

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO MACASA Y NAVARRO, ACCUSED-APPELLANT.

G.R. No. 105283. January 21, 1994

Ponente: MELO, J.

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MELO, J.:

Accused-appellant Romeo Macasa was charged of confederating with a certain Elmo Reyes in selling 0.97 of a gram of dried marijuana fruiting tops on March 11, 1990 in Antipolo, Rizal, in contravention of Section 4, Article II, of Republic Act No. 6425 (p. 1, Record). However, it was only accused-appellant who underwent trial inasmuch as the charge against Elmo Reyes was ordered dismissed on June 7, 1990 (p. 1, Decision; p. 67 Rollo; p. 30, Record).

The judgment of conviction against Romeo Macasa, subject matter of the appeal at bar, was rendered on December 9, 1991 in this manner:

WHEREFORE, finding the accused Romeo Macasa guilty beyond reasonable doubt of violating Section 4, Article II of RA 6425 as amended, he is hereby sentenced to suffer and undergo imprisonment of reclusion perpetua and to pay a fine of P20,000.00 without subsidiary imprisonment in case of insolvency, and to pay the costs.

In the service of his sentence, he shall be credited with the full benefits of his preventive imprisonment pursuant to Art. 29 of the Revised Penal Code, as amended by RA 6127 if he voluntarily agrees in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED. (p. 3, Decision; p. 69, Rollo.)

After a civilian informer supplied information to Sgt. Ceferino Avendaño at around 10:30 p.m. of March 11, 1990 that somebody was engaged in the illicit trade of prohibited drug at Peñafrancia, Antipolo, Rizal, the team, headed by Sgt. Avendaño with Pat. Magno, Pat. Reyes and Pat. Tamondong as members, immediately went to accused-appellant's residence which was pinpointed by the informant (tsn, March 12, 1991, p. 7). Pat. Reyes, the designated poseur-buyer with a marked P10.00 bill to be utilized in the buy-bust operation (tsn, May 22, 1990, pp. 3-5), knocked on accused-appellant's door (tsn., March 12, 1991, p. 4) which was opened by accused-appellant who was told by Pat. Reyes that the latter wanted to buy marijuana. Accused-appellant responded by going inside the house, returning later with one (1) tea bag which he handed to Pat. Reyes who then gave the P10.00 bill to accused-appellant. Pat Reyes thereupon held accused-appellant by the arm and the other members of the team who were positioned outside the premises, then responded and arrested accused-appellant.

Ten more tea bags of suspected marijuana were also discovered inside accused-appellant's house when an inspection was conducted thereat (tsn, May 22, 1990, p. 5). It was Elmo Reyes, said accused-appellant, who supplied marijuana to him. Thereafter, the police team went to the house of Elmo Reyes and invited him also to the police station for investigation (tsn, March 12, 1991, p. 9). When examined at the PC/INP laboratory, the contents of the confiscated tea bags yielded positive results for marijuana (tsn, October 17, 1990, pp. 4-5).

Amidst these inculpatory facts, accused-appellant professed innocence when asked to give the version of his defense. He narrated on the witness stand that when the police team arrived and knocked at his door, he recognized, from among the men at his doorstep, Sgt. Avendaño, whose personal aide was accused-appellant's brother. Elaborating further, accused-appellant declared that when he was asked by the police officers as to the whereabouts of Elmo Reyes, his reply was to the effect that Elmo Reyes' house was about 70 meters away (tsn, October 18, 1991, p. 3). A search was conducted in accused-appellant's residence but the police did not find anything (tsn, October 18, 1991, p. 4); nonetheless, accused-appellant went with the team to Elmo Reyes' house which was also raided -- to no avail. Accused-appellant admits that he and Elmo Reyes were brought to the police station but that it was only in the course of the investigation that Sgt. Avendaño foisted some marijuana leaves supposedly taken from accused-appellant's residence, including the money used as consideration therefor (tsn, October 18, 1991, p. 5).

But the magistrate below was not in the least swayed by accused-appellant's flat denial of the indictment, observing in regard thereto:

... But the bare and uncorroborated assertions of the accused cannot, however, prevail over the positive testimonies of the prosecution witnesses who have not been shown that they testified falsely against the accused. It is established from the declarations of the police officers, especially Pat. Carlito Reyes, that it was the accused who gave him one tea bag of marijuana after the accused received a ten peso bill. The money was previously marked with the signature of Pat. Carlito Reyes on its left side (Exh. "1").

While the additional tea bags recovered from house of the accused may not be appreciated in evidence against him because they were seized without the corresponding warrant, certainly the one tea bag of the prohibited drug given to Pat. Reyes by the accused after he received the marked money was clearly violative of the dangerous drugs law. The sale of the marijuana by the accused to Pat. Reyes was an independent and separate transaction between the two. It preceded and precipitated the search of the house of the accused by the police team.

Evaluating the evidence on record, the Court finds the version of the prosecution to be more credible than the bare denials of the accused. The Court believes that the prosecution has been able to overcome the constitutional presumption of innocence of the accused, and that his guilt has been proven beyond reasonable doubt. (p. 3, Decision; p. 69, Rollo.)

In the appeal before us, accused-appellant maintains that:

A.

THE EVIDENCE SUBMITTED BY THE PROSECUTION ARE FULL OF MATERIAL INCONSISTENCIES AND, TO A GREAT DEGREE, INCREDIBLE SUCH THAT THESE INCONSISTENCIES CREATE A DOUBT AS TO THE GUILT OF THE ACCUSED-APPELLANT THEREBY JUSTIFYING HIS ACQUITTAL.

B.

THE TESTIMONIES OF THE PROSECUTION WITNESSES EXEMPT THE ACCUSED-APPELLANT FROM ANY CRIMINAL LIABILITY SINCE THE ACCUSED WAS ACTUALLY INSTIGATED TO COMMIT THE CRIME ALLEGEDLY COMMITTED.

C.

THE LOWER COURT ERRED IN NOT GIVING WEIGHT AND CREDENCE TO THE TESTIMONY OF THE ACCUSED-APPELLANT.

D.

THE LOWER COURT ERRED IN IMPOSING UPON THE ACCUSED-APPELLANT THE PENALTY OF RECLUSION PERPETUA.

which, taken collectively, accentuate accused-appellant's charge against the propriety of his conviction.

Contrary to accused-appellant's expectation, his conviction for the misdeed must stand in the face of the positive testimony of the People's witnesses from which we draw the conclusion that, indeed, accused-appellant Romeo Macasa was engaged in the unlawful trade of prohibited drugs.

In his brief, accused-appellant submits the proposition that inconsistencies on material points riddle the testimony of the prosecution witnesses as to substantially affect the outcome of the charge levelled against him. For instance, he is of the view that illegal drug deals are normally consummated in absolute secrecy, thereby suggesting that he could not have disposed of the pernicious article indiscriminately to a complete stranger (p. 11, Brief for Appellant; p. 50, Rollo). Such a pretense is not novel, and as reiterated by this Court in *People vs. Angeles* (218 SCRA 352 [1993]), peddlers of illicit drugs have been known, with ever-increasing casualness and recklessness, to offer and sell for the right price their wares to anybody, be they strangers or not. Indeed, the fact that the parties are in a public place and in the presence of other people may not always discourage them from pursuing their illegal trade as these factors may even serve to camouflage the same (*People vs. Bagawe*, 207 SCRA 761 [1992]).

Neither can the minimal consideration involved in the case at bar militate against the perfected sale of the merchandise, for it has been held that even the absence of actual delivery of the money by the pretended buyer to the accused-seller would not prevent the offense from being committed (*People vs. Fabian*, 204 SCRA 730 [1991]).

Accused-appellant would find much capital in the circumstance that Pat. Reyes at first claimed that he and Sgt. Avendaño were assigned by the Chief of Police as purchasers of marijuana only to claim afterwards that he alone was the poseur-buyer (p. 13, Brief for Appellant; p. 52, Rollo). Assailed as well is the discrepancy as to how the exchange of marijuana and the money was effected, per Pat. Reyes' recollection, (p. 14, Brief for Appellant; p. 53, Rollo). These small discrepancies in minor details can hardly operate in favor of accused-appellant. A contrario, such contradictions indicate veracity rather than prevarication (*People vs. Viñas*, 25 SCRA 682 [1968]) and only tend to bolster the probative value of such testimony (*People vs. Selfaison, et al.*, 61 O.G. 1513). Withal, perfect dovetailing of witnesses' testimonies can not but generate the apprehension that the circumstances, as vividly described by them, were integral parts of a well conceived and prefabricated plot (*People vs. Agudo*, 137 SCRA 516 [1985]); 2 Regalado, Remedial Law Compendium, 1988 ed., p. 555).

Concerning the contention of accused-appellant that his guilt was not proven beyond reasonable doubt considering that the prosecution failed to present the informer who provided the tip to Sgt. Avendaño (p. 17, Brief for Appellant; p. 56, Rollo), suffice it to say that the testimony of the police informer is not indispensable to a successful prosecution for drug-pushing (*People vs. Odicta*, 197 SCRA 158 [1991]), and in view of the positive, candid statement of Pat. Reyes surrounding the buy-bust operation (*People vs. Alerta*, 198 SCRA 656 [1991]). Moreover, the testimony or identity of the informant may be dispensed with since his narration would be merely corroborative and cumulative with that of the poseur-buyer who was himself presented and who took the witness stand for the precise purpose of attesting to the sale of marijuana (*People vs. Rumeral*, 200 SCRA 194 [1991]).

Accused-appellant would also have us believe that he was merely instigated to commit the offense (p. 18, Brief for Appellant; p. 57, Rollo). Very cleverly, accused-appellant is attempting to engage in a subtle experiment to deviate from his initial disputation premised on denial (p. 7, Brief for Appellant; p. 46, Rollo). Such ploy must be

brushed aside, a belated and contradictory defense as it is. At any rate, accused-appellant was not really induced to breach the law, for independently of such imaginary temptation, the police officers merely confirmed his illegal activity via the process of entrapment which spawned the arrest in flagrante delicto. In *People vs. William* (209 SCRA 808 [1992]), the Court once again characterized a buy-bust operation as a form of entrapment, thus:

As a general rule, a buy-bust operation is the method employed by peace officers to trap and catch malefactors in flagrante delicto. It is essentially a form of entrapment since the peace officer neither instigates nor induces the accused to commit a crime. Entrapment is the employment of such ways and means for the purpose of trapping or capturing a law-breaker from whose mind the criminal intent originated. Oftentimes it is the only effective way of apprehending a criminal in the act of the commission of the offense. The NARCOM agents in this case used entrapment to be able to catch the accused-appellants in that act. The fact that they had a ready supply belies their claim of instigation. (*Peo v. dela Cruz*, 18 April 1990). (at p. 814.)

Finally, accused-appellant argues that the trial court should have given more weight and credence to his testimony than that of the prosecution witnesses. But accused-appellant must perhaps be reminded that the lone testimony of a witness, if credible, as ascertained below, is enough to convict in drug cases (*People vs. Abelita*, 210 SCRA 497 [1992]), apart from the jurisprudential proscription against disturbing, on appeal, the factual findings of the magistrate below on the matter of credibility of witnesses (*People vs. Bechayda*, 212 SCRA 336 [1992]). Verily, accused-appellant's letter in the vernacular dated September 29, 1993 written from his cell and sent to the Court undoubtedly conveys the message of impending accountability for the illegitimate commerce (p. 76, Rollo), considering that he therein admits that he in fact sold the marijuana subject of the buy-bust operation. He further declared that he would have admitted his involvement had there been a plea-bargaining in the case.

Nonetheless, the judge below erred in denominating as reclusion perpetua the imposable penalty upon appellant inasmuch as the appropriate term for the penalty is life imprisonment under Section 4, Article II of Republic Act No. 6425, as amended (*People vs. Angeles*, 218 SCRA 352 [1993]).

WHEREFORE, subject to the above modification, the appealed decision is hereby AFFIRMED.

SO ORDERED.

Feliciano, (Chairman), Bidin, Romeo, and Vitug, JJ., concur.

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