

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUDRITO ADAYA Y BALASBAS, ACCUSED-APPELLANT.*G.R. No. 102522. June 05, 1995*

Ponente: BELLOSILLO, J.

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JUDRITO ADAYA Y BALASBAS was convicted under Sec. 4, Art. II, of The Dangerous Drugs Act of 1972 for selling marijuana leaves. He appeals to us reiterating his innocence and alludes to inconsistencies in the testimonies of the prosecution witnesses that weaken the evidence against him. He also claims he was tortured and the case against him a "frame-up."

The antecedents: In the early afternoon of 22 July 1987 Lt. Joel G. Cantos, Head of the NARCOM detachment at Laurel Park, Batangas City, met with one Rey Alasaas, a civilian NARCOM agent and informer, who reported about the pernicious activities of a certain "Jude" of Poblacion West, Alitagtag, as a "pusher" of marijuana. To apprehend the "pusher" Lt. Cantos laid out an entrapment plan. He was to drive Rey Alasaas and drop him some distance away from the residence of "Jude." Rey was to wear his shirt tucked in and would pull it out when the sales transaction would be consummated, i.e., upon the delivery of the illegal merchandise, as a signal to the NARCOM agents to effect arrest. As buy-bust money, two (2) P5.00-bills with Serial Nos. SN-PZ992053[1] and AD-690894[2] were prepared bearing the initials of Lt. Cantos on the right ear of "Emilio Aguinaldo" appearing on the bills.

As planned, Lt. Cantos and Rey Alasaas proceeded to Poblacion West at about five-thirty in the afternoon with a backup team composed of CIC William Manglo, Sgt. Isidro Malabanan, CIC Amando Legaspi, Sgt. Gregorio Caraig and Patrolman Danilo Magtibay. Several meters away from the house of Judrito "Jude" Adaya, Alasaas alighted from the car driven by Cantos while the latter parked by a nearby store. Rey did not have trouble locating the house of Adaya as he had been there before. He found Adaya just outside his house. Rey then asked "Jude," "Mayroon pa ba tayo diyan?" When Adaya responded affirmatively, Rey gave him the two (2) P5.00-bills and the latter in turn handed over one (1) plastic tea bag to Rey.[3] Immediately upon receiving the merchandise, Rey pulled out his shirt as planned signaling the consummation of the sale to the NARCOM agents who were positioned some distance away. Lt. Cantos closed in on them and placed Judrito Adaya under arrest. The two (2) marked P5.00-bills were recovered from Adaya while the plastic tea bag was retrieved from poseur-buyer Rey Alasaas. Adaya was then brought to the NARCOM detachment at Laurel Park and made to sign the two (2) P5.00-bills.[4]

The microscopic, chemical and chromatographic tests conducted by NBI Forensic Chemist Maria Carina Madrigal-Javier on the specimen taken from the plastic tea bag recovered from poseur-buyer Alasaas confirmed that it was marijuana.

Accused has a different version. According to him, in the late afternoon of 22 July 1987 he was watching television with a neighbor inside their house at Poblacion West when some thirteen (13) NARCOM agents, one of

whom he later came to know as Lt. Joel Cantos, arrived and asked for Judrito Adaya.[5] When Adaya presented himself, the NARCOM agents ordered him out of the house and once outside they handcuffed him and mauled him with their fists and the butts of their guns. The mauling which lasted for some ten (10) minutes was done in the presence of his father and his neighbors.[6]

Calling the defense put up by the accused a mere "blanket denial," the Regional Trial Court of Lemery, Batangas, Br. 5, found him guilty as charged and sentenced him to reclusion perpetua and to pay a fine of P20,000.00.[7]

In this appeal, accused-appellant contends that the trial court erred (1) in finding him guilty despite lack of concrete and convincing proof and (2) in not believing him when he said that the NARCOM agents merely "planted" the evidence against him and beat him in the presence of his father and his neighbors to elicit a confession.[8]

Accused-appellant claims that the tea bag of marijuana was merely "planted" and that he was mauled into submission by the NARCOM agents for ten (10) minutes in the presence of his father and his neighbors.[9] However, not a single witness was presented to corroborate his story, not even his father who purportedly intervened in his behalf. If it was really true that he was physically and publicly abused then why did accused-appellant find it difficult to present at least one eyewitness to support his flagging defense? Furthermore, not even a medical certificate was presented to prove the alleged beating. Neither were the "bloodied" sando and trousers exhibited to support appellant's allegation.

Accused-appellant also mentions "inconsistencies" in the testimonies of the prosecution witnesses, particularly of Lt. Joel Cantos. However, appellant does not specify the supposed "inconsistencies." [10] Incidentally, a cursory examination of the testimonies of the prosecution witnesses reveals that there are in fact no material inconsistencies. The only inconsistency we can perceive relates to the actual distance from where Rey Alasaas alighted from the car before proceeding to the house of Adaya. But, apart from that inconsistency, which we consider trivial and inconsequential, we see no other trace of contradiction claimed by appellant.

The version of the prosecution that accused-appellant was caught red-handed in a buy-bust operation was succinctly narrated by Lt. Joel Cantos and his poseur-buyer Rey Alasaas, backed up by Dangerous Drugs Report No. DDM-87-1607 which confirmed the substance delivered by accused-appellant to be marijuana.

Between the naked assertions of accused-appellant and the story recounted by the NARCOM agents, jurisprudence dictates that the latter is to be given more weight. Aside from having in his favor the presumption of regular performance of duty, we find as the court a quo did that the testimony of Lt. Cantos is more credible, being fully and convincingly corroborated, as opposed to that of accused-appellant. Besides, no improper motive to falsely accuse appellant could be imputed to him. In the absence of proof of such motive to falsely impute a serious crime against appellant, the presumption of regularity in the performance of official duty as well as the findings of the trial court on the credibility of witnesses must prevail over the self-serving and uncorroborated claim of having been "framed up." [11]

Thus, finding absolutely nothing in the records to justify an acquittal as prayed for, we affirm the judgment of conviction by the court a quo.

However, as the Office of the Solicitor General correctly recommends, the penalty imposed on accused-appellant should be modified. The court a quo sentenced him to suffer the penalty of reclusion perpetua [12] and to pay a fine of P20,000.00. However, Sec. 20 of R.A. No. 6425 has since been amended by Sec. 17 of R.A. No. 7659, which amendment should be retroactively applied to accused-appellant as it is favorable to him. [13] As now amended, the illegal sale of marijuana is penalized with reclusion perpetua to death and a fine ranging from

P500,000.00 to P10,000,000.00 if the amount of marijuana involved is 750 grams or more; otherwise, if the quantity is less than 750 grams, a penalty ranging from prision correccional to reclusion temporal without fine is prescribed. In the case at bench, accused-appellant was caught delivering 1.6261 grams of marijuana,[14] hence, the proper imposable component penalty is prision correccional to be applied in its medium period in view of the absence of any modifying circumstances. Applying the Indeterminate Sentence Law, the maximum penalty shall be taken from the medium period of prision correccional, which is two (2) years, four (4) months and one (1) day, to four (4) years and two (2) months, while the minimum shall be taken from the penalty next lower in degree, which is arresto mayor the range of which is one (1) month and one (1) day to six (6) months.

WHEREFORE, the decision of the court a quo finding accused-appellant JUDRITO ADAYA Y BALASBAS guilty of violating Sec. 4, Art. II, of R.A. No. 6425 is AFFIRMED with the modification that he shall suffer instead an indeterminate prison term of six (6) months of arresto mayor maximum as minimum, to four (4) years and two (2) months of prision correccional medium as maximum. Consequently, it appearing that accused-appellant has more than served the maximum of the penalty herein imposed, having been detained since his arrest in 1987, his IMMEDIATE RELEASE FROM CUSTODY IS ORDERED unless he is held for some other lawful cause.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., and Kapunan, JJ., concur.
Quiason, J., on official leave.

[1] Exh. "A."

[2] Exh. "A-1."

[3] TSN, 15 February 1988, p. 5; 31 January 1990, p. 6.

[4] Excluded as evidence by the court a quo having been signed by accused-appellant without the assistance of counsel (TSN, 31 January 1990, p. 3).

[5] TSN, 18 September 1990, pp. 5-7.

[6] Id., pp. 19-20.

[7] Penned by Judge Glicerio L. Cruz, RTC, Lemery, Batangas, Br. 5, Original Records, pp. 224-228; Rollo, pp. 81-85.

[8] Brief for Accused-Appellant, p. 8; Rollo, p. 78.

[9] See Note 5.

[10] See Brief for Accused-Appellant, pp. 8-10; Rollo, pp. 78-80.

[11] People v. Labra, G. R. No. 98427, 20 November 1992, 215 SCRA 822; People v. Napat-a, G. R. No. 84951, 14 November 1989, 179 SCRA 403; People v. Khan, G. R. No. 71863, 23 May 1988, 161 SCRA 406; People v. Agapito, G. R. No. 73786, 12 October 1987, 154 SCRA 695.

[12] Correct term should be life imprisonment as prescribed in The Dangerous Drugs Act of 1972, before its amendment by R. A. No. 7659.

[13] See Art. 22, The Revised Penal Code.

[14] See TSN, 1 March 1989, p. 7.

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