

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELIZABETH NYAMBURA RUNANA AND MA. GRACE LACSON Y NAVARRO, ACCUSED-APPELLANTS,

Ponente: ABDULWAHID, J.

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ABDULWAHID, J.:

This is an appeal from the Decision[1] dated October 24, 2013, of the Regional Trial Court (RTC), Branch 35, Manila, in Criminal Case No. 11-284733, finding herein accused-appellants Elizabeth Nyambura Runana a.k.a. Liz and Ma. Grace Lacson y Navarro a.k.a. Gina guilty beyond reasonable doubt of violation of Section 5 in relation to Section 26, Art. II of Republic Act (RA) No. 9165, and sentencing each of them to suffer the penalty of life imprisonment without eligibility for parole, and to pay a fine in the amount of P2,000,000.00, each, and costs.

The instant case arose from an Information dated July 6, 2011 and filed by the Assistant City Prosecutor of Manila, the accusatory portion of which reads, as follows:[2]

That on or about June 29, 2011, in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each other on the controlled delivery operations, not having been authorized by law to sell, trade, deliver, transport or distribute any dangerous drug, did then and there willfully, unlawfully, knowingly and jointly bring, transport, deliver or give away the following:

One (1) big brown Fendi trolley bag with markings EXH “A” 29 June 2011 RLA and with signature containing two (2) vacuum-sealed transparent plastic wrapped with aluminum foil containing white crystalline substance with the following markings and gross weights:

EXH “A-1” one two three three point nine (1233.9) grams

EXH “A-2” one two three nine point five (1239.5) grams

or a total of TWO FOUR SEVEN THREE POINT FOUR (2,473.4) grams

One (1) black Ngoom trolley bag pack with markings EXH “B” 29 June 2011 RLA and with signature containing two (2) vacuum-sealed transparent plastic wrapped with aluminum foil containing white crystalline substance with the following markings and gross weights:

EXH “B-1” one zero three two point eight (1032.8) grams

EXH “B-2” one zero three three point nine (1033.9) grams

or a total of TWO ZERO SIX SIX POINT SEVEN (2066.7) grams

or a grand total gross weight of FOUR FIVE FOUR ZERO POINT ONE (4,540.1) grams of white crystalline substance commonly known as Shabu containing Methamphetamine Hydrochloride a dangerous drug.

CONTRARY TO LAW.

During arraignment held on August 2, 2011, both accused-appellants pleaded not guilty to the crime charged.[3] Preliminary conference and pre-trial were held on September 12, 2011, and September 28, 2011, respectively, during which the parties did not enter into any stipulation and/or admission of facts. Thereafter, trial on the merits of the case ensued.

The prosecution presented six witnesses, namely: (1) IO2 Ramcon Alarde; (2) Chemist Ariane P. Arcos; (3) Senior State Prosecutor Theodore Villanueva; (4) Ma. Cecilia Villarosa; and (5) Punong Barangay Benjamin Lawan.

For the prosecution, IO2 Ramcon Elarde, a Special Enforcement Service Agent of the Philippine Drug Enforcement Agency (PDEA), testified that he first communicated with accused-appellant Lacson through chat, text messaging and phone calls in the course of an investigation on an African drug syndicate two years previously. During their communication, he found among Lacson's network of friends in Facebook two individuals who were suspected to be involved in the African drug syndicate and who were later found positive to be operating in Malaysia or Thailand.[4]

On June 20, 2011, a regular female confidential informant came to the PDEA office to report to her handler, IO2 Alarde, that a certain "Gina" had recruited her to travel to Malaysia, bringing with her a certain baggage, and to recruit another person to likewise travel to Malaysia with another piece of luggage. The confidential informant told IO2 Alarde that she had traveled with a similar type of luggage before and that the luggage would contain illegal drugs, specifically methamphetamine hydrochloride or shabu.[5] IO2 Alarde relayed the information to his team leader, Agent Louie Valdez, who instructed the former to text him about whatever conversation they will have with "Gina". Thus, the confidential informant contacted "Gina" by phone from the PDEA office and confirmed that she had already recruited a male subject willing to travel with her.[6]

Upon hearing of the possible drug operation and illegal transportation, the PDEA Director formed a backup team to assist IO2 Alarde when the time came to meet "Gina". During the briefing at the PDEA office in the evening before the entrapment operation, it was agreed that IO2 Alarde would accompany the confidential informant to meet "Gina" and would relay to his team leader whatever conversation they would have with "Gina" or whatever action would be taken. They also agreed that, upon verifying that the luggage/s contained illegal drugs, IO2 Alarde would place a missed call from his cellphone to the team leader. It was also confirmed that the confidential informant was already booked for a Cebu Pacific Air flight to Kuala Lumpur, Malaysia, at 8:55 PM on June 29, 2011. IO2 Alarde was supposed to remain on standby until the confidential informant arrived in Malaysia, after which IO2 Alarde was to follow.[7]

In the morning of June 29, 2011, IO2 Alarde and the confidential informant met "Gina" in Greenwich at the Robinsons mall in Malate, Manila.[8] IO2 Alarde later found out that the "Gina" they were meeting was in fact the same accused-appellant Grace Lacson whom he had been communicating with two years ago, although he did not initially recognize her since she looked different from her Facebook picture.[9] They roamed the mall for a while, then proceeded to Hostel 1632 in Malate, Manila, where Lacson was booked in Room 429. There they discussed the planned trip to Malaysia, and IO2 Alarde asked if the trip will not be dangerous. Lacson said that they had done it several times before, thus, it was not dangerous.[10] Then, at around 5:30 PM, Lacson left the room to fetch a person who had the baggages that needed to be transported to Malaysia. She returned shortly with a Fendi trolley bag, followed by an African-looking woman, later identified as accused-appellant Runana, who was carrying a black Ngoom trolley bag pack/backpack. IO2 Alarde asked if the items inside would not be detected, to which accused-appellant Lacson replied that the items would not be detected if the bags would only

be felt or touched.[11] Accused-appellant was allowed to inspect the bags, and he began inspecting the sides of the trolley back pack and felt something hard, instead of the soft foam lining that was supposed to be there. While the two accused-appellants were talking to the confidential informant, IO2 Alarde discreetly pierced the side of the bag with a ballpoint pen and placed a finger inside the hole to enlarge it. Again, he felt a hard object wrapped in what appeared to be aluminum foil, thus, he discreetly scratched the foil, revealing a white crystalline substance contained inside the plastic hidden underneath. Thereupon, IO2 Alarde closed the bag again and immediately pulled a second cellphone which he had hidden in his pants (Lacson had confiscated his other cellphone earlier) and placed a missed call to his team leader. After less than a minute, someone knocked on the door and IO2 Alarde let in the PDEA operatives who introduced themselves to accused-appellants as such.[12]

IO2 Alarde resumed inspecting the baggages, ripping the sides thereof with a cutter/slasher, thus revealing two vacuum-sealed transparent plastics wrapped in aluminum foil in each bag.[13] Thereafter, in Room 429 itself, IO2 Alarde marked the Fendi trolley bag, the Ngoom bag pack/backpack and a total of four vacuum-sealed transparent plastics, with the date of the operation and his initials “RLA”. [14] The markings were done in the presence of Barangay Chairman Benjamin Lawan, media representative Cecilia Villarosa of DZBB, GMA, and Department of Justice (DOJ) Senior Prosecutor Theodore Villanueva, along with PDEA agents Luisito David Israel, Louie Valdez and Director Joeffrey Tacio of the Special Enforcement Section of the PDEA.[15] In addition, IO2 Alarde prepared an Inventory of Seized Evidence[16], including therein the Fendi trolley bag, Ngoom trolley bag pack/backpack, and the four vacuum-sealed transparent plastics containing white crystalline substance and wrapped in aluminum foil; and an Inventory of Seized Non-Drug Evidence[17], consisting of one passport issued to Lacson, one Samsung cellphone GT E1175T and one official receipt for Hostel 1632. The inventories were executed in the presence of and signed by Senior Prosecutor Villanueva, Barangay Chairman Lawan and Ms. Villarosa. Further, pictures[18] were taken of the seized items and the ongoing PDEA operation.

Upon their return to the PDEA office, IO2 Alarde prepared the request for laboratory examination[19], signed by the Special Enforcement Service Director Tacio, and personally delivered the same to Chemist Ariane Arcos of the Laboratory Service of PDEA, who, in turn, executed an Acknowledgment Receipt[20] for the items subject of the request.

DOJ Senior Prosecutor Villanueva, media representative Villarosa and Barangay Chairman Lawan corroborated IO2 Alarde’s testimony that they witnessed the marking of the exhibits and the conduct and preparation of the Inventory. They likewise identified their respective signatures on the Inventories. Further, Senior Prosecutor Villanueva testified that he received a phone call from a PDEA agent, requesting that a prosecutor be provided to witness a drug bust operation being conducted in Malate, Manila, and was picked from his office by PDEA operatives at around 7:30 to 7:45 in the evening.[21] Meanwhile, media representative Villarosa was at the headquarters of the Manila Police District when she received information from a fellow media man that there was an ongoing PDEA operation in Adriatico Street. Upon being informed of the situation, Villarosa’s boss ordered her to proceed to Adriatico Street with her driver. Villarosa arrived at Hostel 1632 at around 7:00 PM to 8:00 PM and was met by some PDEA agents at the coffee shop on the ground floor. They arrived in Room 429 at around 7:30 PM.[22] On the other hand, Barangay Chairman Lawan testified that one of his kagawad called his cellphone because someone was asking for assistance in Hostel 1632 to serve as witness for the inventory of evidence. He arrived at Hostel 1632 before 7:00 PM.[23]

The prosecution was supposed to present PDEA Chemist Ariane P. Arcos’ testimony, but the same was dispensed with due to the parties’ agreement to stipulate on the following facts: (1) That Ariane P. Arcos is a Chemist of the PDEA Laboratory Service; (2) That on June 29, 2011, being the duty Chemist of the said PDEA Laboratory Service, she received from IO2 Ramcon Alarde of PDEA a request for laboratory examination (Exh. “C”),

together with the following items: brown Fendi Brand trolley bag (Exh. “D”) containing two vacuum sealed transparent plastics wrapped with aluminum foils (Exhs. “D-1 and D-2”); black back pack bag (Exh. “E”) containing two vacuum sealed transparent plastics wrapped with aluminum foils (Exhs. “E-1 and E-2”) ; (3) That pursuant to Exh. “C”, Chemist Arcos examined the contents of Exhs. “D” and “E”, specifically Exhibits D-1, D-2, E-1 and E-2 and that the examinations she conducted yielded positive result to the test for the presence of methamphetamine hydrochloride which is a dangerous drug, as contained in Initial Chemistry Report No. PDEA-DD011-249 (Exh. “F”) and Final chemistry Report (Exh. “F-1”). By way of counter-proposal, the defense counsel proposed the final stipulation that Chemist Arcos had no personal knowledge as to where the specimens she examined originally came from.[24]

On the other hand, accused-appellant Runana and her sister, Alice Warimu Runana, testified in defense of the former, while accused-appellant Lacson testified in her own defense.

Runana testified that she was a Sales Executive Manager at Diatom International Ltd. in Kenya. She came to the Philippines sometime in June 2011 due to heartbreak after her fiancé, a certain James Manangi, failed to show up at their wedding ceremony scheduled on June 12, 2011. To help her forget what happened, Runana’s aunt, one Joyce Jaduthie, invited her to go with her to Bamako, Africa, while her sister, witness Alice herein, suggested a trip to the Philippines instead, since the latter had just been there on a business trip sometime in March 2011[25]. Thus, Runana first went with her aunt to Bamako for five days, before proceeding to the Philippines. On June 24, 2011, Runana arrived in the Philippines, intending to go to Hostel 1632 in Manila, as recommended by her sister. However, it was raining then, thus, the taxi driver took Runana to Copacabana, a hotel near the airport, where she stayed for two days. On June 26, 2011, she was finally able to contact the taxi driver suggested by her sister, who took her to Hostel 1632, where she was booked in Room 434.[26] On the days following her arrival at the hostel, she visited various “fun” places, such as bars, in Manila, accompanied by the same taxi driver, who also served as her personal tourist guide.[27]

On June 29, 2011, as she was returning to her room after lunchtime, she met a Filipina woman in the elevator who complimented her hair. The latter introduced herself as Gina Lacson—accused-appellant Lacson herein—and began asking Runana about herself. At the door of Runana’s room, Lacson asked if she could come by later, to which Runana agreed. When Lacson returned, they began chatting again and Lacson told Runana that she was with her boyfriend in the hostel. When Lacson returned a second time from her room, where she had freshened up, the two started drinking. Then, Lacson received a text message on her phone and said that she had to go fetch her boyfriend nearby.[28] Fifteen minutes later, someone knocked on the door and Runana saw Lacson through the peephole. However, when Runana opened the door, two guys suddenly entered the room, pointing guns at Runana and ordering her to sit on one of the beds. Lacson, on the other hand, did not enter the room. They took her jewelries and cellphone and ordered her to shut up and be quiet. About twenty minutes later, another man arrived and talked to the other men. Then, Runana was ordered to put her makeup in her handbag and was taken to another room, about four doors away, wherein she saw many people, including Lacson. Runana was ordered to sit on the far end of one of the beds. On the other bed were two bags with foils on top. Lacson remained at the door, talking to the men Runana saw many people, including Lacson, while Runana started crying, not knowing what was happening, while the guys in room, who were smoking and drinking, teased her about her hair and breasts. One of them informed her that they were PDEA agents and that she was being arrested for drugs. He told her that if she kept quiet about what happened in her room earlier, he would help her case. The agents also promised that they will only talk to her and that she would still be able to catch her scheduled flight back to Kenya that night. However, the agents took her to the PDEA Office, where she was detained for two days.[29]

Witness Alice Runana corroborated her sister’s testimony and confirmed that she was the one who recommended

that Runana go on a trip to the Philippines after the latter's failed wedding.[30] Alice had been to the Philippines for six days in March 2011 with colleagues from Kenya in order to determine whether they could establish an office for the Australian Aide and whether they could reside in the Philippines. Alice was also the one who advised Runana to stay in Hostel 1632 in Manila, since that was where Alice stayed in March 2011.[31] Alice testified that Runana's sole purpose for traveling to the Philippines was to visit different places in Manila in order to forget what happened back home.[32]

On the other hand, accused-appellant Lacson testified that, at around 11:00 AM of June 29, 2011, she was at Hostel 1632, having agreed to meet at the Robinsons mall her Portuguese boyfriend, Fernando Arenas, whom she had met while working as a caregiver in Malaysia and who would be coming to Manila from Cebu. Lacson herself had come from Tarlac only that morning and she had brought with her nothing but her shoulder bag and her passport because her boyfriend had promised to buy her clothes when he arrived.[33] Lacson booked at Room 429, and on her way to the room, met a female foreigner, accused-appellant Runana herein, in the elevator. They engaged in small talk and Lacson complimented Runana on her hair. Runana invited Lacson for a drink, but Lacson said that she wanted to check her room first. After resting in her room for about forty-five minutes, Lacson returned to Runana's Room 434. Lacson refused when Runana offered her a drink, but she remembered the pizza she had bought in Robinsons earlier and decided to get it.[34] As she was opening her door, three male persons suddenly grabbed her and pushed her inside the room, where there were four other men and three women, who asked her where "the foreigner" was. Lacson told them that she did not know what they were talking about, but then remembered Runana, whom she had met earlier. Thus, she took the men to Room 434 and knocked on the door. When Runana opened the door, two of the men entered the room, while the other man brought Lacson back to her room.[35] Upon arriving, Lacson saw two luggages on the bed and several persons observing the luggages and searching the room. The persons inside the room took pictures of the items on the bed and later brought in Runana to take pictures of accused-appellants as well.[36] After the incident, Lacson was no longer able to talk to her boyfriend since the PDEA agents took away her cellphone. Neither was she able to talk to her family, who only found out of her arrest and incarceration about a year afterwards or a few months before her testimony. She also admitted during trial that she did not file any case against the arresting officers.[37]

On October 24, 2013, the RTC rendered its assailed Decision, finding both accused-appellants guilty beyond reasonable doubt of the charges against them, viz:[38]

WHEREFORE, finding both accused ELIZABETH NYAMBURA RUNANA @ "LIZ" and MA. GRACE LACSON y NAVARRO @ "GINA" guilty beyond reasonable doubt for violation of Section 5 in relation to Section 26, Art. II of Republic Act 9165, they are both sentenced to suffer the penalty of life imprisonment without eligibility for parole, and each of them is ordered to pay a fine in the amount of P2,000,000.00 and to pay the costs.

Per records, the Court after taking the sample specimens of the drug-object evidence, ordered the destruction or disposition of the four (4) vacuum heat sealed transparent plastic sachets wrapped with aluminum foil pursuant to Section 21, par. 4 of RA 9165 (records pages 153-154).

As regards the sample specimens, the same are likewise forfeited in favor of the State and ordered destroyed pursuant to existing Rules after fifteen (15) days from date of the promulgation of this case, if no appeal is taken.

SO ORDERED.

Aggrieved, accused-appellants filed separate appeals with this Court premised on the following assignment of errors:

ACCUSED-APPELLANT RUNANA'S
ASSIGNMENT OF ERRORS[39]

- THE HONORABLE REGIONAL TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED BASED ON THE WEAKNESS OF THE DEFENSE OF THE ACCUSED AND NOT ON THE STRENGTH OF THE PROSECUTION'S CASE.
- THE HONORABLE REGIONAL TRIAL COURT ERRED IN APPRECIATING THE FACTS OF THE CASE AS TO THE HAVING A CONSPIRACY (SIC) BETWEEN THE TWO ACCUSED.

ACCUSED-APPELLANT LACSON'S
ASSIGNMENT OF ERRORS[40]

- THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE IMPROBABLE AND INCONSISTENT TESTIMONY OF IO2 ALARDE.
- THE COURT A QUO GRAVELY ERRED IN DISREGARDING ACCUSED-APPELLANT GRACE LACSON'S TESTIMONY.
- THE COURT A QUO GRAVELY ERRED IN NOT FINDING ACCUSED-APPELLANT LACSON'S WARRANTLESS ARREST AS ILLEGAL.
- THE COURT A QUO GRAVELY ERRED IN NOT APPLYING THE "FRUIT OF THE POISONOUS TREE" DOCTRINE WITH RESPECT TO THE ALLEGEDLY CONFISCATED SHABU.

In her appeal, accused-appellant Runana maintains that the prosecution failed to prove the element of conspiracy between her and accused-appellant Lacson, and that it failed to establish strict compliance with the rules of procedure set under Section 21 of RA No. 9165 with regard the chain of custody of the seized drugs. In particular, accused-appellant Runana contends that the DOJ and media representatives and the barangay prosecutor failed to prove that they actually observed the conduct of inventory and that IO2 Alarde did not strictly comply with the requirement of marking the seized drugs with respect to the time and place of seizure. On the other hand, accused-appellant maintains that her arrest was illegal for lack of a valid warrant of arrest, thus, the seized drugs are fruits of the poisonous tree and are inadmissible in evidence. Further, she contends that IO2 Alarde's allegations are improbable and incredible and cites the trial court for disregarding her own testimony.

Accused-appellants' arguments are unmeritorious.

At the outset, it bears to note that factual findings of the trial court are entitled to great weight and respect, particularly with regard to the credibility of the witness testimonies. In addition, it is a well-known principle in jurisprudence that public officers such as police officers enjoy presumption of regularity in the performance of their official duty, particularly where there is no showing of any ill motive or evil intent on the part of said police officers. Thus, in *People v. Alcala*[41], the Supreme Court held as follows:

We find no valid reason to depart from the time-honored doctrine that where the issue is one of credibility of witnesses, and in this case their testimonies as well, the findings of the trial court are not to be disturbed unless the consideration of certain facts of substance and value, which have been plainly overlooked, might affect the result of the case.

Upon perusal of the records of the case, we see no reason to reverse or modify the findings of the RTC on the credibility of the testimony of the prosecution's witnesses, less so in the present case, in which its findings were affirmed by the CA. It is worthy to mention that, in addition to the legal presumption of regularity in the performance of their official duty, the court a quo was in the best position to weigh the evidence presented during trial and ascertain the credibility of the police officers who testified as to the conduct of the buy-bust

operation and in preserving the integrity of the seized illegal drug.

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It cannot be overemphasized that in cases involving violations of the Dangerous Drugs Act of 2002, as amended, credence should be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary. In this regard, the defense failed to show any ill motive or odious intent on the part of the police operatives to impute such a serious crime that would put in jeopardy the life and liberty of an innocent person, such as in the case of accused. Incidentally, if these were simply trumped-up charges against her, there remains a question of why no administrative charges were brought against the police officers. Moreover, in weighing the testimonies of the prosecution's witnesses vis-à-vis that of the defense, it is a well-settled rule that in the absence of palpable error or grave abuse of discretion on the part of the trial judge, the trial court's evaluation of the credibility of witnesses will not be disturbed on appeal.

Again, in the absence of any showing that substantial or relevant facts bearing on the elements of the crime have been misapplied or overlooked, this Court can only accord full credence to such factual assessment of the trial court which had the distinct advantage of observing the demeanor and conduct of the witnesses during the trial. Absent any proof of motive to falsely charge an accused of such a grave offense, the presumption of regularity in the performance of official duty and the findings of the trial court with respect to the credibility of witnesses shall prevail over his/her bare allegation.

In the present case, the trial court clearly found the prosecution witnesses' narration of the circumstances of accused-appellants' arrest more credible than accused-appellants' lone defense of denial, which is considered to be an inherently weak and self-serving defense[42]. We agree with the RTC that the prosecution, through IO2 Alarde, sufficiently established the facts of accused-appellants plans and intention to transport, through mules/carriers, the seized transparent plastic packets containing a total of 4,500 grams of shabu from Manila to Malaysia.

To reiterate, IO2 Alarde testified that, based on the report of a confidential informant that she was recruited, and was asked to recruit another, by a certain Gina to transport certain luggages to Malaysia, the PDEA formed a team which would conduct an entrapment operation against said Gina. Pursuant to the operation, IO2 Alarde, acting as the second mule/carrier recruited by the confidential informant, met accused-appellants, who showed them the baggages that they would need to transport to Malaysia. In addition, IO2 Alarde himself had a discussion with Lacson concerning their plans to transport the shabu from Manila to Malaysia that evening and the possibility of being caught. In the course of their discussion, IO2 Alarde asked, and was given, permission to inspect the baggages and, while accused-appellants were distracted with the confidential informant, managed to pierce the side of one baggage, thus, revealing the plastic container of crystalline white substance wrapped in aluminum foil and secreted in the lining of the baggage. Only then did IO2 Alarde call for backup and continue to inspect both baggages more thoroughly, finally discovering a total of four aluminum-foil-wrapped plastic bags of white crystalline substance in the linings of the Fendi trolley luggage and the Ngoom bag pack/backpack.

In the light of the foregoing circumstances, there is clearly no merit in accused-appellant's position that her arrest was illegal for lack of a valid warrant of arrest and that the seized drugs are fruits of the poisonous tree for the same reason. On the contrary, the general rule that no arrest shall be made without a warrant duly issued by a judge upon determination of probable cause and after examination under oath or affirmation of the complainant and his witnesses[43] is not an absolute rule and admits of exceptions, as enumerated under Section 5, Rule 113 of the Rules of Court and as noted by accused-appellant Lacson herself, to wit:

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 just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances 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 is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

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The circumstances of the instant case fall under the first situation in Section 5, Rule 113. As IO2 Alarde clearly and categorically testified, accused-appellants were arrested pursuant to a valid entrapment operation, during which no less than IO2 Alarde became a witness to accused-appellants' plans to transport, with the use of mules/carriers, the 4,500 grams of shabu found secreted inside the linings of two baggages, in violation of Section 26 (b) of RA No. 9165, viz:

Section 26. Attempt or Conspiracy. – Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:

- (a) Importation of any dangerous drug and/or controlled precursor and essential chemical;
- (b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;
- (c) Maintenance of a den, dive or resort where any dangerous drug is used in any form;
- (d) Manufacture of any dangerous drug and/or controlled precursor and essential chemical; and
- (e) Cultivation or culture of plants which are sources of dangerous drugs.

Anent the procedural requirements under RA No. 9165 and its implementing rules and regulations with regard the chain of custody rule, we likewise find that the prosecution clearly established the chain of custody of the seized shabu, and the continued preservation of its integrity and evidentiary value, from the time of arrest up to the time of its presentation in court. Section 21 of RA No. 9165 clearly outlines the steps which must be taken by the apprehending team upon seizure or confiscation of the alleged dangerous drugs, to wit:

Section 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

- (1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and

confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof;

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

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Corollary thereto, jurisprudence has, on several occasions, definitively enumerated the links in the chain of custody of dangerous drugs, as follows: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.[44]

On the other hand, Section 21 of the Implementing Rules and Regulations (IRR) of RA No. 9165 itself provides that “non-compliance with these requirements [under Section 21 (a) of RA No. 9165] 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”. This was confirmed by the Supreme Court in *People v. Morate*, viz:[45]

The chain of custody is basically the duly recorded authorized stages of transfer of custody of seized dangerous drugs, from their seizure or confiscation to receipt in the forensic laboratory for examination to safekeeping to presentation in court for destruction. The function of the chain of custody requirement is to ensure that the integrity and evidentiary value of the seized items are preserved, so much so that unnecessary doubts as to the identity of the evidence are removed. Thus, the chain of custody requirement has a two-fold purpose. (1) the preservation of the integrity and evidentiary value of the seized items, and (2) the removal of unnecessary doubts as to the identity of the evidence.

The law recognizes that, while the presentation of a perfect unbroken chain is ideal, the realities and variables of actual police operation usually makes an unbroken chain impossible. With this implied judicial recognition of the difficulty of complete compliance with the chain of custody requirement, substantial compliance is sufficient as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending police officers.

During trial, IO2 Alarde testified in detail the actions taken by him and the rest of the PDEA apprehending team in seizing and securing the seized items. IO2 Alarde himself marked with his initials and the date of seizure each of the four transparent and vacuum-sealed plastic packets containing crystalline white substance later identified as shabu, as well as the Fendi trolley bag and the Ngoom backpack in which the drugs were concealed. The markings were made in the presence of the accused-appellants, the representatives from both the media (witness Villarosa) and the DOJ (Senior Prosecutor Villanueva), and an elected public official (Barangay Chairman Lawan), as confirmed by said law-mandated witnesses during trial. IO2 Alarde was likewise the one who personally conducted a physical inventory of the seized items and who prepared the Inventory of Seized Items and Inventory of Seized Non-Drug Items, both of which were signed by the same witnesses above. Photographs were

likewise taken of the seized items, as well as the operation activity conducted in Hostel 1632, which photographs were duly submitted during trial and included in the records of the case. As member of both the apprehending and investigating team, IO2 Alarde retained custody of the seized shabu during their transportation to the PDEA office and was also the one who personally prepared the laboratory request and delivered the seized items to Forensic Chemist Arcos, as evidenced by the said laboratory request and the accompanying Acknowledgment Receipt executed by Chemist Arcos. It was Chemist Arcos herself who conducted an examination of the seized drugs and found the same positive for the presence of methamphetamine hydrochloride, as stated in the Initial Chemistry Report No. PDEA-DDO11-249 and the Final Chemistry Report.

Thus, the prosecution was able to thoroughly establish the chain of custody in the instant case. If there were gaps or lapses in the chain of custody, they are minor and in no way render the evidence against accused-appellants inadmissible, since the prosecution more than substantially showed that the identity and evidentiary integrity of the seized items were properly preserved.

Finally, we find that the prosecution sufficiently established and proved the element of conspiracy between accused-appellants in attempting to commit the crime under Section 26 of RA No. 9165. In *People vs. Las Piñas*[46], the Supreme Court explained conspiracy, as follows:

Article 8 of the Revised Penal Code states that “conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.” It does not need to be proven by direct evidence and may be inferred from the conduct—before, during, and after the commission of the crime—indicative of a joint purpose, concerted action, and concurrence of sentiments as in conspiracy. In conspiracy, the act of one is the act of all.

That there was conspiracy among the accused and accused-appellants is a matter not in issue. Both trial courts and the Court of Appeals deduced the conspiracy among the accused/accused-appellants from the mode and manner in which they perpetrated the killings. This Court is satisfied that their deduction was warranted. Proof of the actual agreement to commit the crime need not be direct because conspiracy may be implied or inferred from their conduct—before, during, and after the commission of the crime—indicative of a joint purpose, concerted action, and concurrence of sentiments as in conspiracy. In this case, all the accused/accused-appellants were convincingly shown to have acted in concert to achieve a common purpose of assaulting their unarmed victims with their guns. x x x

In the present case, the conspiracy between accused-appellants can be implied from the fact that, when accused-appellant Lacson left IO2 Alarde and the confidential informant in the room to retrieve the luggages to be transported, she returned later with accused-appellant Runana, each of them carrying a bag with two packages of shabu concealed in the lining thereof. Moreover, as accused-appellant Lacson was discussing the planned transportation of the drugs to Malaysia with IO2 Alarde and the confidential informant, accused-appellant Runana was also in the room and did not protest to the discussion.

Considering the foregoing disquisition, we find no reason to reverse the assailed Decision finding accused-appellants Lacson and Runana guilty beyond reasonable doubt of violation of Section 26 (b) of RA No. 9165.

WHEREFORE, the instant appeal is DENIED. The assailed Decision dated October 24, 2013, of the RTC, Branch 35, City of Manila, in Criminal Case No. 11-284733 is AFFIRMED in toto.

SO ORDERED.

Baltazar-Padilla, P.J., and Inting, S.B., JJ., concur.

[1] Penned by Judge Maria Bernardita J. Santos; Rollo, pp. 99-124.

[2] Records, p. 1-2.

[3] Id. at 36.

[4] Transcript of Stenographic Notes (TSN), June 22, 2012, pp. 13-19.

[5] TSN, June 14, 2012, pp. 6-9.

[6] Id. at 10.

[7] Id. at 11-14.

[8] Id. at 17-19.

[9] TSN, June 22, 2012, pp. 15-17.

[10] TSN, June 14, 2012, pp. 19-21.

[11] Id. at 21-24.

[12] Id. at 24-30.

[13] Id. at 30-31, 34-35.

[14] Id. at 33-35.

[15] Id. at 35-37.

[16] Records, p. 18.

[17] Id. at 19.

[18] Id. at 100-101; 121-123.

[19] Id. at 20.

[20] Id. at 21.

[21] TSN, August 23, 2012, p. 5.

[22] Id. at 33-34.

[23] TSN, October 16, 2012, pp. 3, 4-6.

[24] Records, pp. 67.

[25] TSN, November 21, 2012, pp. 18, 20-26.

[26] Id. at 26-32.

[27] Id. at 36-42.

[28] Id. at 44-50.

[29] Id. at 50-59.

[30] TSN, October 16, 2012, p. 27.

[31] Id. at 29.

[32] Id. at 39.

[33] TSN, December 5, 2012, pp. 5-6; 21-22; 28; 44.

[34] Id. at 7-11.

[35] Id. at 11-15.

[36] Id. at 16; 18, 37.

[37] Id. at 19-20.

[38] See Note 1 at 123.

[39] Rollo, pp. 87-88.

[40] Id. at 144-145.

[41] G.R. No. 201725, July 18, 2014, citing *People vs. Lardizabal*, 204 SCRA 320, 329 and other related cases.

[42] See *People vs. Alhambra*, G.R. No. 207774, June 30, 2014.

[43] See Sec. 2, Art. III of the 1987 Philippine Constitution.

[44] *People v. Caranto*, G.R. No. 193768, March 5, 2014, citing *People vs. Kamad*, 610 SCRA 295, 307 and other related cases.

[45] G.R. No. 201156, January 29, 2014, citing Sec. 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002; *People vs. Langcua*, 690 SCRA 123, 139 and other related cases.

[46] G.R. No. 191723, July 23, 2014, citing *People vs. Pantaleon, Jr.*, 600 Phil. 186, 223 (2009).

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