

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ERLINDA CARREON Y PRECIA, ACCUSED-APPELLANT.*G.R. No. 108722. December 09, 1997*

Ponente: FRANCISCO, J.

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Appellant Erlinda P. Carreon was charged with and convicted of violating Section 4 of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, by the Regional Trial Court[1] and meted “the penalty of life imprisonment and fine of Twenty Thousand Pesos, and to [pay] the cost.”[2] Dissatisfied, appellant interposed the present appeal anchored on an interrelated assignment of errors, jointly discussed in her brief, which dwell on the alleged (1) insufficiency of evidence to prove her guilt; (2) erroneous admission in evidence of the bundles of marijuana, and (3) failure of the trial court to give any probative value on the supposed affidavit of desistance of the apprehending officers and on her defense of denial.[3]

The facts of the case, aptly narrated by the Office of the Solicitor General and which we have verified to be duly supported by the record, are as follows:

“At around 2:00 o’clock in the afternoon of July 30, 1990, a passenger jeepney in which herein appellant was riding was flagged down at a checkpoint manned by elements of the Philippine Constabulary in Lamut, Ifugao Province. In accordance with orders from their headquarters, a search was made on the jeepney as well as its passenger. The search was conducted by C2C Melchor Rivera and C2C Samuel Bulahao, who was himself a passenger of the same jeepney (TSN, supra, pp. 3-4).

“At the time the search was being conducted, herein appellant and her companion Armina de Monteverde were seated side by side immediately behind the driver. The bags and personal belongings of the passengers were individually searched by the constables. As a result of said search, a small wrap of marijuana was found in the handbag of herein appellant, while a larger bundle consisting of four wraps was found in a jute sack located beside her, approximately one foot away from her feet (TSN, supra, pp. 4-7).

“As a result thereof, appellant and her companion were arrested and their bags containing the marijuana were confiscated. The seized items were all later turned over to the Provincial Command (TSN, supra, pp. 14-15). The accused were later taken to the PC Headquarters in Lagawe where they were investigated and subsequently detained (TSN, March 12, 1992, p. 12).

“Upon investigation by the forensic chemist assigned at the Crime Laboratory at Camp Dangwa, the items seized from appellant were confirmed to be marijuana (TSN, May 22, 1991, p. 4).

“The appellant, together with her companion Armina de Monteverde, were subsequently charged with violation of R.A. 6425, as amended. On arraignment, both entered pleas of not guilty. After trial on the merits, the trial court found herein appellant guilty as charged while Armina de Monterverde was acquitted [on the ground that the prosecution failed to convincingly prove the existence of conspiracy between the two accused].” [4]

The appeal is not impressed with merit; hence we affirm the conviction.

Appellant harps on the failure of the prosecution to present as evidence her handbag from where the marijuana leaves were taken and assails C2C Rivera's inconsistent testimony where on one part he declared that the bag was turned over to Provincial Headquarters while on another portion he said that appellant took it. The argument is unpersuasive. Appellant seems to have lost sight of the fact that her conviction was not premised on the presence or absence of the bag, but on her apprehension in *flagante delicto*, i.e., while in the possession of and transporting the prohibited drugs. The non-presentation of the bag does not debilitate the case for the prosecution. The alleged inconsistency in the testimony of C2C Rivera, on the other hand, is inconsequential. The testimony, we note, is unmistakably clear that the bag was forwarded to the Provincial Headquarters from where appellant took the same. In addition, minor inconsistencies do not discredit but rather strengthen the testimony of a witness as they erase any suspicion of a rehearsed testimony.[5] The alleged insufficiency of evidence, therefore, is more imagined than real.

Anent appellant's averment that the bundles of marijuana were erroneously admitted in evidence as C2C Rivera failed to immediately submit the marijuana leaves for laboratory examination and, in fact, it was not he who actually brought the specimen to the Crime Laboratory, suffice it to say that there is no rule requiring the apprehending officer to personally deliver the prohibited drug to the Crime Laboratory for testing. What is important is that the transmittal of the specimen, as in this case, was not vitiated by irregularity or fraud to cast doubt on the authenticity and source of the subject specimen. Moreover, the subject marijuana leaves taken from the appellant were duly identified by C2C Rivera, the apprehending officer and Lt. Ong, the chemist assigned at Dangwa Crime Laboratory where the specimen was brought for testing. In the absence of evidence to indicate that these witnesses were moved by improper motive, their testimony is entitled to full faith and credit.[6] Besides, the presumption of regularity in the conduct of their duties accorded by law[7] was not at all overthrown by contrary evidence.

In an apparent attempt to discredit the prosecution's witnesses, appellant invites the court's attention to an affidavit of desistance purportedly executed by C2C Rivera and C2C Bulahao. We are not persuaded as the said affidavit appears to be an afterthought. Apart from the fact that retractions are exceedingly unreliable[8] and looked upon with considerable disfavor by the courts,[9] the trial court rightly observed that the signatures appearing thereon were forgeries. Thus:

"First, comparison on the real evidence or autoptic proference on record consisting of signatures of the affiant witness Melchor E. Rivera, appearing in the joint affidavit in support of the criminal complaint found on page 2 of the records, and the signature of said witness marked as Exhibit "3-C" appearing in Exhibit 3, Joint Affidavit of Desistance found on page 5 of the records visibly show to the naked eye that the said two signatures are entirely different, revealing the fact that the alleged signature of the alleged affiant Melchor Rivera appearing in the contested document Exhibit 3 and 3-A was written by a person other than the true and real Melchor E. Rivera, the witness for the prosecution in the instant case. In other words, the signature marked as Exhibit "3-C" appearing in Exhibit "3" is a forgery.

"Second, it is quite surprising and lamentable to say the least, that an L.L.B. Graduate, like the defense witness Revelino Antonio, professing himself to be a Notary public since 1979 up to the present to have been allegedly satisfied as to his identity of the alleged affiants by the mere presentation of military ID's of the alleged affiants, for normally a Notary public should satisfy himself as to the true identity of any person or party to a document that he notarized. His allegation that he did not require them to present their Residence Certificate because the alleged affiant told him that they do not have, has to be taken with a grain of salt considering that a person like the witness who is capable of prevaricating on a vital and delicate matter by testifying that the witness Melchor Rivera appeared before him as Notary Public, claiming to be personally present when the

alleged affiant affixed his signature in Exhibit “3”, when in truth and in fact, the said signature is found out to be a forgery is not trustworthy, thereby rendering his entire testimony unworthy of credence. A witness who is capable of testifying falsely on a forged signature of a person is likewise capable of committing falsehood on less important details. Consequently, the principle of law “Falsus in unos-falsus in omnibus squarely jibes with the testimony of the defense witness, Revelino Antonio.

“Thirdly, it would be unnatural for the alleged affiants in Exhibit “3” to have voluntarily goant to the residence of Notary Public Evelino Antonio and requested for the preparation and final execution of the document, and later categorically denied to have executed any when confronted by the Court during the preliminary investigation, which only goes to show that it was fraudulently prepared, a fact reinforced by the act of policeman Daniel Dominong who according to witness Revelino Antonio was the one who paid later the Notarial Fee for no apparent reason at all, a circumstance showing that there was something fishy in the preparation of the document Exhibit “3”, which confirmed the version of the alleged affiants that they did not in truth and in fact appear before any notary public.”

More importantly, the veracity of the affidavit in question is now academic since C2C Rivera himself appeared as a witness for the prosecution; hence, reliance on his alleged affidavit of desistance which he disowned is wanting in merit.

Further, appellant’s argument that her defense of denial and her witnesses’ testimony should be given credence deserve scant consideration. Findings of fact of the trial court, especially its assessment on the credibility of witnesses, are not disturbed on appeal except when the trial court has overlooked, ignored, or disregarded some fact or circumstance of weight or significance which if considered would have altered the result,[10] an instance absent in this case. Besides, appellant’s denial does not inspire belief. With approval, we quote the following disquisition of the trial court:

“In summation, the Court is of the considered view, that the defense of denial interposed by the accused is flimsy and preposterous which finding and conclusion of the Court finds its source and strength from the very purpose advanced by accused Erlinda Carreon in going to Hapao, Hungduan and later to O-ong, Banaue, two places in the province of Ifugao noted and taken judicial notice of by this Court to be great source of marijuana leaves. The accused Erlinda Carreon as stated earlier, a total stranger allegedly went to Hapao, Hungduan, Ifugao a far flunged place to see one Fidel, her alleged companion who applied in going abroad. Such an allegation is highly unbelievable for the accused does not even know and cannot tell the Court the family name of that Fidel. All the more, that belies her alleged purpose in going to those places is the fact that it runs counter to the ordinary course of things or event for normally, it would be this Fidel who would have taken interest in going to Metro Manila and verify for himself the status of his alleged application for abroad, if there was indeed any, not the accused going to Hapao, Hungduan, Ifugao to look for Fidel whose relationship to the accused was not even shown by evidence, as a matter of fact, he does not even know the family name of this Fidel, neither is there a showing that the accused is a legal recruiter of any recruitment agency to create an apparent semblance of truth of her alleged purpose in going to see the person Fidel.

“Anent the purpose of the accused Erlinda Carreon in going to O-ong Banaue, Ifugao as elsewhere stated herein earlier, is highly incredible. A scrutiny of the testimony of the testimony of accused Erlinda Carreon would seem to suggest that these Liza Antonio and Rosa Kindipan are intimately related to her. Assuming the relationship to be such, it is strange that said persons would address and course their letter to the accused at O-ong, Banaue, Ifugao, a far away place from her alleged residence at Miguilin, Sampaloc, Manila. At most, the logical and reasonable course of action to have been taken by the said accused is for her to have given her city address to them, which for purposes of convenience and expediency, could be at the ideal place where to address and course their alleged intended and expected letter from the two informing the accused Carreon of a possible job placement or employment abroad. All the more (sic) nugatory to accused Carreon’s alleged purpose in going to Hapao and O-ong is the fact that to a reasonable mind, the prudent course of action for her

to have done is to write this Rita Antonio and Rosa Kindapan and /or go to the placement agency concerned, or to the Office of the POEA, to verify the status of her alleged application for abroad, if any, instead of going to two places.

“The foregoing facts and circumstances indubitably show that the version of the accused Erlinda Carreoin (sic) is self-serving being the product of a concoction so flimsy to deserve the slightest consideration of this Court, and cannot be given greater evidentiary weight that the positive testimony of the witness C2C Melchor Rivera.”[11]

Denial constitutes self-serving negative evidence which can not be accorded greater evidentiary weight than the declarations of the prosecution witnesses testifying on affirmative matters.[12]

Appellant in this case was convicted and meted the penalty of life imprisonment and a fine of twenty thousand pesos under Rep. Act No. 6425 for transporting more or less six (6) kilos of marijuana on July 1990. Rep. Act No. 7659, which took effect on December 31, 1993, amended the provisions of Rep. Act. No. 6425, increasing the imposable penalty for the sale or transport of 750 grams or more of marijuana to reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos. Such penalty is not favorable to the appellant as it carries the accessory penalties provided under the Revised Penal Code and has a higher amount of fine which in accordance with Article 22 of the same Code should not be given retroactive effect. The Court, therefore, finds and so holds that the penalty of life imprisonment and fine in the amount of twenty thousand pesos correctly imposed by the trial court should be retained.

WHEREFORE, the decision appealed from is hereby AFFIRMED in toto.

SO ORDERED.

Narvasa, C.J., (Chairman), Romero, Melo, and Panganiban, JJ., concur.

[1] Branch 14, Second Judicial Region, Lagawe, Ifugao.

[2] Decision p. 27, Rollo, p. 85.

[3] Brief for the Appellant, Rollo, pp. 50-57.

[4] Brief for the Appellee, Rollo, pp. 93-96.

[5] *People v. Calixto*, 193 SCRA 303.

[6] *People v. Doctolero*, 193 SCRA 632.

[7] Rule 131, Sec. 3(m), Rules of Court.

[8] *People v. Bernardo*, 220 SCRA 31; *People v. Liwag*, 225 SCRA 46.

[9] *People v. Logronio*, 214 SCRA 519.

[10] *People v. Rodico*, 249 SCRA 309; *People v. Pidia*, 249 SCRA 687; *People v. Sanchez*, 250 SCRA 14.

[11] Decision, Rollo, pp. 26-28.

[12] *People v. Manuel*, 234 SCRA 532.

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