

PEOPLE OF THE PHILIPPINES, PLAINTIFF- APPELLEE, VS. RAUL INEHENTE Y CABASA, ACCUSED-APPELLANT.

Ponente: HERNANDO, J.

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HERNANDO, J.:

This is an appeal filed by accused-appellant Raul Inehente y Cabasa, seeking review of the June 27, 2013 Decision[1] of the Regional Trial Court (RTC), Branch 57, of Cebu City finding him guilty beyond reasonable doubt for Violation of Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165, in Criminal Case Nos. CBU-84843 and CBU-84844, respectively.

The Antecedents:

Accused-appellant was charged in two Informations for violation of R.A. No. 9165, the first is for violation of Section 5 committed as follows:

INFORMATION (CBU-84843)

That on or before the 26th day of November, 2008, at about 8:50 in the evening, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, without being authorized by law, did then and there sell, deliver or give away to a poseur buyer One (1) heat sealed transparent plastic sachet of white crystalline substance, weighing 0.02 gram locally known as SHABU, containing Methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.”

The second offense, for violation of Section 11 of R.A. No. 9165, was allegedly committed as follows:

INFORMATION (CBU-84844)

That on or about the 26th day of November, 2008, at about 8:50 o'clock in the evening, in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, w/o authority of law, did then and there have in his possession and control five (5) heat sealed transparent plastics sachet of white crystalline substance with a total weight of 0.06 gram, locally known as shabu, containing methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.”

When arraigned on February 5, 2009, accused-appellant pleaded not guilty to both charges. Thereafter, trial on the merits commenced with the prosecution presenting as witnesses IA1 Baby Rallos and IA5 Yogi Felimon Ruiz. For the defense, the accused-appellant solely took the witness stand.

The facts of the case according to the prosecution are summarized as follows:

In the morning of November 26, 2008, agents of the Philippine Drug Enforcement Agency (PDEA) received a tip

from their confidential informant that accused-appellant was engaged in the sale of illegal drugs in Pasil, Cebu City. Pursuant to the tip relayed to them, a buy-bust team was formed. It was composed of IO4 Julius Navales, IA1 Baby Rallos, IO3 Yogi Felimon Ruiz and IO1 Moises Arriesgado. At about seven o'clock in the evening, a briefing was conducted where IA1 Rallos was designated as the poseur buyer together with the confidential informant. IA1 Rallos was then given two 100-peso bills (with serial No. LK887881 and VY807911)[2] as marked money for the buy-bust operation. The team also agreed that the pre-arranged signal for the confirmation of the sale would be a "missed call" from IA1 Rallos. After the briefing, a Pre-Operation Report[3] and an Authority to Operate[4] was prepared. Thereafter, the buy-bust team proceeded to the target area.

At about 15-20 meters away from the target area, IA1 Rallos and the confidential informant alighted from the service vehicle. They then proceeded towards the accused's place of business on foot. After exchanging pleasantries, accused asked what IA1 Rallos wanted. IA1 Rallos asked if he could buy two hundred peso worth of shabu and gave accused the marked money bearing the initials "ER". Subsequently, accused gave IA1 Rallos a small plastic pack containing white crystalline substance suspected as shabu. This prompted IA1 Rallos to give the pre-arranged signal, which tipped-off his teammates that the sale has been concluded. As his team approached the target area, IA1 Rallos introduced himself as a PDEA agent to the accused. The latter tried to evade arrest but was later caught after a brief chase. Pursuant to the arrest, accused was frisked. The body search led to the recovery of the buy-bust money, cash worth Five Hundred Pesos and five additional plastic packs containing white crystalline substance. The evidence seized from accused was surrendered to the custody of IA1 Rallos for safekeeping. Concerned for their safety and security, the team decided to pull out from the area and head to their office.

At the PDEA office, the plastic packs were respectively marked as "RCI-SS-11/26/08" and "RCI-01 11/26/08" to "RCI-05 11/26/08". An inventory[5] of the seized evidence was then prepared and photographs were taken.[6] Thereafter, a request[7] for laboratory examination of the plastic packs suspected of containing illegal drugs was made. IA1 Rallos then delivered the seized evidence to the crime laboratory which was received by PO1 Sagun.

After examining the contents of the plastic packs, Mutchit Salinas, the Forensic Chemical Officer who conducted the tests, reduced into writing his findings in Chemistry Report No. D-1231-2008.[8] He concluded that the qualitative examination of the specimens gave positive results for the presence of methylamphetamine hydrochloride, a dangerous drug.

Conversely, interposing denial and mistaken identity, accused espouses the following facts to exonerate himself:

On the evening of November 26, 2008, while accused was having dinner, PDEA agents suddenly barged into his house and asked if he was Junjun. Accused stressed that he was brought to the police station after giving an affirmative answer. At the office, he was told that Junjun Filomeno was a shabu dealer. Accused admitted knowing Junjun since the latter's house is only ten meters away from his house. He then rationalized that the PDEA agents probably committed a mistake in entering his house and arresting him. Moreover, accused alleged that he asked the PDEA agents to release him since Junjun had already been arrested. During the conduct of the inventory, accused asserted that he failed to inform anyone of the mistaken identity.

After trial, the court a quo rendered the assailed Decision finding accused-appellant guilty beyond reasonable doubt because the denial espoused by him, which is that he was not caught in a buy-bust operation, utterly failed to convince the court. Moreover, it ratiocinated that the defense of denial and frame-up adduced by accused-appellant was baseless and cannot stand against the positive testimonies of the police officers who had no ill motive on their part in testifying against him.

Hence, the current appeal before Us.

The Issue:

The sole issue in this appeal is whether or not the appellant's guilt was proven beyond reasonable doubt.

The Court's Ruling

The appeal is bereft of merit.

The elements needed to successfully prosecute an accused for the violation of Article II, Section 5 of R.A. No. 9165 are as follows:

(1) identities of the buyer and seller, the object, and the consideration; and

(2) the delivery of the thing sold and the payment therefor.[9]

Here, IA1 Rallos, the poseur-buyer, categorically testified that he gave two 100-peso bills (marked as "ER") to the appellant as payment for the plastic pack of shabu subsequently given to him by appellant. Thereafter, IA1 Rallos executed the pre-arranged signal that led to the appellant's arrest. At the PDEA office, the plastic pack was then marked as "RCI-SS-11/26/08" and immediately forwarded to the PNP Crime Laboratory for testing. In Chemistry Report No. D-1231-2008, the contents of the plastic pack yielded positive for methylamphetamine hydrochloride.

From the forgoing, it is evidently clear that all the above-mentioned elements are present as to warrant the conviction of the appellant for violation of Article II, Section 5 of R.A. No. 9165. Likewise, all of the elements[10] to affirm his conviction under Article II, Section 11 of said law are present and duly proven by the prosecution, viz: (1) the appellant was found in possession of five plastic packs of shabu weighing 0.06 grams, which was recovered when he was frisked after his valid warrantless arrest during the buy-bust operation; (2) he is not authorized by law to possess the dangerous drug; and (3) he was clearly identified as the person freely and consciously in possession of the dangerous drug.

To refute this, the appellant simply denied the charges against him and insinuates that his identity was mistaken for that of Junjun Filomeno, who was a known shabu dealer in their neighborhood. In the case of *People of the Philippines v. Agnes Padasin y Chakiton*,[11] the Supreme Court explicitly ruled that the defenses of denial and alibi are looked upon with disfavor on account of their aridity and the facility with which an accused can concoct them to suit his defense. If unsubstantiated by clear and convincing evidence, these defenses become negative and self-serving, as to deserve no weight in law, and thus cannot prevail over the testimonies of credible witnesses who testify on affirmative matters. Hence, to be believed, these inherently weak defenses must be buttressed by strong evidence of non-culpability. Here, the self-serving testimony of the appellant was unsubstantiated by adequate proof to overturn the evidence of the prosecution and the presumption of regularity in the performance of official duties of the police officers who effected the arrest and seized the evidence against him. Thus, the trial court aptly brushed aside appellant's defense of mistaken identity, viz:[12]

Accused's assertion that the officers mistook him for Junjun Filomeno is flimsy as the officers told him that Filomeno is a known drug dealer. Hence, that statement could not have been arrived at, had the reports on Filomeno's illegal activity not verified.

The defense of mistaken identity is not tenable, as gleaned from accused's testimony that despite such assertion, still he did not bother to tell the officers of Filomeno's house which is just ten meters away or his whereabouts.

"For evidence to be believed, it must not only proceed from the mouth of a credible witness, it must also be credible in itself." (*People vs. Milan*, 311 SCRA 461)

Per record, Filomeno, who is also charged before this court, was arrested on November 28, 2008 and not on November 26, 2008, the same day that they were arrested as testified by the accused. Hence, allegation of the accused that he was mistaken as Junjun Filomeno, thus was arrested, would not hold water.

Corollarily, the reliance of the trial court on the testimonies of the prosecution witnesses was well founded as there is nothing on record to show any motive, ill or otherwise, for IA1 Rallos and IA5 Ruiz to falsely charge appellant with a crime. It has long been settled that without evidence to show that the prosecution witnesses were actuated by an improper motive, their testimonies deserve full faith and credit.[13] Moreover, in cases involving violations of the Comprehensive Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary. Unless there is clear and convincing evidence that the members of the buy-bust team were inspired by any improper motive or were not properly performing their duty, their testimonies with respect to the operation deserve full faith and credit.[14]

All told, since appellant failed to sufficiently overturn by clear and convincing evidence that the police officers properly performed their official duties, there is thus no necessity to depart from the factual findings of the trial court in passing upon the credibility of witnesses which is accorded great respect.[15] Indubitably, the inconsistencies and incredibility pointed out by appellant in the testimony of IA1 Rallos and IA5 Ruiz deserve scant consideration as they pertain only to trivial matters. In *People v. Delim*, [16] the Supreme Court emphatically ruled:

The inconsistencies in the testimonies of Rita and Randy do not render them incredible or their testimonies barren of probative weight. It must be borne in mind that human memory is not as unerring as a photograph and a person's sense of observation is impaired by many factors including the shocking effect of a crime. A truth-telling witness is not always expected to give an error-free testimony considering the lapse of time and the treachery of human memory. What is primordial is that the mass of testimony jibes on material points, the slight clashing of statements dilute neither the witnesses' credibility nor the veracity of his testimony. Variations on the testimony of witnesses on the same side with respect to minor, collateral or incidental matters do not impair the weight of their united testimony to the prominent facts. Inconsistencies on minor and trivial matters only serve to strengthen rather than weaken the credibility of witnesses for they erase the suspicion of rehearsed testimony.

Assayed from the foregoing disquisitions, this Court sees no compelling reason to deviate from the factual findings of the court a quo. It is a settled rule that factual findings of the trial courts, including their assessment of the witnesses' credibility, are entitled to great weight and respect. The time tested jurisprudence is that the findings and conclusions of the trial court on the credibility of witnesses enjoy a badge of respect for the reason that trial courts have the advantage of observing the demeanor of witnesses as they testify.[17] Here, We are fully convinced that the police officers indeed conducted a buy-bust operation and rightly arrested the appellant for the commission of the crime charged. Appellant utterly failed to show that there appears on the records some facts or circumstances of weight and influence, which the trial court has overlooked or the significance of which it has misapprehended or misinterpreted[18] as to warrant a deviation from the established rule.

WHEREFORE, in view of the foregoing, the appeal is DENIED. The June 27, 2013 Decision of the Regional Trial Court, Branch 57, of Cebu City finding Raul Inehente y Cabasa guilty beyond reasonable doubt for Violation of Sections 5 and 11, Article II of R.A. No. 9165, in Criminal Case Nos. CBU-84843 and CBU-84844 is AFFIRMED in toto. No costs.

SO ORDERED.

Quijano-Padilla, and Azcarraga-Jacob, JJ., concur.

- [1] Penned by Hon. Enriqueta Loquillano-Belarmino, Rollo, pp. 17-21.
- [2] Original Records, p. 13.
- [3] Original Records, p. 111.
- [4] Original Records, p. 8.
- [5] Original Records, p. 7.
- [6] Original Records, p. 12.
- [7] Original Records, p. 11.
- [8] Original Records, p. 6.
- [9] People v. Narciso Agulay, G.R. No. 181747, September 26, 2008.
- [10] People v. Edelma Lagata, G.R. No. 135323, June 25, 2003.
- [11] G.R. No. 143671. February 14, 2003.
- [12] Rollo, p. 20.
- [13] People v. Abes, G.R. No. 138937, January 20, 2004.
- [14] People v. Navarro, G.R. No. 173790, October 11, 2007.
- [15] People v. Panfilo Cabiles, G.R. No. 112035, January 16, 1998.
- [16] G.R. No. 142773, January 28, 2003.
- [17] People v. Panfilo Cabiles, G.R. No. 112035, January 16, 1998.
- [18] People v. Razul, G.R. No. 146470, November 22, 2002.

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