integrity of the corpus delicti must definitely be shown to have been preserved. This requirement necessarily arises from the illegal drug's unique

characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise. Thus, to remove any doubt or uncertainty on the identity and integrity of the seized drug, evidence must definitely show that the illegal drug presented in court is the same illegal drug actually recovered from the accused; otherwise, the prosecution for illegal possession of dangerous drugs under RA No. 9165 fails.[23]

Thus, to authenticate and establish the identity and integrity of the seized illegal drugs as evidence against the accused, the chain of custody rule comes into play.

“Chain of custody” means the duly recorded authorized movements and custody of seized drugs or controlled chemicals from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.[24]

Crucial in proving chain of custody is the marking of the seized drugs or other related items immediately after they are seized from the accused. Marking after seizure is the starting point in the custodial link, thus it is vital that the seized contraband are immediately marked because succeeding handlers of the specimens will use the markings as reference. The marking of the evidence serves to separate the marked evidence from the corpus of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of criminal proceedings, obviating switching, "planting," or contamination of evidence.[25]

While PO1 Go testified that after the buy-bust operation he was in custody of the eight marijuana sticks wrapped in a paper, he admitted that it was not he who marked the same. He testified that he gave the eight sticks of marijuana wrapped in a paper to police investigator SPO3 Rodolfo Casio when he arrived at the office. He said that SPO3 Casio marked the piece of paper wrapping the marijuana sticks with a letter “A”. His testimony reveals, to wit:

“xxxx

Pros. Caña (Q) – Mr. Witness, there is a marking of letter A on the piece of paper which wrapped the eight sticks of marijuana who caused the marking?

A - It was our Investigator sir.

Q - Where did he made this marking?

A - In our office.

Q - How did you know that this Casio made this markings (sic) on January 29, as you said?

A - After he received that piece of paper he immediately marked that letter.

xxxx.”[26]

SPO2 Ripalda, however, insisted that he saw PO1 Go marked the piece of paper wrapping the marijuana sticks

with PO1 Go's initials. His testimony goes in this wise:

“xxxx

Pros. Caña (Q) – Who was in possession of these sticks of marijuana cigarettes?

A - It was PO1 William Go, sir.

Q - Would you still be able to recognize these eight sticks of marijuana cigarettes if shown to you?

A - Yes sir.

Q - Why would you be able to recognize it?

A - Because we put initial to the suspected marijuana cigarettes, sir.

Q - Where did PO1 William Go made the initial to these suspected marijuana cigarettes?

A - In our office, sir.

xxxx

xxxx

Q - You talked a while ago, SPO1 William Go having put his initial to the marijuana cigarettes, where is the initial of PO1 Go?

(witness is examining the marijuana cigarettes)

Court (Q) - I suppose you are familiar of the initial of PO1 William Go?

A - I saw PO1 William Go initialed the marijuana cigarettes, your Honor.

Q - Are you sure he initialed it?

A - I don't know your Honor, but I saw him opened this one, the marijuana sticks.

Q - Did he make any writings? A - Yes.

xxxx.”[27]

Meanwhile, it was revealed by Police Inspector de Guzman that when she received the marijuana sticks, only the paper wrapping them was marked with letter “A”, and she was the one who placed the markings of “A-1” to “A-8” on each of the marijuana sticks. She testified in this wise:

“xxxx

Court (Q) - Who provided the paper wrapper?

A - When I received it, I was already wrapped in a paper, sir.

Q - When did you place the markings, Exhibit “A-1” and series of (sic) the 8 sticks of marijuana cigarettes (sic)?

A - On the day I made the examination sir.

Q - And when was that?

A - If ever we will place date on specimen, that is the day when we received the specimen, sir.

xxxx

xxxx

Q - And when you placed it in the safe cabinet, that was already marked?

A - Yes sir. I did the markings after my examination.

xxxx.”[28]

With the inconsistent testimonies of PO1 Go and SPO2 Ripalda, there is indeed doubt on who placed the marking on the paper wrapper of seized marijuana sticks, worse, the marijuana sticks themselves were not marked, it was only the laboratory examiner who marked the same. Clearly, this significant gap creates serious doubt as to the identity of the seized illegal drugs.

The same can be said with the marijuana fruiting tops that were allegedly seized from the accused-appellant. SPO2 Ripalda's testimony reveals that it was not he who recovered the marijuana fruiting tops from the pocket of the accused-appellant but it was PO2 Versoza. Although, SPO2 Ripalda claimed that he saw how the contraband was recovered, there is doubt on the veracity of his claims considering that his testimony was full of inconsistencies. First, he said that the name of accused-appellant was not revealed to him as it was confidential, but the other witnesses for the prosecution clearly testified that the identity of accused-appellant was revealed to the apprehending team before the buy-bust operation. Second, he said that it was PO1 Go who marked the marijuana sticks as he saw PO1 Go marking his initials on the marijuana sticks, but PO1 Go himself admitted that it was not him who marked the marijuana sticks. Third, he claimed that he saw their commander P/Supt. Jacob sign the request for laboratory examination before the same was transmitted to the crime laboratory by PO2 Versoza,[29] but P/Supt. Jacob admitted that it was not he who signed such request.[30]

Moreover, aside from the general claim of SPO2 Ripalda that he could identify the marijuana fruiting tops wrapped in a paper and further wrapped in handkerchief, and that it was PO2 Versoza who was in custody of the marijuana fruiting tops after their seizure, there was no testimony on who marked and how and where the marijuana fruiting tops were marked. We note that these circumstances would be better explained by PO2 Versoza himself but he was never presented during trial.

Nothing also in the evidence of the prosecution would show that certain steps were undertaken to preserve the integrity and evidentiary value of the seized marijuana sticks and marijuana fruiting tops. Clearly, the chain of custody of the seized marijuana was not proven beyond reasonable doubt.

Sale or possession of a dangerous drug can never be proven without seizure and identification of the prohibited drug. In prosecutions involving narcotics, the narcotic substance itself constitutes the corpus delicti of the offense and the fact of its existence is vital to sustain a judgment of conviction beyond reasonable doubt. Of paramount importance, therefore, in these cases is that the identity of the dangerous drug be likewise established beyond reasonable doubt.[31]

The Supreme Court has pronounced that "gaps in the chain of custody creates a reasonable doubt as to whether the specimens seized from the accused were the same specimens brought to the laboratory and eventually offered in court as evidence. Without adequate proof of the corpus delicti, the conviction cannot stand." [32]

Verily, there were indeed substantial gaps in the chain of custody presented by the prosecution. It is clear that the marijuana sticks were marked only at the time they were submitted for examination and analysis. Also, there was no testimony on how the marijuana fruiting tops were marked before they were given to the crime laboratory for examination.

No less than the Supreme Court has ruled that failure of the authorities to immediately mark the seized drugs raises reasonable doubt on the authenticity of the corpus delicti and suffices to rebut the presumption of regularity in the performance of official duties.[33] Without doubt, the trial court, indeed, erred in brushing aside the preliminary stage of marking to prove chain of custody when it heavily relied on the presumption of regularity in the performance of duties by the apprehending police officers.

The case of *People v. Salonga*[34] aptly put that where the procedure employed by the police officers was tainted with material lapses of these irregularities, the presumption of regularity is effectively destroyed, thus:

"Finally, the presumption of regularity in the performance of official duty cannot be invoked by the prosecution where the procedure was tainted with material lapses. These lapses effectively produced serious doubts on the integrity and identity of the corpus delicti, especially in the face of allegations of frame-up which was testified to by a third party witness. The presumption of regularity in the performance of official duty

cannot by itself overcome the presumption of innocence nor constitute proof beyond reasonable doubt.”

Then, in *People v. Dela Cruz*,^[35] the Supreme Court acquitted the accused therein considering the existence of reasonable doubt that there was a buy-bust operation conducted and that accused therein sold the seized shabu. The Highest Court reasoned in this wise:

“The defense of frame-up in drug cases requires strong and convincing evidence because of the presumption that the law enforcement agencies acted in the regular performance of their official duties. Nonetheless, such a defense may be given credence when there is sufficient evidence or proof making it to be very plausible or true. We are of the view that accused-appellant’s defenses of denial and frame-up are credible given the circumstances of the case. Indeed, jurisprudence has established that the defense of denial assumes significance only when the prosecution’s evidence is such that it does not prove guilt beyond reasonable doubt, as in the instant case. At the very least, there is reasonable doubt that there was a buy-bust operation conducted and that accused-appellant sold the seized shabu. After all, a criminal conviction rests on the strength of the evidence of the prosecution and not on the weakness of the defense.”

In the instant case, We are also of the considered view that accused-appellant's defense of frame-up is credible under the above-discussed circumstances. The weakness of the prosecution's evidence creates reasonable doubt in favor of herein accused-appellant. Certainly, considering the manifold irregularities in the conduct of the buy-bust operation and the non-compliance with the chain of custody, We are convinced that accused-appellant must be acquitted on the ground of reasonable doubt.

WHEREFORE, the Joint Judgment dated June 18, 2012 of the Regional Trial Court (RTC), Branch 34, Tacloban City, in Criminal Cases Nos. 97-02-95 and 97-02-96, is hereby REVERSED and SET ASIDE. Accused-appellant ALLAN REY G. MATIRA is hereby ACQUITTED of the charges on the ground of reasonable doubt. The cash bailbond posted for his provisional liberty is ORDERED released.

The marijuana subject of this case is confiscated and forfeited in favor of the government to be dealt with in accordance with law.

SO ORDERED.

Delos Santos. J., Chairperson, and Azcarraga-Jacob, JJ., concur.

[1] Records, pp. 244-258 of Part II.

[2] Records, p.1 of Part I.

[3] Records, p. 1 of Part II

[4] TSN dated November 27, 1997.

[5] TSN dated January 27, 1998.

[6] TSN dated November 12, 1997.

[7] TSN dated December 14, 1998.

[8] TSN dated October 14, 1999.

[9] TSN dated January 12, 2001.

[10] TSN dated April 15, 1998.

- [11] TSN dated July 14, 2009.
- [12] Records, pp. 257-258 of Part II
- [13] Rollo, pp. 63-64.
- [14] Rollo, pp. 56-71.
- [15] Rollo, pp. 105-123.
- [16] People v. Capuno, G.R. No. 185715, January 19, 2011.
- [17] TSN dated November 27, 1997, pp. 65-70.
- [18] TSN dated November 27, 1997, pp.72-73.
- [19] TSN dated January 27, 1998, pp. 103-107.
- [20] TSN dated July 14, 1999, pp. 215-217.
- [21] Cited in People v. Gratil, G.R. No. 182236, June 22, 2011.
- [22] People v. Sitco and Bagtas, G.R. No. 178202, May 14, 2010.
- [23] Valencia v. People, G.R. No. 198804, January 22, 2014, citing Fajardo v. People, G.R. No. 185460, July 25, 2012 and People v. Alcuizar, G.R. No. 189980, April 6, 2011.
- [24] People v. Dela Cruz, G.R. No. 185717, June 8, 2011.
- [25] People v. Nacua, G.R. No. 200165, January 30, 2013, citing People v. Coreche, G.R. No. 182528, August 14, 2009.
- [26] TSN dated November 27, 1997, pp. 57-59.
- [27] TSN dated January 27, 1998, pp. 96-99.
- [28] TSN dated November 12, 1997, pp. 25-26.
- [29] TSN dated January 27, 1998, pp.100-101.
- [30] TSN dated July 14, 1999, pp. 210-212.
- [31] People v. Nacua, supra note 25.
- [32] People v. Salonga, G.R. No. 194948, September 2, 2013; emphasis supplied.
- [33] Lopez v. People, G.R. No. 188653, January 29, 2014, citing People v. Umipang, G.R. No. 190321, 25 April 2012 and San Juan v. People, G.R. No. 177191, 30 May 2011.
- [34] G.R. 194948, September 2, 2013.
- [35] G.R. No. 185717, June 8, 2011.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.