

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PHILIP FELIX CADOCIO Y BELLEZA, ACCUSED-APPELLANT.*G.R. No. 106197. December 17, 1993*

Ponente: NOCON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-106197/>**NOCON, J.:**

Drug addiction is one of the most pernicious evils that has ever crept into our society. More often than not the young, who constitute the greater majority of the populace, are the victims. It is of common knowledge that drug addicts become useless if not dangerous members of society and in some instances turn out to be among the living dead. This is the reason why the courts and law enforcement agencies should continue in their relentless campaign not merely to minimize but to totally eradicate the evil before it is too late. And everyone must be involved in this drive if we were to succeed. The peddlers of drugs are actually agents of destruction. They deserve no less than the maximum penalty.[1]

At the same time, we cannot close our eyes to the many reports of evidence being planted on unwary persons either for extorting money or exacting personal vengeance. By the very nature of anti-narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great. Courts must also be extra vigilant in trying drug charges lest an innocent person is made to suffer the unusually severe penalties for drug offenses.[2]

Accused-appellant Philip Felix Cadocio y Belleza was charged with the crime of violation of Section 15, Article III of Republic Act No. 6425, as amended,[3] in Criminal Case No. C-34180 before the Regional Trial Court of Kalookan City. The information filed in said case reads, as follows:

“That on or about the 17th day of December 1989 in Kalookan City, Metro-Manila and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there wilfully, unlawfully and feloniously sell and seliver (sic) to Pat. Reynaldo Padpad who posed as buyer, METHAMPHETAMINE HYDROCHLORIDE, a regulated drug, without the corresponding license or prescription therefore (sic) knowing the same to be such.

Contrary to Law.[4]

Upon arraignment, he entered the plea of not guilty. Thereafter, trial on the merits ensued. On February 28, 1991, the trial court rendered its decision against him, the dispositive portion of which reads:

“WHEREFORE, in view of the foregoing, this Court finds the accused PHILIP FELIX CADOCIO Y BELLEZA, GUILTY beyond reasonable doubt of Violation of Section 15, Article III, of Republic Act No. 6425, as amended, as charged. He clearly was the go-between in the sale and delivery of the subject Methamphetamine Hydrochloride to the poseur-buyer, Pat. Paymundo Padpad. This Court hereby sentences said accused to life imprisonment; to pay a fine of P20,000.00; and to pay the costs.

The methamphetamine (sic) Hydrochloride, subject matter of this case, is forfeited in favor of the Government,

and the Sheriff of this Court is hereby directed to turn over the same to the Dangerous Drugs Board for its disposition. (sic)

SO ORDERED.”[5]

Hence, the present appeal.

The antecedent facts are, as follows:

According to the prosecution, at about 9:00 o'clock in the evening on December 16, 1989, Lt. Norberto Surara, Chief of the Anti-Narcotics Unit of the Kalookan City Polite Station, called a meeting at his office. Present at the meeting were Sgt. Juan Grajo, Cpl. Agapito Quimson, Sgt. Manuel Buenaobra, Pfc. Reynaldo Ventinilla, Cpl. Antonio Cortez, Police Aide Garcia, Pat. Eliseo Gargaritano, Pfc. Raymundo Padpad and others. The meeting was held because of reports that a certain Philip of Sta. Lucia St., Kalookan City, accused-appellant herein, is engaged in the illicit selling of prohibited drugs. Lt. Surara then planned a buy-bust operation with accused-appellant as the target. He showed to the members of the team a P100.00 bill as buy-bust money and handed it over to Pfc. Padpad, whom he designated as poseur-buyer. Pfc. Padpad wrote the letter "T" inside one of the number "0" in the P100.00 bill (Exhibit "A").

The team of policemen proceeded to Sta. Lucia St. aboard a jeep and a land cruiser. Upon arrival at the designated area at about 1:30 o'clock in the morning on December 17, 1989, the policemen alighted and positioned themselves at strategic places while Pfc. Padpad proceeded to the house of accused-appellant. The policemen saw Pfc. Padpad talking to accused-appellant. After a while, Pfc. Padpad and accused-appellant left the place on a motorcycle driven by the latter. They proceeded to the Mini Park along M. Hizon St., Kalookan City. The policemen followed aboard their vehicles. They stationed themselves in places near the park in order to observe the movements of Pfc. Padpad and accused-appellant.

The policemen saw former policeman Emmanuel Dizon and Pat. Edgardo Adawag at the Mini Park talking to each other. Pat. Gargaritano saw Pfc. Padpad hand over something to accused-appellant. In turn, accused-appellant approached Dizon and handed over the same to the latter. At the same time, Dizon gave something to accused-appellant, who handed over something to Pfc. Padpad. As soon as accused-appellant handed over to Pfc. Padpad that something which the former got from Dizon, Pfc. Padpad grabbed his hands. Instantly, the back-up policemen approached accused-appellant Pat. Gargaritano grabbed the gun from the waist of Dizon, recovered the buy-bust money and confiscated two (2) sticks of marijuana from him. Pat. Ventinilla grabbed the service gun of Pat. Adawag and confiscated a bottle containing suspected Methamphetamine Hydrochloride from him. It was about 2:00 o'clock in the morning when the arrests were made.

Thereafter, the policemen brought accused-appellant, Dizon and Adawag, together with all the confiscated articles to Cpl. Daniel del Rosario of the Anti-Narcotics Unit of the Kalookan City Police Station. Pat Gargaritano and Pfc. Ventinilla executed a joint affidavit (Exhibit "B") while Pfc. Padpad executed a separate sworn statement (Exhibit "D"). Cpl. del Rosario then prepared a letter referral for inquest purposes (Exhibit "J").

Beverly Eloria-Vidanes, Forensic Biologist of the NBI Forensic Chemistry Section, received from Pfc. Padpad a letter request for examination of an aluminum foil with white granules. She examined the contents of the foil and then prepared a certification stating that the specimen was positive for Methamphetamine Hydrochloride (Exhibit "G"). After conducting the spectrum test, she issued a final report confirming her earlier finding (Exhibit "H").

The prosecution presented Pfc. Ventinilla and Pat. Gargaritano as main witnesses. Pfc. Padpad was not able to testify because he died in a stabbing incident sometime in June, 1990.

Dizon and Pat. Adawag were charged separately.

On the part of the defense, accused-appellant contends that at 1:30 o'clock in the morning on December 17, 1989, he was riding on his motorcycle along Roxas St. between 11th and 12th Avenues, Kalookan City. His path was blocked by Pat. Gargaritano, Pfc. Mendoza and Pfc. Ventinilla, who were riding in a taxi cab. He was frisked by the policemen but nothing was found on his person. Nevertheless, the policemen forced him to board the taxi cab and he was brought to the LRT station at Monumento. He was told to alight from the taxi cab. After twenty (20) minutes, he was put aboard a service cruiser and handcuffed. He was then brought to M. Hizon St., Kalookan City, near the Mini Park. The service cruiser stopped in front of Dizon who was standing nearby. Pfc. Ventinilla informed Dizon that they are conducting "Operation Kapkap" and frisked him. A gun was confiscated from him. The policemen also arrested in the area Pat. Adawag and the latter's companion named Alvin Tong. During the arrests of Dizon and Adawag, accused-appellant was handcuffed inside the service cruiser. Later, he was brought to the Kalookan City Police Headquarters. He does not know the reason for his arrest.

Before us, accused-appellant raises the following errors committed by the trial court:

- 1) in admitting the testimony of Pat. Gargaritano during the hearing on August 8, 1990 despite failure of the prosecution to offer it at the time he was called to the witness stand, contrary to the provisions of Sections 34 and 35, Rule 132 of the Revised Rules on Evidence;
- 2) in invoking the presumption of regularity in the performance of duty to support the testimonies of the two policemen as prosecution witnesses, disregarding the superior Constitutional presumption of innocence of the accused;
- 3) in convicting accused-appellant on the basis of the patently insufficient testimonies of said policemen;
- 4) in brushing aside the defense of accused-appellant for lack of corroboration; and
- 5) in not holding that this case involves inducement by police officers, even on the remote assumption that accused-appellant took part in the sale and/or delivery of the regulated drug.

Accused-appellant submits that the trial court gravely erred in admitting the August 8, 1990 testimony of Pat. Gargaritano on the ground that the prosecution did not first offer it at the time he was called to the witness stand, in contravention of the mandatory provisions of Sections 34 and 35, Rule 132 of the Revised Rules on Evidence.^[6] The presumption of regularity in the performance of duty has been rebutted by the weak and insufficient testimonies of Pat. Gargaritano and Pfc. Ventinilla and the straightforward and detailed testimony of accused-appellant. The policemen had a motive in imputing the offense on him, that is, upon learning that his motorcycle was not registered and that he has no license to drive it, they planned to get it from him. Granting *arguendo* that the evidence for the prosecution is not worthless, nevertheless, the case at bar involves inducement or instigation that justifies the acquittal of accused-appellant. It is the claim of Pfc. Ventinilla that Pfc. Padpad and accused-appellant talked for more or less 15 to 20 minutes. If this were true, it is reasonable to infer from the length of time of the supposed conversation that Pfc. Padpad was engaged in inducing accused-appellant to commit the offense. Accused-appellant concludes that there are strong grounds for his acquittal in view of the failure of the prosecution to prove that he committed the offense charged.

The Office of the Solicitor General maintains that the circumstances pointing to the guilt of accused-appellant are borne by the evidence on record.

We do not think so. In fact, we find that the trial court erred in convicting accused-appellant.

Admittedly, the prosecution failed to formally offer in evidence the August 8, 1990 testimony of Pat. Gargaritano at the time he was called to testify. Nevertheless, the counsel of accused-appellant, at the inception of the direct

examination of Pat. Gargaritano, informed the trial court that:

"ATTY. LAGMAN:

To obviate lengthy questions regarding his membership in the Caloocan Police Station, we would admit his membership and that he was even on duty on December 16, 1989, your Honor.”[7]

When it was his turn to cross-examine Pat. Gargaritano, he manifested that said testimony is inadmissible in evidence, citing Sections 34 and 35, Rule 132 of the Revised Rules on Evidence. The trial court interpreted the rules liberally and allowed the prosecution to make a belated offer of said testimony.

The questioned testimony of Pat. Gargaritano is admissible in evidence although it was not formally offered at the proper time because the counsel of accused-appellant, by admitting Pat. Gargaritano's membership in the Caloocan Police Station and that he was on duty on December 16, 1989, is deemed to have waived his objection to the admissibility thereof. The belated offer by the prosecution is not even necessary in view of said waiver. In the recent case of *People v. Java*,^[8] which involves a similar issue, this Court enunciated the rule that:

“Indeed, Section 34, Rule 132 of the Revised Rules of Court requires that for evidence to be considered, it should be formally offered and the purpose specified. This is necessary because a judge has to rest his findings of fact and his judgment only upon the evidence offered by the parties at the trial (citing *People v. Pecardal*, G.R. No. 71381 [1986]).

Under the new procedure as spelled out in Section 35 of the said rule which became effective on July 1, 1989, the offer of the testimony of a witness must be made at the time the witness is called to testify. The previous practice was to offer the testimonial evidence at the end of the trial after all the witnesses had testified. With the innovation, the court is put on notice whether the witness to be presented is a material witness and should be heard, or a witness who would be testifying on irrelevant matter or on facts already testified to by other witnesses and should therefore, be stopped from testifying further.

In the case at bar, we note that Pastor Valdez was not one of the witnesses originally intended to be presented by the prosecution. He was merely called to the witness stand at the latter part of the presentation of the prosecution's evidence. There was no mention why his testimony was being presented. However, notwithstanding that his testimony was not formally offered, its presentation was not objected to either. Section 36 of the aforementioned Rule requires that an objection in the course of the oral examination of a witness should be made as soon as the grounds therefor shall become reasonably apparent. Since no objection to the admissibility of evidence was made in the court below, an objection raised for the first time on appeal will not be considered.”[9] (underscoring supplied)

It is clear in the aforementioned disquisition that the testimony of a witness, although not formally offered in evidence, may still be admitted by the courts, if its presentation was not objected to by the opponent. It is argued that in the present case, the counsel of accused-appellant objected to the admissibility of the questioned testimony after the direct examination of Pat. Gargaritano. We find this argument unavailing. It is immaterial that he raised his objection later because he has already waived his right to object. We reiterate that the questioned testimony of Pat. Gargaritano is admissible in evidence. To accused-appellant's favor, however, the admissibility of evidence is quite different from the weight and sufficiency that may be accorded to it by the courts. In other words, the questioned testimony of Pat. Gargaritano will still be subject to the rule on weight and sufficiency of evidence, as we shall discuss later.

In finding accused-appellant guilty beyond reasonable doubt of the crime charged against him, the trial court rationalized:

“The testimonies of Pat. Eliseo Gargaritano were clear and positive. Pfc. Ventinilla corroborated the

testimonies of Pat. Gargaritano on most of its important points. Both identified the accused Philip Cadocio during the trial. Pfc. Ventinilla testified that the place (sic) where the accused Philip Cadocio were (sic) arrested at the Mini Park along M. Hizon St., Kalookan City was visible from the places where the policemen were hiding in strategic positions. (TSN-July 30, 1990, p. 12). Both policemen did not actually see what Emmanuel Dizon gave to the accused Philip Cadocio and what Philip Cadocio later handed to Pfc. Padpad.

In his testimony given on August 27, 1990, Pat. Gargaritano testified that after the apprehension of Philip, he came to know that what Philip handed to Pfc. Padpad immediately before their arrest was Methamphetamine Hydrochloride contained in an aluminum foil. Pat. Gargaritano saw Pfc. Padpad turn over to the investigator, Cpl. Daniel del Rosario, the aluminum foil (Exhibit "F"), which Pat. Gargaritano identified during the trial. Pat. Gargaritano was able to identify the subject aluminum foil because of the marking 'P.C.B.' which he saw Cpl. Del Rosario wrote on it at their office. The letters 'P.C.B.' are the initials of the accused. (TSN-Aug. 27, 1990, pp. 3-5). Pfc. Ventinilla also testified that he came to know later that the thing given by the accused Philip to Pfc. Padpad just before the accused Philip was arrested, was an aluminum foil containing Methamphetamine (sic) Hydrochloride. When the arresting officers turned over Philip, Adawag and Dizon to the investigator, Cpl. (sic) Ventinilla saw Pfc. Padpad turn over to the investigator, Cpl. Del Rosario an aluminum foil (Exhibit "F") containing Metamphetamine Hydrochloride. Pfc. Ventinilla identified the subject aluminum foil because of the markings written by Investigator del Rosario. (TSN-Sept. 12, 1990, pp. 6-9).

The subject aluminum foil containing Methamphetamine Hydrochloride was turned over by Pfc. Padpad personally to Cpl. del Rosario. Cpl. Del Rosario identified the initials of the accused Philip which he wrote on the foil with the use of a blue pen at their office. (TSN-Sept. 21, 1990, pp. 13-14).

The records show that it was Pfc. Raymindo (sic) Padpad who personally brought the subject aluminum foil marked Exhibit "F" to the NBI Forensic Chemistry Section at 11:00 am on December 17, 1989 (see Exhibit "E").

Pat. Eliseo Gargaritano also identified the buy-bust money of P100 bill during the trial (Exhibit "A"). He was able to identify it because of its serial number and because of the marking Pfc. Padpad wrote on the figure '0' on the face of the paper bill. (TSN-Aug. 8, 1990, p. 7). Pat. Eliseo Gargaritano first saw said paper bill when the Chief of the Anti-Narcotics Unit, Kalookan City Police Station, handed the same to Pfc. Padpad (TSN-Aug. 8, 1990, p. 7). After the arrest, the same paper bill was recovered (sic) from Emmanuel Dizon (TSN-Aug. 27, 1990, pp. 8-9). Pfc. Veritinilla also identified the P100 paper bill buy-bust money (Exhibit "A") thru the serial number and the markings made by Pfc. Padpad. He even wrote the serial number in the notebook (Exhibit "C").

These two policemen witnesses have in their favor the presumption that they were engaged in the performance of their duties when they arrested the accused Philip Cadocio. (Par. M., Sec. 2, Rule 131, Revised Rules on Evidence). The Defense (sic) has not introduced any evidence to show that these two policemen were motivated by any ulterior motive in testifying (sic) against the accused Philip Cadocio in order to discredit their testimonies. (People vs. Databan, 157 SCRA 215)."[10] (underscoring supplied)

At first glance, the ratiocination of the trial court appears convincing. However, a microscopic scrutiny of the respective testimonies of Pfc. Ventinilla, Pat. Gargaritano and Cpl. del Rosario reveals otherwise.

Pfc. Ventinilla narrated their buy-bust operation in this manner:

"Q As far as you are concerned, how far were you from Pat. Padpad and Philip Cadocio, when you positioned yourself to a vantage position?

A More or less 20 meters away, sir.

Q Did you see Pat. Padpad give the money to Philip Cadocio?

A ATTY. LAGMAN

Objection, very leading.

COURT

Sustained. Reform the question.

FISCAL SILVERIO

Q What did you observe after you saw Philip Cadocio and Pat. Padpad at this Mini Plaza at M. Hizon street?

A I saw Pat. Padpad handed something over to Philip Cadocio, sir.

Q Did you come to know what was that something given to Philip Cadocio at that time?

A No, sir, we were far from them, sir.

Q When Pat. Padpad gave something to Philip Cadocio, what happened next, if any?

A Philip Cadocio, Emmanuel Dizon and Edgardo Adawag talked to each other, sir.

x x x x x x x x

Q And after Philip Cadocio, Pat. Padpad, Dizon and Pat. Adawag talked to each other at the place at the Mini Plaza, what happened next, if any?

A We noticed that Emmanuel Dizon handed something to Philip Cadocio, sir.

Q Did you come to know what Dizon gave to Philip Cadocio?

A Not yet, sir.

Q And when you observed them, what did Philip Cadocio do?

A When the turning over was being made, Pat. Padpad made the pre-arranged signal, sir."[11] (underscoring supplied)

As can be gleaned from his testimony, he did not see what Pfc. Padpad handed over to accused-appellant. Neither did he see what Dixon handed over to accused-appellant. His failure to recognize that "something" which passed from one hand to another is understandable because according to him he was more or less twenty (20) meters away from them. On this aspect, his testimony is wanting in establishing the chain of events leading to the culpability of accused-appellant for the crime charged.

Pfc. Ventinilla testified further:

“Q Who arrested Philip Cadocio at that time?

A Pat. Padpad was near him, sir. I and Pat. Gargaritano arrested Dizon who was then carrying a gun, sir.

Q And who arrested Pat. Adawag?

A The other members or operatives who were with me, sir.

Q What happened when you made the proper apprehension of these people?

A At the place of apprehension, we confiscated two guns, shabu, an aluminum foil with rolled napkin being used as a “gaza”, sir.

Q From whom did you get the two guns?

A One .38 cal. paltik from Emmanuel Dizon, and the other gun came from Pat. Adawag, sir.

Q From whom did you recover the aluminum foil?

A I just saw the aluminum foil. I do not know who among the members of the operatives confiscated the aluminum foil, sir.

Q How about the rolled napkins?

A I just saw it there, sir.

Q From whom was it recovered?

A I think and I am not sure. Maybe it was from Philip Cadocio, sir.

Q You mentioned about marijuana, from whom was it recovered?

A It was Pat. Gargaritano who got that from Dizon, sir.

Q What else did you recover during that apprehension?

A When I frisked Pat. Adawag, I confiscated from him a small vial, sir.

Q Did you come to know what was that vial about?

A It contains white crystalline substance, and we suspected it to be shabu, sir.

Q What other articles did you recover?

A As for as I know, sir, those were the items we confiscated from them."[12] (underscoring supplied)

Still, his testimony is not helpful to the prosecution because his personal knowledge is limited to the articles that were confiscated from Dizon and Pat. Adawag. However, a week after his direct examination, he appeared to know that accused-appellant was in possession of shabu. During the cross examination, he testified:

“ATTY. LAGMAN:

Q As apprehending officer, will you please tell the Honorable Court if anyone of the peace officers who apprehended Philip Cadocio during that incident found any prohibited or regulated drugs in his person?

A What I know, Philip Cadocio was brought to our office because he was in possession of shabu, sir.

Q He was in possession of Shabu?

A Yes, sir.

Q How did you come to know about that that Philip Cadocio was in possession of shabu?

A When he was brought to our office, it was Pfc. Padpad I think or Pat. Gargaritano who confiscated shabu in his possession, sir."[13] (underscoring supplied)

Only to reverse himself subsequently during the same cross-examination:

“Q But when he (accused-appellant) was arrested, they (Pat. Gargaritano or Pfc. Padpad) did not find any prohibited or regulated drug in his person?

FISCAL SILVERIO:

Incompetent.

WITNESS:

A I do not know, sir."[14] (underscoring supplied)

Let us consider next the testimony of Pat. Gargaritano:

“Q Then what happened?

A When they (Pfc. Padpad and accused-appellant) reached the M. Hizon they parked near the mini park, then we again placed ourselves in strategic placed (sic) to see the negotiation between our subject.”[15]

“x x x x x x x x”

“Q Did you know what was that something Pat. Padpad handed to Philip Cadocio?

A As I know, it was methamphetamine hydrochloride, because of the operation, sir.

Q I am referring to that something Pat. Padpad gave to Philip Cadocio in the mini park?

WITNESS

A Our buy-bust money, sir.

FISCAL SILVERIO

Q And what did Philip Cadocio do with that something or that buy-bust money Pat. Padpad gave him?

A: He gave it to Pfc. Dizon, sir.

Q: Where was Pat. Dizon at that time?

A: Along M. Hizon, sir.

Q: After Philip Cadocio gave the buy-bust money to Pat. Dizon, what did Pat. Dizon do?

A: In exchange, he handed something to Philip.

Q: Did you come to know what was that something?

A: As I know, it was methamphetamine hydrochloride, sir.

Q: What did Philip Cadocio do with the methamphetamine hydrochloride given by Pat. Dizon to him?

A: He gave it to our poseur-buyer, sir.”[16]

At first glance, this testimony appears sufficient to convict accused-appellant. But, a perusal of his entire testimony unearthed a subsequent one which caused damage to his previous "positive" narration of facts:

“Q: When did you help Pat. Padpad?

A: I myself grabbed the hand of Pfc. Dizon and I immediately grabbed his gun in his waist.

Q: What else did you recover from Pat. Dizon?

A: Two sticks of marijuana, the buy-bust money and a .38 paltik revolver, sir.

Q: How about the shabu or methamphetamine hydrochloride, subject of that transaction? What happened to that?

A: It was recovered by our poseur-buyer Pfc. Padpad. It was in his possession or custody.

FISCAL SILVERIO

Q: During that incident or that apprehension, were you able to see that methamphetamine hydrochloride, known commonly as "shabu"?

WITNESS

A: I cannot see at that time.

Q: Later, did you see the Shabu?

A: Yes, sir.

Q: Where?

A: In our office."[17] (underscoring supplied)

Just like Pfc. Ventinilla, Pat. Gargaritano's testimony has not established that he saw what Dizon handed to accused-appellant. They were not privy to the conversation and transaction among Pfc. Padpad, Dizon, Pat. Adawag and accused-appellant. They merely watched from a distance.[18] In view of the severity of the penalty provided for under Section 15, Article III of Republic Act No. 6425, as amended, to sustain a conviction thereunder, the sale and delivery of the regulated drug must be clearly and unmistakably established.[19] The prosecution failed miserably to concretize the illegal sale and delivery of Methamphetamine Hydrochloride by accused-appellant to Pfc. Padpad. Pat. Gargaritano and Pfc. Ventinilla may have seen Pfc. Padpad turn over to Cpl. del Rosario in their office an aluminum foil containing suspected Methamphetamine Hydrochloride after the apprehension of accused-appellant,[20] yet, their testimonies in this regard are nothing but conjectural. Precisely, they do not know from whom Pfc. Padpad confiscated or received the suspected Methamphetamine Hydrochloride; they do not even know whether or not Pfc. Padpad confiscated anything from accused-appellant. They merely presumed that Pfc. Padpad confiscated the article from accused-appellant because according to them, Pfc. Padpad was the one who arrested accused-appellant and subsequently turned over the article to Cpl. del Rosario. In particular, Pat. Gargaritano testified:

"Q: Did you come to know what was that something Philip Cadocio gave to Pat. Padpad?

A: As I know, it was metamphetamine (sic) hydrochloride, sir, known as Shabu.

Q: How did you know that?

A: Because our mission there is conduct buy-bust operation sir.

Q: Did you see what was that something given by Philip Cadocio to Pat. Padpad?

ATTY. LAGMAN: Already answered in the initial direct examination. He previously testified it was that commonly known regulated drug, Shabu, because that was their purpose. That was what he believes. According to him, he saw accused gave something to Padpad, but he believes it was methamphetamine hydrochloride because that was their mission.

FISCAL SILVERIO

Q: After Philip Cadocio was apprehended by Pat. Padpad, did you come to know what was the something actually given by Philip Cadocio to Pat. Padpad at that time?

A: Yes, sir.

FISCAL SILVERIO

Q: What was that?

WITNESS

A: Metamphetamine (sic) hydrochloride, sir.

Q: How did you come to know that?

A: When we reached our office, Pfc. Padpad turned over to our investigator the said evidence, sir.”[21]

“x x x x x x x x.”

“Q: And during your apprehension you did not see this because you saw this exhibit, this aluminum foil, marked Exhibit "F-7" for the first time in your office?

A: Yes, sir.

ATTY. LAGMAN

Q: You never saw this at the scene of the incident?

WITNESS

A: Yes, sir.”[22] (underscoring supplied)

Neither did the testimony of Cpl. del Rosario fill the hiatus in the prosecution's evidence. It is really hearsay:

“FISCAL SILVERIO (Q) And then what happened? They met Pat. Padpad at that place?

WITNESS (A) Allegedly, Philip Feliz (sic) Cadocio acquired aluminum foil of a deck of shabu from Dizon and thereafter handed to Pfc. Padpad.

FISCAL SILVERIO (Q) What did Pat. Padpad do after that?

WITNESS (A) After Pat. Padpad received the foil of shabu from Philip Feliz (sic) Cadocio, allegedly he signalled his companion and immediately effected the arrest of Cadocio together with Dizon.

“x x x x x x x x.”

"Q: Will you examine Mr. Witness the content of this envelope brought by the forensic chemist from the NBI marked as Exhibit 'F-2' and see if the aluminum foil contained therein is the same aluminum foil turned over to you during the investigation?

WITNESS (A) Yes, sir, this is the same foil of metamphetamine (sic) hydrochloride allegedly confiscated by Pfc. Reynaldo Padpad from Philip Feliz (sic) Cadocio.”[23] (underscoring supplied)

Pfc. Padpad appears to be the only important witness against accused-appellant, however, his untimely death sealed his lips forever. He is the vital gap in the prosecution's evidence. An attempt was made by the prosecution to submit as evidence his testimony on direct and cross-examination, dated February 5 and February 6, 1990, before another Regional Trial Court of Kalookan City trying the separate case against Dizon. However, the trial court ruled:

"x x x The submission of the transcripts of stenographic notes of the testimonies of Pfc. Padpad to describe how he arrested the said Philip Cadocio was (sic) denied. The ruling is based on the fact that the accused in this case was not a party in the cases of People vs. Emmanuel Dizon, Crim. Cases Nos. C-34176, C-34177 and C-34178, in the trial of which cases the testimonies of Pfc. Padpad were given. Thus, the accused Philip Cadocio did not have any opportunity to cross-examine Pfc. Padpad (Sec. 47, Rule 130, Revised Rules on Evidence).”[24]

We invite attention to a portion of the trial court's statement of facts:

"x x x Pfc. Padpad showed the subject aluminum foil containing suspected Methamphetamine Hydrochloride which Philip handed to him, but Pat Gargaritano, who was busy arresting Dizon, was unable to examine the said illegal stuff at that time. x x x." [25]

The aforementioned statement is not based on evidence found in the records. The trial court merely supplied the prosecution what the latter failed to adduce as evidence to prove one of the alleged acts constituting the offense charged. [26] For this act, the judge who penned the decision is warned to be careful of his factual findings and that a repetition thereof will merit severe penalty.

Equally important to the foregoing discussions are several glaring inconsistencies in the respective testimonies of Pfc. Ventinilla and Pat. Gargaritano, videlicet:

- 1) Pfc. Ventinilla testified that he saw Pfc. Padpad mark the buy-bust money with the letter "T" at the center of the number zero of the P100.00 bill, during the meeting in the office, [27] whereas Pat. Gargaritano testified that he saw Pfc. Padpad mark the same money with the letter "P" inside the number zero of the P100.00 bill during the same occasion, [28] but when he was recalled to the witness stand to identify the buy-bust money, he contradicted himself by stating that Pfc. Padpad placed the letter "T" inside the number zero of the P100.00 bill; [29]
- 2) Pfc. Ventinilla testified that Dizon and Pat. Adawag were already at the mini park when Pfc. Padpad and accused-appellant arrived; [30] whereas Pat. Gargaritano testified that Pfc. Padpad and accused-appellant arrived ahead of Dizon and Pat. Adawag at the mini park; [31]
- 3) Pfc. Ventinilla testified that Pfc. Padpad and accused-appellant talked for more or less 15 to 20 minutes before proceeding to the mini park; [32] whereas Pat. Gargaritano testified that they talked for about 3 minutes before proceeding to the mini park; [33] and
- 4) Pfc. Ventinilla testified that when Pfc. Padpad touched his head, that was the pre-arranged signal; [34] whereas Pat. Gargaritano testified that when Pfc. Padpad grabbed the hand of accused-appellant, that was the pre-arranged signal. [35]

These points illustrate the lack of credibility of the main witnesses and cast a cloud on the veracity of their testimonies. Pat. Gargaritano, aside from contradicting the testimonies of Pfc. Ventinilla, came out with conflicting testimonies of his own.

The trial court also invoked the disputable presumption that official duty has been regularly performed [36] with respect to the arrest of accused-appellant. In view of the preceding discussions, this presumption has been adequately overcome. Moreover, we have ruled that this presumption cannot, by itself, prevail against the constitutional presumption of innocence accorded an accused person. [37]

The uncorroborated defense set-up by accused-appellant fails to persuade us. However, weak as it is, the prosecution's evidence against him is weaker and leaves much to be desired. The Court cannot affirm his conviction on the strength of evidence exhibiting such defects. [38]

It is thus fitting to reiterate our admonition in the case of *People v. Cruz* [39] that:

"Trial courts (should) always require precise and convincing testimony in cases involving buy-bust operations. Competent and effective handling of a case by the prosecution is particularly urgent in drug-related offenses.

We sustain the rule that police officers in buy-bust operations are entitled to the presumption of having acted pursuant to official duty. Their testimony is entitled to great respect. Theirs is a most difficult and, in the light of an ever increasing drug menace, a seemingly hopeless assignment, Anti-narcotics agents deserve utmost

support and consideration.

Nonetheless, we are also cognizant of the ease with which prohibited drugs may be 'planted' on innocent individuals. Except for influential persons or those who can afford the best lawyers, it is well nigh impossible to refute a charge that drugs were 'planted' and not 'possessed' or 'pushed.' The complaints of mulcting activities by unscrupulous policemen, especially by those who are assigned to traffic duties or some other chores but who somehow stumble on possession of prohibited drugs by teenagers or provincianos, are legion. It is for this reason that trial courts should be more wary and careful in assessing conflicting, ambiguous, or non-relevant testimony. More important than apprehending and convicting criminals is faithful adherence to due process, the need to accord to every accused the protections guaranteed to him or her by the Constitution.”[40]

WHEREFORE, the decision appealed from is hereby reversed and accused-appellant is ACQUITTED on reasonable doubt.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Puno, JJ., concur.

[1] People v. Policorpio, G.R. No. 69844, 158 SCRA 85 (1988).

[2] People v. Ale, G.R. No. 70998, 145 SCRA 50 (1986).

[3] SEC. 15. Sale, Administration, Dispensation, Delivery, Transportation and Distribution of Regulated Drugs. - The penalty of life imprisonment to death and a fine ranging from twenty thousand to thirty thousand pesos shall be imposed upon any person who, unless authorized by law, shall sell, dispense, deliver, transport or distribute any regulated drug. If the victim of the offense is a minor, or should a regulated drug involved in any offense under this section be the proximate cause of the death of a victim thereof, the maximum penalty herein provided shall be imposed. (As amended by PD No. 1683, March 14, 1980.)

[4] Rollo, p. 4.

[5] Rollo, p. 20.

[6] SEC. 34. Offer of evidence. - The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.(35)

SEC. 35. When to make offer. - As regards the testimony of a witness, the offer must be made at the time the witness is called to testify.

Documentary and object evidence shall be offered after the presentation of a party's testimonial evidence. Such offer shall be done orally unless allowed by the court to be done in writing. (n)

[7] TSN, August 8, 1990, p. 4.

[8] G.R. No. 104611, November 10, 1993.

[9] G.R. No. 104611, November 10, 1993.

[10] Rollo, pp. 18-19.

[11] TSN, July 23, 1990, pp. 13-15.

[12] TSN, July 23, 1990, pp. 15-16.

- [13] TSN, July 30, 1990, pp. 8-9.
- [14] TSN, July 30, 1990, p. 14.
- [15] TSN, August 8, 1990, p. 10.
- [16] TSN, August 8, 1990, pp. 13-14.
- [17] TSN, August 8, 1990, pp. 15-16.
- [18] *People v. Polizon*, G.R. No. 84917, 214 SCRA 56 (1992).
- [19] *People v. Alilin, et al.*, G.R. No. 84363, 206 SCRA 772 (1992).
- [20] TSN, August 27, 1990, pp. 3-5; TSN, September 12, 1990, pp. 6-9.
- [21] TSN, August 27, 1990, pp. 3-4.
- [22] TSN, August 27, 1990, pp. 7-8.
- [23] TSN, September 21, 1990, pp. 7-13.
- [24] *Rollo*, p. 19.
- [25] *Rollo*, p. 16.
- [26] *People v. Cruz*, G.R. No. 87884, 215 SCRA 339 (1992).
- [27] TSN, July 23, 1990, p. 7.
- [28] TSN, August 8, 1990, p. 7.
- [29] TSN, August 27, 1990, p. 11.
- [30] TSN, July 23, 1990, p. 14.
- [31] TSN, August 8, 1990, pp. 11-12.
- [32] TSN, July 30, 1990, p. 14.
- [33] TSN, August 8, 1990, p. 9.
- [34] TSN, July 23, 1990, pp. 10, 15.
- [35] TSN, August 8, 1990, p. 15.
- [36] Paragraph m, Section 3, Rule 131 of the Rules of Court.
- [37] *People v. Ale*, G.R. No. 70998, 145 SCRA 50 (1986).
- [38] *Dizon*, who was charged with possession of prohibited drug, sale and delivery of regulated drug and illegal possession of firearm before another branch of the Regional Trial Court of Kalookan City, was acquitted in the decisions dated October 31, 1990 and July 18, 1991; *Rollo*, pp. 58-65.
- [39] *Supra*.
- [40] At p. 348.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.