

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDGARDO LOPEZ Y HALILI, ACCUSED-APPELLANT.

G.R. No. 102381. September 29, 1992

Ponente: MELO, J.

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MELO, J.:

Edgardo Lopez y Halili was charged before Branch 148 of the Regional Trial Court of the National Capital Judicial Region stationed in Makati, with violating Section 15, Article III of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended, in an information which reads:

"That on or about the 5th day of October 1989, in the Municipality of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously deliver and sell Methamphetamine Hydrochloride (SHABU) wrapped in an aluminum foil, which is a regulated drug, in consideration of P100.00.

Contrary to law." (p. 6, Rollo)

After due trial, the Honorable Oscar B. Pimentel adjudged Edgardo Lopez y Halili, guilty of the crime charged. The dispositive portion of the decision reads:

"WHEREFORE, premises considered, and finding accused EDGARDO LOPEZ Y HALILI of 2017 Volta Street, Barangay San Isidro, Makati, Metro Manila, guilty beyond reasonable doubt of the offense of violation of Section 15, Article III of Republic Act 6425, as amended, he is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and a fine of TWENTY THOUSAND PESOS (P20,000.00).

"With costs against the accused.

"SO ORDERED." (p. 31, Rollo)

Accused-appellant Lopez is now before this Court seeking a reversal of the aforementioned decision. In his Brief, he alleges that the trial court gravely erred -

"1. ... in believing the prosecution's version that there was a buy-bust operation conducted by the police officers on October 5, 1989;

"2. ... in not giving full faith and credence to the evidence adduced by the defense; and

"3. ... in not acquitting accused?appellant on the ground that his guilt was not proved beyond reasonable doubt. (p. 1, Brief for the accused-appellant; p. 50, Rollo)

As gathered from the evidence presented by the prosecution, at about 11:30 o'clock on the morning of October 5, 1989, Pat. Rogelio Tuazon, PFC Nestor de Dios, P/W Elizabeth Mendoza and Pat. Ramir Reciproco, all of the Dangerous Drugs Section of the Makati Police, were at Volta St., Barangay San Isidro, Makati, Metro Manila to conduct a "buy-bust" operation against appellant, upon instructions of their officer-in-charge, Captain Leonardo Labares, who had earlier received information that appellant was a drug pusher in the area. Pat. Tuazon, who was

disguised as "jeprox" (hippie), waited in front of the compound at No. 2017 of said street, where appellant's house is located, to pretend to buy "shabu" using a marked P100.00 bill supplied by Captain Labares, while his companions discreetly deployed themselves within the vicinity as back-up support, ready to respond upon a pre-arranged signal. While standing near the gate, appellant approached Pat. Tuazon if he would like to "score" (a street or drug lingo, meaning to buy) and he told appellant that he will, for only one deck. This one deck is supposed to be a small portion of a gram of methamphetamine hydrochloride which is a regulated drug locally known as "shabu". Appellant gave Pat. Tuazon a small packet containing shabu (Exh. 'B') and, in turn, the latter handed to appellant the marked P100.00 bill. (Exh. 'H'). Pat. Tuazon gave the pre-arranged signal to his companions by lighting his cigarette. When the back-up agents were closing in, appellant suddenly ran towards his house where he was chased and caught by the peace officers. Inside the house, the agents found on the floor paraphernalia for the use of prohibited drugs. Appellant was placed under arrest and after the marked money bill was recovered from his pants' pocket, he was brought to the police station for further investigation. The suspected prohibited drug was turned over to the National Bureau of Investigation for examination. Forensic Chemist Edwin Purificando issued a certification (Exh. 'E') and a final report (Exh. 'F') stating that the drugs thus examined gave positive results for Methamphetamine Hydrochloride or "shabu".

For his part, appellant claimed that he was a victim of frame-up and the accusation against him was fabricated. He testified that on the evening of October 5, 1989, he was at home with his family and relatives. They allegedly slept early, but at around 11 p.m., he was awakened by his wife telling him that somebody was inside their house. Seeing the policemen inside the house, he inquired from them if they have a search warrant, but the policemen merely told him that he was a drug pusher, after which he was brought near the kitchen. He was frisked and told to strip. Finding nothing in him except a badge and love letters in his wallet, they invited him for questioning. Appellant denied he was a pusher. He, however, admitted his wife is a drug user.

Appellant further claimed that Captain Labares has an axe to grind against him because he tipped off to the authorities a certain Gregorio Noval, a known pusher, who, upon being picked up by the Pasay City Police, turned out to be a "bata" or henchman of Capt. Labares.

In other words, appellant denied having sold the prohibited drug in question or having received the marked P100.00 bill. He insisted there was no "buy?bust" operation conducted and that he was not apprehended by the policemen during this "buy-bust" operation.

The trial court rejected appellant's version and found that there was actually a buy-bust operation conducted by Pat. Rogel Tuazon, Policewoman Elizabeth Mendoza, Pfc. Nestor de Dios and Pat. Ramir Reciproco at the vicinity of the residence of the accused at 2017 Volta St., Makati, Metro Manila and that during this "buy-bust" operation which was successful, the accused was apprehended. (pp. 26-28, Rollo).

We affirm the findings of the trial court.

The testimony of Pat. Tuazon, the poseur-buyer, was clear and convincing and demonstrated that appellant needed no instigation or prodding to commit a crime he would not otherwise have committed. Noteworthy is the fact that appellant, as gathered from the records, had a ready supply of "shabu" for a fast sale and disposition to anyone willing to pay the price.

The defense that the accused was "framed" by the apprehending officer cannot be given any credence. In cases involving persons accused of being drug pushers or sellers, almost always the defense is that the accused was framed up by the apprehending police officers. We realize the disastrous consequences on the enforcement of law and order, not to mention the well-being of society, if the courts, solely on the basis of the rotten reputation of some policemen, accept on every instance this form of defense which can be so easily concocted and fabricated. It

is precisely for this reason that the legal presumption, that official duty has been regularly performed, exists. (People v. Agapito, 154 SCRA 694; People v. Marcos, 185 SCRA 154).

We accept the findings of the trial court on the credibility of the police officers who testified for the prosecution. Thus, We give credence to their narration of the incident because they are law enforcers who are presumed to have regularly performed their duty in the absence of convincing proof to the contrary. But the more important consideration is the fact that the accused was positively identified by the prosecution witnesses. This should prevail over his self-serving and uncorroborated denial of having committed the crime for which he was charged. The failure of the prosecution to present all the members of the "buy-bust" team will not affect the prosecution's case, their testimony would have been merely corroborative and cumulative. The testimony of a single witness, if credible and positive and if it satisfies the court as to the guilt of the accused beyond reasonable doubt, is sufficient to convict. Here, the testimony of Pat. Rogelio Tuazon satisfies these standards and induces moral certainty of the guilt of appellant.

Appellant claims that Pat. Labares had an axe to grind against him because he, appellant, tipped off the authorities to a certain Gregorio Noval, a known drug pusher. It turned out, however, that Noval was the henchman of Captain Labares. This reason is too superficial and self-serving to be accorded any consideration for except for the say so of appellant, nothing was presented to prove the charge.

The argument that appellant would not have sold "shabu" to a total stranger is at best conjectural and in any case not convincing. Drug pushers have become increasingly casual about their activities and less cautious about isolated transactions like the one at bar. (People v. Bernardino, 193 SCRA 448).

Appellant also underscores the fact that the civilian informer was not made to take the witness stand and he maintains that the non-presentation rendered a fatal blow to the case of the prosecution. This is not correct. The testimony of the informer is not indispensable in view of the testimony of the prosecution witnesses who were members of the "buy-bust" team, particularly the poseur-buyer.

At any rate, the matter of presenting witnesses for the People is the prerogative of the prosecution. (People v. Andiza, 164 SCRA 643; People v. Solomon, 166 SCRA 767). Apparently, the prosecution found it unnecessary to present the informer because, in its appreciation, there was already sufficient evidence to establish its case.

Thus, on the whole, the testimonial and physical evidence for the prosecution is overwhelmingly against the pretended innocence of the accused.

WHEREFORE, the decision appealed from is AFFIRMED.

SO ORDERED.

Bidin, Davide, Jr., and Romero, JJ., concur.

Gutierrez, Jr., J., (Chairman), on leave.

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