

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CONCORDIO V. ESPIDIDO, ACCUSED-APPELLANT.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is an appeal assailing the Judgment[1] dated June 18, 2012, of the Regional Trial Court, 7[th] Judicial Region, Branch 57, Cebu City, finding accused-appellant Concordio V. Espidido guilty beyond reasonable doubt for violation of Sections 11 and 12, Article II of RA 9165 or the Comprehensive Dangerous Drugs Act of 2002, docketed as Criminal Case No. CBU-87439 and Criminal Case No. CBU-87440, respectively.

On November 11, 2009, accused-appellant was charged with violations of Section 11 (illegal possession of dangerous drugs) and Section 12 (possession of equipment, instrument, apparatus and other paraphernalia for dangerous drugs) of Article II of RA 9165. The Informations read as follows:

CRIMINAL CASE NO. CBU-87439

(For violation of Section 5, Article II of RA 9165)

“That on the 7[th] day of November, 2009, at about 12:40 o'clock in the afternoon, in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused, without authority of law, with deliberate intent, did then and there have in his possession, use and control two (2) heat-sealed transparent plastic sachets of white crystalline substance each containing 0.02 and 0.03 grams, with a total net weight of 0.05 grams, locally known as “shabu” containing methamphetamine hydrochloride, a dangerous drug.[2]”

CRIMINAL CASE NO. CBU-87440

(For violation of Section 12, Article II of RA 9165)

“That on or about the 7[th] day of November 2009, at about 12:40 noon, more or less, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with the deliberate intent, and without any lawful purpose, did then and there have in his possession and control, the following:

- a) One (1) disposable lighter;
- b) Four (4) rolled aluminum tin foil;
- c) Three (3) handrolled tissue paper wicks; and
- d) One (1) transparent plastic container box

which is instrument and/or equipment for or intended for smoking, consuming, administering, ingesting or introducing any dangerous drug into the body.[3]”

During his arraignment on December 10, 2009, accused-appellant, with the assistance of his counsel, pleaded not guilty to the offenses charged.[4] Thereafter, the parties agreed to terminate the pre-trial[5] and set the case for trial on the merits.[6]

VERSION OF THE PROSECUTION

On November 7, 2009, prosecution witnesses PO2 Marvin Sanson [PO2 Sanson] and PO1 Percival Eborlas [PO2 Eborlas] proceeded to D. Jakosalem Street, Cogon, Ramos in order to verify a tip on the rampant illegal gambling in the said area. When the police officers in their civilian clothes reached the interior portion of the said area, they saw a group of young male individuals aggregating nearby. Sensing their presence, all of the said persons scampered away except accused-appellant who was holding a plastic box.[7]

From where PO2 Sanson was, he could clearly see that the plastic container held by accused-appellant contained drug paraphernalia causing the police officers to immediately put the latter under arrest and informed him that he violated Section 12, Article II of RA 9165. During the course of the inventory of the confiscated items made by PO2 Sanson, he further discovered that the container has two [2] heat-sealed transparent sachets believed to be shabu. Thus, he informed accused-appellant that he had likewise violated Section 11, Article II of the same RA 9165.[8]

The two [2] sachets of shabu were inventoried at the crime scene and duly marked as “CE-1” and “CE-2”. The said items were then submitted to the Philippine National Police [PNP] for examination.[9] Forensic Chemical Officer Mutchit G. Salinas of the PNP Crime Lab, issued Chemistry Report No. D-1054-2009[10]

confirming that the specimen submitted yielded positive with the presence of Methamphetamine hydrochloride, a dangerous drug.

After the prosecution rested, it offered Exhibits “A” to “H”[11] with all their sub-markings which were all duly admitted by the court a quo.[12]

VERSION OF THE DEFENSE

Accused-appellant recounted that on November 7, 2009, he was at the apartment of Jill Sanchez in order to sell branded bags, clothes and jewelry.[13] While he was showing her his goods at the lanai of her apartment, he saw two [2] men approaching him carrying handcuffs and he immediately recognized them as police officers.[14] The police officers told him to go with them to Fuente Police Station[15] without telling him of his offense.[16]

When they arrived at the police station, he was made to choose by PO2 Sanson among Sections 5, 11 or 12 and that is when he knew he was charged with possession of illegal drugs.[17] He was previously charged with violation of Section 11, Article II of RA 9165 sometime in 2008 but it was dismissed.[18]

Jill Sanchez could no longer corroborate his story because after she married a Japanese national she subsequently migrated to Japan.[19]

On June 18, 2012, the RTC rendered its Decision[20] convicting accused-appellant for violation of Sections 11 and 12, Article II of RA 9165. The dispositive portion of the Decision, reads:

“WHEREFORE, in view of the foregoing, the Court finds accused Concordio Espidido guilty beyond reasonable doubt of the crimes charged and is hereby sentenced to suffer the following penalties:

1. twelve (12) years and one (1) day to fifteen (15) years and a fine of P300,000.00 for Violation of Section 11, Article II of RA 9165 and
2. Six (6) months and one (1) day to two (2) years and a fine of P20,000.00 with subsidiary imprisonment in case of insolvency for Violation of Section 12 of the aforesaid law.

Accused is credited for the period during his preventive imprisonment.

The packets of shabu and shabu sniffing paraphernalia are forfeited in favor of the government.

SO ORDERED.”

Hence, accused-appellant on appeal, raised the lone assignment of error, thus:

“THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.[21]”

Our Ruling

Accused-appellant in support of his appeal advanced that due to the inconsistencies at some points of the police officers' testimonies, it created a doubt as to the veracity of their statements.[22] Accordingly, the police officers testified that they saw a group of individuals gathered and upon sensing their presence, scampered at different directions and the bewildered accused-appellant holding a plastic case containing illegal drug paraphernalia with illegal drugs was left at the scene. It is therefore contrary to human behavior that if it was the accused-appellant who was really carrying the illegal drug paraphernalia and the illegal drugs that he did not run with the group.[23]

Prosecution further points out another inconsistency wherein PO2 Sanson testified that on November 7, 2009 he was with PO2 Eborlas only but the latter testified that on that same day, they were with another officer, PO2 Cunan, which inconsistency, unexplained, marred the truthfulness of the statements made by the police officers.

Apart from that, prosecution failed to establish the chain of custody of the confiscated illegal drug in the instant case. Taking into consideration the aforementioned inconsistencies and the failure to establish chain of custody, accused-appellant must be acquitted based on reasonable doubt.

We sustain the judgment of conviction.

While there are indeed minor contradictions in PO2 Eborlas and PO2 Sanson's testimonies wherein PO2 Eborlas declared that they were with another police officer PO2 Cunan on one hand and on the other hand PO2 Sanson testified that he was with PO2 Eborlas only, the said inconsistencies are nevertheless inconsequential and do not detract from the proven elements of the offense of illegal possession of dangerous drugs and illegal possession of equipment, instrument, apparatus and other paraphernalia for dangerous drugs.[24] As correctly ruled by the RTC, the prosecution had established beyond reasonable doubt the elements of Section 11, Article II of RA 9165, to wit:

- “(a) the accused is 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.[25]”

As well as the elements of Section 12, Article II of RA 9165, to wit:

- “(1) possession or control by the accused of any equipment, apparatus or other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body; and
- (2) such possession is not authorized by law.[26]”

It is now too well-settled to require extensive documentation that “inconsistencies in the testimonies of witnesses, which refer only to minor details and collateral matters, do not affect the veracity and weight of their testimonies where there is consistency in relating the principal occurrence and the positive identification of the accused. Significantly, in the case at bench, the testimonies of the said witnesses for the prosecution were in harmony with respect to their positive identification of accused-appellant as the one who was in possession of illegal

paraphernalia and with the illegal drug, as well as to the other surrounding circumstances that transpired during the said operation.[27]

PO2 Sanson's account on what transpired on November 7, 2009 is as follows:

“Q: Do you recall where were you on November 7, 2009 at around 12:40 pm?

A: Yes, sir.

Q: Where were you?

A: We were proceeding at D. Jakosalem Street, Cogon, Ramos, sir, in order to verify the report about rampant illegal gambling thereat.

Q: Now did you reach the area?

A: Yes, sir.

Q: Who were your companions at that time?

A: PO2 Eborlas, sir.

Q: And while in the said area, what happened there?

A: Upon reaching the interior portion of the said area sir, we saw a group of young male individuals and upon sensing our presence, they scampered to different directions leaving one male individual.[28]

Q: What did you do upon seeing group of youngsters scampered away upon noticing your presence?

A: It caught our attention, sir, and prompted us to verify what they were doing in the said place.

Q: So, what did you discover?

A: One male individual who was left behind and who did not run, upon verifying him, we saw him holding a plastic box.

Q: So, upon seeing that he was holding a plastic box, what did you and your companion do?

A: Upon seeing that transparent box, sir, I saw clearly the drug paraphernalia inside.

Q: What did you do upon knowing that there were drug paraphernalia inside the transparent plastic box?

A: We immediately effected his arrest, sir.

Q: Where is the plastic box as well as the drug paraphernalia you recovered from the male person?[29]

A: We saw it on his right hand, sir, when we confiscated the item.

Q: Were you able to get the name of the arrested person?

A: Yes sir.

Q: What is his name?

A: Upon verifying his name, he answered Concordio Espidido, sir.

Q: Is Concordio Espidido present inside the courtroom?

A: Yes, sir.

Q: Please point him?

A: Second person sitting from the right, sir.

xxxxx

Q: Now at the time you saw this transparent plastic box being in the[30] possession of the accused, what was the accused doing, was he standing or sitting at that time?

A: He was standing holding the box, sir, he was left behind when his companions scampered away.

xxxxx

Q: How far were you when you saw the accused holding the plastic box?[31]

A: About tapping distance, sir. When we verified what he was doing and why his companions scampered away, I came closer to him and verified what he was holding. I looked at the box he was holding and in that box I can see that there was drug paraphernalia inside.

Q: So, that was the time that you effected arrest on him?

A: Yes, sir.[32]”

The recount of PO2 Sanson was corroborated by PO2 Eborlas on its material points, thus:

“Q: On November 7, 2009 at around 12:40 in the afternoon, do you recall where you were and what were you doing in this particular date and time?

A: We were at the interior portion of Brgy. Cogon, Ramos, Cebu City.

Q: And who were with you at that time?

A: PO2 Sanson and PO2 Cunan.

Q: While you were at the interior portion of Brgy. Cogon, Ramos, Cebu City, what unusual incident that transpired, if any?

A: We saw a group of persons upon noticing our presence scampered to different directions.

Q: So what did you do upon noticing group of persons scampered away?

A: We approached one male individual in the area.[33]

Q: So what did you do with that male individual?

A: PO2 Sanson saw the male individual holding transparent plastic box.

xxxxx

Q: Are you trying to impress the Court that this male individual did not run away?

A: Yes, sir, because he was rattled and was left by other persons.

Court: So he was with the group of persons who scampered away?

A: Yes, Your Honor.

Pros. Labata: So what did officer Sanson do to this male individual?

A: PO2 Sanson saw that the box containing drug paraphernalia.

Q: What happened next?

A: PO2 Sanson effected the arrest of the suspect.

Q: What is the reason why he effected the arrest of the suspect?

A: For Violation of Section 12, RA 9165.[34]

Q: What did Marvin Sanson do to the transparent plastic box after effecting arrest to the male individual?

A: He made inventory of the paraphernalia inside the box and marked it.

Q: How far were you from Sanson?

A: Just beside PO2 Sanson.

Q: So considering that you were just beside Sanson you were able to see the transparent plastic box?

A: Yes, sir.

Q: How did you and Sanson know that the contents of this transparent plastic box were drug paraphernalia?

A: Because PO2 Sanson saw it clearly.

Q: Only Sanson saw this transparent plastic box clearly?

A: Yes, sir.

Q: And you did not see clearly this transparent plastic box?

A: The contents of the transparent plastic box I cannot clearly see.

Q: You were beside with Sanson. How come that you failed to see?

A: Because PO2 Sanson got hold first of the transparent plastic box.[35]

Q: Did you happen to see Sanson opened the transparent plastic box?

A: Yes, sir.

Q: And when Sanson opened the transparent plastic box, who was the one holding the male individual?

A: Me, sir.

Q: And you were able also to see the contents of the transparent plastic box?

A: Yes, sir.

Q: By the way, who was that male individual that was arrested?

A: We later know him as Concordio Espidido.

Q: Please point to him if he is inside the court room.

A: The fourth person from my left.[36]"

The testimonies of the police officers have adequately established with moral certainty the commission of the crime charged in the informations as well as the identity of accused-appellant as the perpetrator. At this juncture, We affirm the RTC's finding that the police officers' testimonies deserve full faith and credit. Appellate courts, generally, will not disturb the trial court's assessment of a witness' credibility unless certain material facts and circumstances have been overlooked or arbitrarily disregarded. In the instant case, We find no reason to deviate from this rule in this case.[37]

At this point, it well worth to point out that accused-appellant's insistence on the illegality of his arrest is without merit.

In the instant case, the seizure of the illegal drugs and the paraphernalia is justified under the plain view doctrine. The plain view doctrine provides that objects falling in the plain view of an officer who has a right to be in the position to have that view are subject to seizure and may be presented as evidence. The plain view doctrine applies when the following requisites concur: (1) the law enforcement officer in search of the evidence has a prior justification for an intrusion or is in a position from which he can view a particular area; (2) the discovery of the evidence in plain view is inadvertent; and (3) it is immediately apparent to the officer that the item he observes may be evidence of a crime, contraband or otherwise subject to seizure.[38]

PO2 Sanson and PO2 Eborlas were in the area responding to a tip about the rampant illegal gambling when their attention was caught when a group of male individuals started scurrying in different directions when they were nearing towards the group. After the group dissipated, accused-appellant was left behind and from where PO2 Sanson was, he could clearly see that the latter was holding paraphernalia used to administer dangerous drugs. The said discovery was inadvertent and that it was apparent to PO2 Sanson that the said item was a contraband. It follows that accused-appellant was committing a crime in the presence of a police officer.

Having committed a crime in the presence of the police officer, the latter is justified in effecting an arrest of the accused-appellant even without a warrant, which situation falls under the exceptions provided under Section 5, Rule 113[39] of the Rules of Court.

After his arrest and while the arresting officers conducted the inventory of the illegal drug paraphernalia, it was further discovered that accused-appellant was also in possession of white crystalline substances placed in two [2] separate plastic sachets. Which substances after being placed under laboratory examination, yielded to be methamphetamine hydrochloride or shabu, a dangerous drug. After the discovery thereof, accused-appellant was further informed by PO2 Sanson that he likewise violated the provision of Section 11, Article II of RA 9165.[40] Under these circumstances, it is beyond doubt that accused-appellant was arrested in flagrante delicto while committing a crime, in full view of the arresting officers.[41]

To write finis to the issue of validity and irregularity in accused-appellant's warrantless arrest, We hold that accused-appellant is deemed to have waived any objections to his arrest for not raising them before entering his plea.[42]

Considering that the warrantless arrest of accused-appellant was valid, the subsequent search and seizure done on her person was likewise lawful. After all, a legitimate warrantless arrest necessarily cloaks the arresting police officer with authority to validly search and seize from the offender (1) dangerous weapons, and (2) those that may be used as proof of the commission of an offense.[43]

Next, accused-appellant argues that the prosecution's failure to present the forensic chemist during trial was fatal to its cause. In view of this, he points out that the prosecution failed to establish the corpus delicti.[44]

The argument fails to persuade. The Supreme Court have already ruled in a number of cases that non-presentation of the forensic chemist in illegal drugs cases is an insufficient cause for acquittal.[45]

In *People v. Quebral, et al.*[46] the Supreme Court ruled that the non-presentation of the forensic chemist is not fatal to the case of the prosecution nor does the omission entitle accused-appellant to an acquittal, a portion of the decision reads:

“The accused-appellants also point out that, since the chemist who examined the seized substance did not testify in court, the prosecution was unable to establish the indispensable element of corpus delicti. But this

claim is unmeritorious. This Court has held that the non-presentation of the forensic chemist in illegal drug cases is an insufficient cause for acquittal. The corpus delicti in dangerous drugs cases constitutes the dangerous drug itself. This means that proof beyond doubt of the identity of the prohibited drug is essential.

Besides, corpus delicti has nothing to do with the testimony of the laboratory analyst. In fact, this Court has ruled that the report of an official forensic chemist regarding a recovered prohibited drug enjoys the presumption of regularity in its preparation. Corollarily, under Section 44 of Rule 130, Revised Rules of Court, entries in official records made in the performance of official duty are prima facie evidence of the facts they state. Therefore, the report of Forensic Chemical Officer Sta. Maria that the five plastic sachets PO3 Galvez gave to her for examination contained shabu is conclusive in the absence of evidence proving the contrary. At any rate, as the CA pointed out, the defense agreed during trial to dispense with the testimony of the chemist and stipulated on his findings.”

The prosecution and the defense have already stipulated on the testimony of Forensic Chemist Mutchit G. Salinas, hence, what is left are the examination and appreciation of the pertinent pieces of evidence. Upon examining Exhibits “A” and “C” of the prosecution, the Request for Laboratory Examination and Chemistry Report respectively, this Court is convinced that

there were: (1) proper turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (2) submission of the marked illegal drug seized by the forensic chemist to the court. The Request for Examination[47], readily reveals that Fuente Osmeña, Cebu City Police Station, requested the Chief Chemist of the Regional Crime Laboratory Office 7 for a laboratory examination of two (2) heat sealed transparent plastic sachets, all containing white crystalline substance believed to be MHCL or better known as shabu marked as “CE-1” and “CE-2”. The samples were then delivered to the Crime Laboratory by PO2 Sanson on November 7, 2009.[48] The examination eventually yielded positive results for methamphetamine hydrochloride as verified by Forensic Chemist Salinas. This result is submitted to the Court as Exhibit “C” and stipulated on by both parties.[49]

Accused-appellant posits that the prosecution did not strictly comply with the procedures laid down in Section 21, Article II of RA 9165 and its Implementing Rules and Regulations regarding the physical inventory and photograph of the seized items. Non-compliance therewith, he argues, casts doubt on the identity of the suspected shabu allegedly bought and confiscated from him.[50]

On the matter of handling the confiscated illegal drugs after a buy-bust operation, Section 21(1), Article II of RA 9165 provides:[51]

“(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) xxxxx”

Accordingly, Section 21(a) of the Implementing Rules and Regulations of RA 9165 which implements the afore-quoted provision reads:[52]

(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;

(b) xxxxx”

It did not escape Our attention that the arresting officers after the seizure of the contraband immediately marked the items on site and likewise made an inventory thereto.[53] The corresponding Certificate of Inventory[54] which was offered as Exhibit “G” for the prosecution was issued by PO2 Sanson. The same however lacked two [2] witnesses: an elected official and representative of the accused-appellant. Photographs were then taken marked as Exhibit “H”[55] for the prosecution.

Even if the prosecution failed to strictly follow Section 21 of RA 9165, case law has it that non-compliance with the abovequoted provision of RA 9165 and its Implementing Rules and Regulations is not fatal and will not render an accused’s arrest illegal or the items seized/confiscated from him inadmissible. What is of utmost importance 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.[56] Otherwise put it is imperative that the prosecution must establish the chain of custody by proof beyond reasonable doubt.[57]

After a thorough review of the records, We hold that the prosecution in this case has established by facts proved at the trial that the chain of custody requirement was not broken.[58]

To quote the testimony of PO2 Sanson, thus:

“Q: Who made marking on this plastic box?

A: Me, sir, upon confiscation I immediately marked the same after I verified his name.[59]

Court: Upon confiscation, you meant at the scene?

A: Yes, Your Honor, after I verified his full name, I made markings out of his initials.

Q: The same is through (sic) with the drug paraphernalia?

A: Yes, sir.

Q: Now the marking on the plastic box is “CE”, so what do you mean by this?

A: Concordio Espidido, sir.

Q: In the drug paraphernalia the marking is also “C”and “E”.

Court: CE

Pros. Labata: Yes, CE.

Q: So, what's the middle name?

A: Villamor, sir.[60]

Q: So, after recovering these items from the accused, what did you do to him?

A: When we were about to make an inventory, sir, we found out that there were two (2) transparent plastic packs inside the box.

Q: So, upon learning that there were two transparent plastic packs of white crystalline substance inside the plastic box, what did you do?

A: I further informed him of another offense for Section 11, sir.

Q: Then after that what did you do with these two (2) transparent plastic packs of white crystalline substance?

A: I also marked it, sir.

Q: What markings did you make?

A: CE-1 and CE-2, sir.

Q: I'm showing to you Exh. B consisting of two (2) transparent plastic packs of white crystalline substance, please examine these and tell the Court whether these are the same items that you recovered from the plastic box?[61]

A: Yes, sir, these are the same plastic packs wherein I made the markings.

Q: Where did you make the markings?

A: At the crime scene, sir.

Q: So, after marking these two (2) transparent plastic packs with white crystalline substance, what happened next?

A: We reflected it in the inventory receipt and then after that we proceeded to the police station for proper disposition, sir.

Q: At the police station, what documents did you prepare there?

A: At the station we prepared a laboratory request, sir, and then we contacted the media personnel to witness or sign the inventory sheet and photographed the said evidence.

Q: How about the blotter, was there any blotter made in relation to the arrest of the accused?[62]

A: It was also reflected in the blotter, sir.

Q: Do you happen to see that blotter?

A: Yes, sir.

Q: I'm showing to you a certified true copy of the police blotter attached to the record, please examine this and tell the Court whether this is the same police blotter that was prepared in relation to the arrest of the accused?

A: Yes, this is the same police blotter.

xxxxx

Q: You mentioned earlier that there was an inventory conducted as well as the taking of photographs of the inventory[63] conducted, I'm showing to you a certificate of inventory, please examine this and tell the Court whether this is the same inventory that you prepared in relation to the arrest of the accused?

A: Yes, this is the same inventory, sir.[64]

xxxxx

Q: Now you mentioned about photographs, I'm showing to you two (2) photographs attached to the record, please examine these photographs and tell the Court whether these are the same photographs taken at the time

of the conduct of inventory?

A: This one is our arrested person, sir, our team leader and the witnesses from the media and the evidences confiscated.[65]

xxxxx

Q: After the preparation of the letter-request, what did you do with the two confiscated transparent plastic packs with white crystalline substance?

A: We delivered it to the Crime Laboratory 7 for chemical analysis, sir.

Q: Who delivered the evidence to the PNP Crime Laboratory?

A: I, sir, together with my partner, PO2 Eborlas, sir, but I was the one in sole custody of the evidence.

Q: I'm showing to you Exh "A", is this the letter-request you prepared?

A: Yes, sir, the same letter-request.[66]

xxxxx

Q: What was the result of the examination conducted by the PNP Crime Laboratory 7?

A: It gave positive result for methamphetamine hydrochloride sir.

Q: What is your basis in stating that?

A: The PNP Crime Laboratory furnished us the result of the examination, sir.

Q: Do you happen to receive the result of the examination?

A: Yes, sir.

Q: I'm showing to you Exh. C which is the Chemistry Report No. D-1054-2009, please examine this and tell the Court whether this is the same report that you received from the PNP Crime Laboratory 7 in connection with the case of the accused?

A: Yes, this is the same result, sir.

Q: Now, going back to the drug paraphernalia that you have confiscated from the accused. What's the use of aluminum tin foil?[67]

A: This rolled aluminum tin foil is used for making an improvised funnel or tooter, sir.

Q: And what is the use of this hand rolled tissue?

A: It will be made as (a) paper wick to burn the shabu, sir.

Q: How about this disposable lighter, what's the use of this?

A: To light the paper wick sir.

Court: Now from your testimony, officer, is it correct that since you were the one who confiscated the plastic packs of shabu as well as the drug paraphernalias (sic) and you were the one who also marked and subsequently delivered the same to the PNP Crime Laboratory, you were the only person who had accessed (sic) or in custody of the evidence from the confiscation up to its delivery to the PNP Crime Laboratory?

A: Yes, Your Honor.[68]"

Likewise, the prosecution has convincingly established that accused-appellant was in possession of drug paraphernalia such as aluminum tin foil, hand rolled tissue paper wicks and lighter, all of which were offered in evidence.[69] The corresponding receipt and inventory of the seized shabu and other drug paraphernalia were likewise presented in evidence.[70] PO2 Sanson attested to the veracity of the contents[71] of these documents.[72]

We have observed that accused-appellant's defense hinges principally on denial. But such a defense is unavailing considering that appellant was caught in flagrante delicto.[73] The defense of denial, like alibi, has been viewed by the court with disfavor for it can just as easily be concocted. Denial 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. Bare denials of appellants cannot prevail over the positive testimonies of the two [2] police officers. Moreover, there is no evidence of any improper motive on the part of the said police officers who arrested accused-appellant to falsely testify against him.[74]

In trying to exculpate himself, accused-appellant declared that his non-flight can lead to no other conclusion than his innocence of the crime imputed against him.

We do not agree. The Supreme Court ruled otherwise in *People v. del Castillo*[75] when it pronounced that "Non-flight is not proof of innocence. The culprit of a crime may choose to remain within the area of the crime scene because he lives there and flight may only raise suspicions against him. No case law exists to support appellant's claim that his non-flight precludes the possibility that he is guilty of the crime. To accept the defense offered by appellant would allow people to commit a crime and avoid liability by simply choosing to stay in the crime scene afterwards."

In the light of the testimonial, documentary and object evidence on record, the RTC correctly concluded that the identity, integrity and probative value of the seized shabu were adequately preserved. The prosecution has proved with moral certainty that the two (2) heat-sealed transparent plastic containing white crystalline substance and the paraphernalia such as tin foil, lighter and rolled tissue wick presented in court were the same items seized from accused-appellant on November 7, 2009. Its presentation in evidence as part of the corpus delicti was therefore sufficient to convict accused-appellant.[76]

As to the penalty imposed by the RTC, We find the same in order and proper.[77]

WHEREFORE, premises considered, the Judgment dated June 18, 2012, of the Regional Trial Court, 7[th] Judicial Region, Branch 57, Cebu City in Criminal Cases No. CBU-87439 and CBU-87440, is hereby **AFFIRMED** in toto.

SO ORDERED.

Ingles,[*] and Azcarraga-Jacob, JJ., concur.

[*] J. Hernando, Per Office Order No. 14-14-GTI, June 26, 2014.

[1] Records, pp. 74-78, penned by the Honorable Judge Enriqueta Loquillano-Belarmino.

[2] Records, CBU-84739, pp. 1-2.

[3] Records, CBU-87440, pp. 1-2.

[4] Records, p. 15.

[5] Records, pp. 12-13.

[6] *People v. Fundales, Jr.*, G.R. No. 184606, September 5, 2012.

[7] TSN, August 4, 2010, p. 5.

[8] TSN, August 4, 2010, p. 11.

[9] TSN, August 4, 2010, p. 17.

[10] Records, p. 49.

[11] Records, pp. 46-47.

“A”- Letter Request of Cebu City Police Office, Police Station 2, dated November 7, 2009 (Records, p.48);

“B”- 2 heat-sealed transparent plastic packs containing white crystalline substance marked “CE-1” and “CE-2”;

“C”- Chemistry Report No. D-1054-2009;

“D”- Transparent plastic box marked as “C.E.”;

“E”- Drug paraphernalia marked as C.E.;

“F”- Certified True Copy of the Police Blotter;

“G”- Certificate of Inventory of seized items; and

“H”- Pictures of the Inventory conducted on the the seized items.

[12] Records, p. 53.

[13] TSN, February 1, 2012, p. 4.

[14] TSN, February 1, 2012, p. 5.

[15] TSN, February 1, 2012, p. 7.

[16] TSN, February 1, 2012, p. 6.

[17] TSN, February 1, 2012, p. 10.

[18] TSN, February 1, 2012, p. 14.

[19] TSN, February 1, 2012, p. 8.

[20] Records, pp. 74-78.

[21] Rollo, p. 16.

[22] Rollo, p. 22.

[23] Rollo, p. 23.

[24] *People v. Bis*, G.R. No. 191360, March 10, 2014.

[25] *Marquez v. People*, G.R. No. 197207, March 13, 2013.

[26] *People v. Feliciano, et al.*, G.R. No. 191193, November 14, 2012.

[27] *People v. Bis*, G.R. No. 191360, March 10, 2014.

[28] TSN, August 4, 2010, p. 5.

[29] TSN, August 4, 2010, p. 6.

[30] TSN, August 4, 2010, p. 7.

[31] TSN, August 4, 2010, p. 8.

[32] TSN, August 4, 2010, p. 9.

[33] TSN, March 30, 2011, p. 4.

[34] TSN, March 30, 2011, p. 5.

[35] TSN, March 30, 2011, p. 6.

[36] TSN, March 30, 2011, p. 7.

[37] *Ambre v. People*, G.R. No. 191532, August 15, 2012.

[38] *Zalameda v. People*, G.R. No. 183656, September 4, 2009.

[39] Sec. 5. Arrest without warrant; when lawful. A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) hereof, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail, and he shall be proceeded against in accordance with Rule 112, Section 7.

[40] TSN, August 4, 2010, p. 11.

[41] *People v. Feliciano, et al.*, G.R. No. 191193, November 14, 2012.

[42] *Ambre v. People*, G.R. No. 191532, August 15, 2012.

[43] *Ambre v. People*, G.R. No. 191532, August 15, 2012.

[44] *People v. Fundales, Jr.*, G.R. No. 184606, September 5, 2012.

[45] *People v. Fundales, Jr.*, G.R. No. 184606, September 5, 2012.

[46] G.R. No. 185379, November 27, 2009.

[47] Records, p. 48.

[48] Records, p. 48.

- [49] People v. Llanita, et al., G.R. No. 189817, October 3, 2012.
- [50] People v. Bis, G.R. No. 191360, March 10, 2014.
- [51] People v. Bis, G.R. No. 191360, March 10, 2014.
- [52] People v. Bis, G.R. No. 191360, March 10, 2014.
- [53] TSN, August 4, 2010, p. 11.
- [54] Records, p. 7.
- [55] Records, p. 6.
- [56] People v. Bis, G.R. No. 191360, March 10, 2014.
- [57] People v. Morales, G.R. No. 172873, March 19, 2010.
- [58] Sales v. People, G.R. No. 191023, February 6, 2013.
- [59] TSN, August 4, 2010, p. 9.
- [60] TSN, August 4, 2010, p. 10.
- [61] TSN, August 4, 2010, p. 11.
- [62] TSN, August 4, 2010, p. 12.
- [63] TSN, August 4, 2010, p.13.
- [64] TSN, August 4, 2010. p. 14.
- [65] TSN, August 4, 2010, p. 15.
- [66] TSN, August 4, 2010, p. 17.
- [67] TSN, August 4, 2010, p. 18.
- [68] TSN, August 4, 2010, p. 19.
- [69] Records, pp. 46-47.
- [70] Records, p. 7.
- [71] TSN, August 4, 2010, pp. 11-19.
- [72] People v. Mariano, G.R. No. 191193, November 14, 2012.
- [73] People v. Bis, G.R. No. 191360, March 10, 2014.
- [74] People v. Mariano, G.R. No. 191193, November 14, 2012.
- [75] G.R. No. 180925, August 20, 2008.
- [76] People v. Mariano, G.R. No. 191193, November 14, 2012.
- [77] People v. Mariano, G.R. No. 191193, November 14, 2012.

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