

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MANUEL CAÑEJA Y ILAS, ACCUSED-APPELLANT.

G.R. No. 109998. August 15, 1994

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In an information[1] filed on 29 January 1991 with the Regional Trial Court of Manila, docketed therein as Criminal Case No. 91-90985 and raffled to its Branch 5, accused Manuel Cañeja was charged with the violation of Section 15, Article III of R.A. No. 6425 (Dangerous Drugs Act of 1972), as amended, committed as follows:

“That on or about January 26, 1991, in the City of Manila, Philippines, the said accused, not having been authorized by law to sell, dispense, deliver, transport or distribute any regulated drug, did then and there willfully and unlawfully sell or offer for sale to poseur buyer white crystalline substance wrapped in an aluminum foil with a gross weight of 0.0958 gram, known as SHABU, containing methamphetamine hydrochloride, which is a regulated drug.

Contrary to law.”

The accused pleaded not guilty at his arraignment on 1 March 1991.[2] Subsequently, pre-trial was conducted on 7 August 1991, after which the trial court issued the following pre-trial order:

“The Prosecution and the Defense agreed to admit the following:

1. Accused admits that he is the same accused charged in the Information;
2. Accused admits the genuineness, authenticity and due execution of the following documents:

Exhibit “A” - Letter Referral

“B” - Certification

“C” - Report

3. Accused admits that specimen Exhibit “C-1” was submitted to the Forensic Chemist of the NBI for examination and was found to be positive of Methamphetamine Hydrochloride, per Certification, Exhibit “B” and Report, Exhibit “C;”

4. Prosecution admits that when the accused was arrested, the police authorities does [sic] not have a search warrant or warrant of arrest.”[3]

After due trial on the merits, during which Joel Ubago and Pat. Edmund[4] Usita testified for the prosecution, while the accused, Ian Joel, Bong Claveria, and Joseph Balisi testified for the defense, the trial court promulgated on 31 March 1992 a judgment[5] of conviction, the dispositive portion of which reads as follows:

“WHEREFORE, premises considered, judgment is hereby rendered convicting the accused Manuel Caneja y Ilas of the crime charged and hereby sentences him to serve the penalty of LIFE IMPRISONMENT and a fine

ranging from Twenty Thousand (P20,000.00) Pesos in line with Section 15 of Republic Act No. 6425, as amended.

SO ORDERED.”[6]

The evidence for the prosecution upon which the conviction was based was summarized by the trial court as follows:

“The Prosecution presented Joel Ubago as its first witness. He testified that he is an ‘asset’ or informer of Police Station No. 8. He claimed that while he was at the station to bring food to his uncle who was a policeman, he overheard that the policemen were looking for Alias Resty who was allegedly selling prohibited drugs at Bacood, Sta. Mesa. Since he knew Alias Resty because he had a friend who used to buy shabu from him, he volunteered to cooperate with the police by acting as the poseur-buyer in their buy-bust operation.

A team was then formed and, pursuant to the plan, he and three policemen, namely Pat. Sinag, Pat. Reya and Pat. Usita boarded a taxi and proceeded to the house of Alias Resty or accused Manuel Cañeja. Upon reaching the place, Joel Ubago went to the front of accused’s house, leaving the three policemen in the taxi which was parked about 30 or 35 meters away from the house. He had with him the marked money consisting of a P100 bill (Exhibit “1”) given to him by the police to be used in buying the prohibited drugs. When accused saw Joel Ubago, he approached the latter and asked ‘how many he would get from him.’ Ubago told the accused to give him one, then said accused took the P100 bill and entered the house. About three minutes later, accused returned and handed to the witness the shabu wrapped in an aluminum foil (Exhibit “C-1”). After receiving Exhibit “C-1”, Ubago gave the signal to the police by holding his head. The policemen came and accused was arrested, after which he was brought to the precinct.

The prosecution presented as its second witness Pat. Edmund Usita who testified that on January 26, 1990, he was a police investigator assigned at Precinct 8. He claimed that on said date, at about 2:00 P.M., he was with Pat. Reya, Pat. Sinag and Joel Ubago for the purpose of conducting a buy-bust operation. Pursuant to their plan, Joel Ubago, the poseur-buyer went directly to the residence of accused Manuel Cañeja while he and the other policemen waited inside a taxicab parked about 30 to 35 meters away.

In the course of his testimony, Usita also identified the money (Exh. “D”), which Joel Ubago had used in the buy-bust operation.”[7]

The accused denied that he was caught in flagrante selling shabu. According to him, he was playing darts with some friends inside their house at 3449 Torres Street, Bacood, Sta. Mesa, Manila, in the afternoon of 26 January 1991 when an acquaintance named “Onchie,” who was with another man whom he identified as Joel Ubago, called him from outside the gate of their fence. When he approached them, “Onchie” and Joel suddenly held his left hand and the back of his pants, and, almost simultaneously, a taxi with four policemen in plain clothes arrived and forced him to board the vehicle. He was taken by his captors to Police Precinct No. 8 of the Western Police District.[8] In the police station, he was mauled by the policemen and forced to admit ownership of the shabu they had shown him. “Onchie” implicated him because they had a quarrel during one of their basketball games.[9] His brother-in-law, John Balisi, followed him to the police station.

On cross-examination, the accused identified “Onchie” as Michael Ferrer,[10] with whom he used to play basketball three times a week, but that after their quarrel, he never saw “Onchie” again until the incident in question. He likewise admitted that he knows Joel whom he met once before his arrest and after that he learned that Joel was responsible for the capture of drug-users, drug-pushers, and hold-up men in their area.[11]

Ian Jose corroborated the testimony of the accused. He testified that he was with the accused in the afternoon of 26 January 1991. His other companions were Joseph Claveria, Richard, and James. Their game ended abruptly when “Onchie,” accompanied by another man (Joel), called the accused from outside the gate. When the accused

approached the pair, he saw Joel put his arms around the accused. Suddenly, four men on board a taxi approached them and forced the accused inside the vehicle.[12]

Bong Claveria corroborated the testimony of Ian Jose.[13]

John Joseph Balisi, the accused's brother-in-law, told the court that he visited the accused at the police station on the night he was arrested. He talked with some policemen in the station; they demanded P50,000.00 from him, but he told them that he did not have that amount.[14] On cross-examination, he declared that he informed the accused's mother about the money demanded by the policemen, but she remarked that she would not pay because her son had not done anything wrong. He gathered from the police logbook which was shown to him at the precinct that his brother-in-law was arrested on a charge concerning shabu.[15]

The accused appealed from the decision to this Court. In his Appellant's Brief, he ascribes to the trial court the commission of the following errors:

"1. IN GIVING WEIGHT AND CREDENCE TO THE CONTRADICTING AND IMPROBABLE TESTIMONY OF PROSECUTION WITNESS JOEL UBAGO AND DISREGARDING THE DEFENSE OF THE ACCUSED.

2. IN NOT HOLDING THAT THE PROSECUTION MISERABLY FAILED TO PROVE THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT."[16]

The appellant alleges that the challenged decision is grounded entirely on speculations, surmises, and conjectures or is based on a misapprehension of facts, and that it relies heavily on the testimony of Joel Ubago, the alleged poseur-buyer, whose credibility is doubtful because he lied in court about his criminal record and about the circumstances of his incarceration. He urges that these circumstances take this case out of the general rule that the factual findings of the trial court regarding the credibility of witnesses are entitled to great weight and respect. He further contends that his testimony that he "was mauled by the police when he refused to admit [possession of] the SHABU at the Police Precinct" was not rebutted.

The appellee, through the Office of the Solicitor General, recommends the affirmance of the trial court's decision because the alleged inconsistency or falsity in the testimony of Joel Ubago is not material to this case, pertaining as it does to minor and irrelevant matters, and does not impair the essential integrity of his testimony as a whole. The appellee counters the appellant's claim that he was mauled by the police by stating that even if the mauling did take place, the same did not result in any forced confession -- the appellant's conviction was on the strength of his having been caught in flagrante delicto selling shabu in a buy-bust operation, not on the basis of any confession.

We affirm the decision of the trial court.

We are convinced, after a review of the records of the case and the testimonies of the witnesses, that the guilt of the appellant was proved beyond reasonable doubt. The testimony of the poseur-buyer was consistent and credible in all its material points and was corroborated by the testimony of Pat. Edmund Usita, a member of the buy-bust team. Joel Ubago, an "asset" or informer of Precinct No. 8, convincingly testified that he volunteered to be the poseur-buyer when he heard that policemen from this station were out to catch one alias "Resty," (the accused) a known drug pusher in the area, in a buy-bust operation.[17] Joel is well acquainted with the appellant having at least twice accompanied a friend in buying shabu from the latter.[18] Acting out his part as the buyer with the three members of the police force close by, albeit out of appellant's sight, Joel succeeded in procuring from him a crystalline substance which, when sent to the National Bureau of Investigation (NBI)[19] and tested, was found positive for methamphetamine hydrochloride, a regulated drug.[20] The "Booking Sheet and Arrest Report"[21]

dated 27 January 1991, which was prepared by the three police-members of the buy-bust team, confirms this fact. Joel Ubago's answers to the cross-examination questions enhanced further rather than weakened the truthfulness of his account of the buy-bust operation. Thus:

“ATTY. SANCHEZ (to witness):

x x x

Q. Mr. witness, you acted here as poseur buyer, Who handed you the alleged P100.00 bill?

A. Pat. Usita.

Q. When Usita handed to you the P100.00 bill, what did he tell you if any?

A. To use it in buying the shabu.

Q. Is that the only thing that Usita tell [sic] you?

A. I was told that the money given to me was a marked money, then they even took the serial number.

Q. After giving you the alleged marked money, what did you do with it?

A. I went in front of the house of the accused.

Q. Did it not occur to your mind to go to that place to buy shabu other than the house of the accused?

A. Because the accused is well-known to the police as the one selling shabu, and that he is known to be a smart one, that is why, I went to his place.

Q. From whom did you learn this Mr. witness?

A. I came to learn that in Precinct 8.

x x x

Q. What was the accused doing for the first time you saw him?

A. He was standing and he even went to me, he even met me.

Q. But Mr. witness, that was only the third time, you saw the accused, is that correct?

A. Yes, sir.

Q. You know him very well?

COURT:

He said three (3) times.

ATTY. SANCHEZ (to witness):

Q. And you met him for the third time, you said that he approached you, what is the conversation between you and the accused?

A. I was asked how many will I be buying.

Q. You mean to say Mr. witness without asking your name, he immediately asked you how many/much shabu will you get?

A. Yes, sir, because he already knew me and we have met twice before that.

x x x

Q. During the buy-bust operation when you alleged that accused asked you how much shabu did you buy, what did you tell him?

A. P100.00

Q. What did he do if any?

A. He took the P100.00 bill from me and then he went inside his house to get the shabu.

x x x

Q. Where did the buying of shabu took place, is it on the street?

A. Outside their gate.”[22]

The appellant has not shown any ulterior motive for Joel to impute a criminal offense upon him; his grievance is directed against “Onchie,” with whom he quarreled and who, he alleged, was with Joel. There is no evidence that Joel was under the sway of “Onchie” and was used by the latter to wreak vengeance on the appellant. It is settled that where there is no evidence, and nothing to indicate, that the principal witness for the prosecution was actuated by improper motive, the presumption is that he was not so actuated and his testimony is entitled to full faith and credit.[23]

As to the alleged doubtful credibility of Joel arising from his admission that he has a pending case for possession of shabu and was detained until he was able to put up a bailbond, suffice it to say that such admission, given openly and without hesitation, enhanced rather than impaired his credibility. It should be noted that the incident for which Joel was arrested and charged occurred in April 1991 or three months after the buy-bust operation in this case, and that eventually he was acquitted[24] on 9 July 1991. That he was unable to categorically state the duration of his detention is understandable. The fact too that he even changed his testimony regarding the date of his release is immaterial, if not irrelevant, for it was more of a correction or an inconsistency on a trivial matter. In any event, the following rule is settled:

“It is perfectly reasonable to believe the testimony of a witness with respect to some facts and disbelieve it with respect to other facts. And it has been aptly said that even when witnesses are found to have deliberately falsified in some material particulars, it is not required that the whole of their uncorroborated testimony be rejected, but such portions thereof deemed worthy of belief may be credited. Suffice it to say, in this connection, that a trial court by reason of its proximate contact with witnesses, [is] in a more competent position to discriminate between the true and the false ...”[25]

The failure of the prosecution to rebut the appellant’s testimony that he was mauled by the police and forced to admit that he was caught selling shabu is not fatal to the prosecution’s cause. First, the appellant’s assertion of torture was obviously a belated claim which cannot inspire belief. On cross-examination, the appellant alleged that he was mauled by four policemen and was hit with a “dos por dos,” inflicting injuries on his knees and face. With four assailants and a “dos por dos,” he must have been badly battered. Yet, he admitted that he did not submit himself to medical treatment or examination. He did not testify that he requested for such examination.[26] Second, and more importantly, he was not convicted of the offense charged on the basis of a confession, oral or written, as there was none presented in court.

We therefore affirm the court’s finding that the appellant is guilty beyond reasonable doubt of the violation of Section 15, Article III of R.A. No. 6425, as amended.

However, the penalty imposed upon the appellant must be modified in view of the new amendments introduced

by R.A. No. 7659[27] to Section 15, Article III, and Section 20, Article IV of R.A. No. 6425, as amended. R.A. No. 7659 was approved on 13 December 1993 and took effect on 31 December 1993. As thus further amended, the penalty prescribed in Section 15 was changed from “life imprisonment to death and a fine ranging from twenty thousand to thirty thousand pesos” to “reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos.” However, pursuant to Section 17 of R.A. No. 7659, which amends Section 20 of R.A. No. 6425, the new penalty shall be applied if the quantity of the dangerous drugs involved falls within the first paragraph of the amended Section 20, and if the quantity would be lower than those specified in said first paragraph, the penalty shall be from “prision correccional to reclusion perpetua.” The pertinent portion of the amended Section 20 reads as follows:

“SEC. 20. Application of Penalties, Confiscation and Forfeiture of the Proceeds or Instrument of the Crime. -- The penalties for offenses under Section 3, 4, 7, 8 and 9 of Article II and Sections 14, 14-A, 15 and 16 of Article III of this Act shall be applied if the dangerous drugs involved is in any of the following quantities:

x x x

3. 200 grams or more of shabu or methylamphetamine hydrochloride;

x x x

Otherwise, if the quantity involved is less than the foregoing quantities, the penalty shall range from prision correccional to reclusion perpetua depending upon the quantity.”

The penalty then in Section 15 is now based on the quantity of the regulated drugs involved, except where the victim is a minor or where the regulated drug involved in any offense under Section 15 is the proximate cause of the death of the victim, in which case the maximum penalty prescribed in Section 15 shall be imposed regardless of the quantity of the regulated drugs involved.[28]

In *People vs. Martin Simon y Sunga*,[29] decided on 29 July 1994, this Court ruled as follows:

(1) Provisions of R.A. No. 7659 which are favorable to the accused shall be given retroactive effect pursuant to Article 22 of the Revised Penal Code.

(2) Where the quantity of the dangerous drug involved is less than the quantities stated in the first paragraph of Section 20 of R.A. No. 6425, the penalty to be imposed shall range from prision correccional to reclusion temporal, and not reclusion perpetua. The reason is that there is an overlapping error, probably through oversight in the drafting, in the provisions on the penalty of reclusion perpetua as shown by its dual imposition, i.e., as the minimum of the penalty where the quantity of the dangerous drugs involved is more than those specified in the first paragraph of the amended Section 20 and also as the maximum of the penalty where the quantity of the dangerous drugs involved is less than those so specified in the first paragraph.

(3) Considering that the aforesaid penalty of prision correccional to reclusion temporal shall depend upon the quantity of the dangerous drugs involved, each of the component penalties thereof -- prision correccional, prision mayor, and reclusion temporal -- shall be considered as a principal imposable penalty depending on the quantity, such that the quantity of the drugs enumerated in the second paragraph should then be divided into three, with the resulting quotient, and double or treble the same, as the bases for determining the appropriate component penalty.

4) The modifying circumstances in the Revised Penal Code may be appreciated to determine the proper period of the corresponding imposable penalty or even to effect its reduction by one or more degrees; provided, however, that in no case should such graduation of penalties reduce the imposable penalty lower than prision correccional.

5) In appropriate instances, the Indeterminate Sentence Law shall be applied and considering that R.A. No. 7659 has unqualifiedly adopted the penalties under the Revised Penal Code with their technical signification and effects, then the crimes under the Dangerous Drugs Act shall now be considered as crimes punished by the Revised Penal Code; hence, pursuant to Section 1 of the Indeterminate Sentence Law, the indeterminate penalty which may be imposed shall be one whose maximum shall be within the range of the impossible penalty and whose minimum shall be within the range of the penalty next lower in degree to the impossible penalty.

With the foregoing as our touchstones, and it appearing that the quantity of the shabu recovered from the accused in this case is only 0.0958 gram, the impossible penalty under the second paragraph of Section 20 of R.A. No. 6425, as further amended by Section 17 of R.A. No. 7659, should be prison correccional.

Applying the Indeterminate Sentence Law, the accused may then be sentenced to suffer an indeterminate penalty ranging from six (6) months of arresto mayor as minimum to six (6) years of prison correccional as maximum.

WHEREFORE, the challenged decision of Branch 5 of the Regional Trial Court of Manila is hereby AFFIRMED, subject to the modification of the penalty. Appellant MANUEL CAÑEJA Y ILAS is hereby sentenced to suffer an indeterminate penalty ranging from Six (6) months of arresto mayor as minimum to Six (6) years of prison correccional as maximum.

Costs against accused-appellant.

SO ORDERED.

Bellosillo, Quiason, and Kapunan, JJ., concur.

Cruz, (Chairman), J., on official leave.

[1] Original Records (OR), 1.

[2] OR, 7.

[3] Id., 17.

[4] Edmun in the decision of the trial court.

[5] OR, op. cit., 98-105; Rollo, 11-18. Per Judge Cesar J. Mindoro.

[6] OR, 105; Rollo, 18.

[7] OR, 99-100; Rollo, 12-13.

[8] TSN, 18 August 1992, 3-4.

[9] Id., 5-6.

[10] Id., 7.

[11] Id., 10.

[12] TSN, 25 June 1992, 2.

[13] TSN, 22 July 1992, 3.

[14] TSN, 18 August 1991, 21.

[15] *Id.*, 27.

[16] *Rollo*, 31.

[17] *TSN*, 8 August 1991, 5.

[18] *Id.*, 4.

[19] Exhibit “A.”

[20] Exhibit “B.”

[21] Exhibit “3”; *OR*, 85.

[22] *TSN*, 21 August 1991, 9-12.

[23] *People vs. Simon*, 209 SCRA 148 [1992].

[24] *TSN*, 8 August 1991, 12-13.

[25] *People vs. Malillos*, 24 SCRA 133, 140-141 [1968] (citations omitted); *People vs. Mabuyo*, 63 SCRA 532 [1975]; *People vs. Mozar*, 130 SCRA 568 [1984]; *People vs. Osias*, 199 SCRA 574 [1991]; *People vs. Ducay*, G.R. No. 86939, 2 August 1993.

[26] *TSN*, 18 August 1992, 19.

[27] “An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Code, as Amended, Other Special Laws, and for Other Purposes.”

[28] Section 15, second paragraph, as amended by R.A. No. 7659. See also Section 4, second paragraph; Section 5, second and third paragraphs; and Section 15-a, second and third paragraphs.

[29] G.R. No. 93028.

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