

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALFREDO BRIONES Y RUVERA, ACCUSED-APPELLANT.

G.R. No. 113498. January 16, 1997

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

Appellant Alfredo Briones y Ruvera was charged before the trial court[1] with violation of Section 15, Article III of Republic Act No. 6425,[2] as amended. The accusatory pleading reads as follows:

"That on or about March 4, 1993 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 wilfully and unlawfully sell or offer for sale 0. 1458 grams of white crystalline substance known as "SHABU" containing methamphetamine hydrochloride, which is a regulated drug."[3]

Appellant pleaded not guilty when arraigned. Thereafter, a full dress trial ensued culminating in the trial court's verdict of conviction sentencing him to suffer life imprisonment based on the following narration of facts:

"[O]n March 4, 1993, at around 5:30 o'clock in the afternoon a police posse led by SPO1 Eulalio Alilio and composed of PO3 Amorsolo Maravilla, PO3 Roque Blanco, and a civilian police informer named Danny proceeded to Topacio Street to conduct buy-bust operation. SPO1 Eulalio Alilio acted as poseur buyer. When they reached the target area and saw the accused, SPO1 Eulalio Alilio and the civilian informer discreetly approached him, while the other two police officers posted themselves strategically nearby. The informer asked the accused if he had 'shabu'. When the latter replied in the affirmative, SPO1 Eulalio Alilio offered to buy some, worth P100.00. The police officer then handed a marked P100-bill (Exhibit A) to the accused who in turn gave a deck of white crystalline substance contained a small plastic packet (Exhibit E-2) to the former. The exchange having been completed, SPO1 Eulalio Alilio gave to his companions their pre-arranged signal by placing his hand on the shoulder of the accused. The other two officers then approached them. The policemen arrested the accused and frisked (sic) his pockets which yield (sic) two or more small plastic packets containing similar substance. The marked P100-bill (Exhibit A) was recovered from the accused who was still holding the money when the policemen apprehended him. They took him to their Police Station No. 6 for investigation.

"Meanwhile, SPO1 Eulalio Alilio submitted to the National Bureau of Investigation the crystalline substance confiscated from the accused for laboratory examination to determine its chemical composition. (Exhibit D.) The examinations made on the specimens taken from the said crystalline substance yield (sic) positive results for methamphetamine hydrochloride. (Exhibits F and G.)"[4]

In this at appeal, appellant contends that "the trial court erred in convicting [him] of violation of Section 15 of Republic Act 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended, despite the utter failure of the prosecution to prove all the elements of the aforesaid offense."[5]

We find merit in this appeal.

The conviction of the appellant was predicated principally on the testimonies of SPO1 Eulalio Alilio - the alleged

poseur-buyer, and PO3 Amorsolo Maravilla - one of the two police officers who acted as "back up" during the alleged buy-bust operation. According to the trial court, "PO3 Maravilla substantially corroborated [the testimony of, SPO1 Alilio, particularly about the buy bust operation they conducted on March 4, 1994, x x x along Topacio street, Sta. Ana Manila.]"[6]

Our careful review of their separate testimonies, however, reveals that far from corroborating each other, the same are replete with contradictions and tainted with inconsistencies as herein illustrated.

In his direct examination, SPO1 Alilio testified that when the shabu was already in his possession and the marked money was already in the hands of the appellant, PO3 Maravilla and PO3 Roque appeared and arrested the appellant.[7] However, this was belied by PO3 Maravilla who categorically declared in his direct examination that SPO1 Alilio was the one who actually made the arrest.[8] He narrated his account of the buy-bust operation in this wise:

Q

How did you act as back-up to Alilio?

A

I posted myself at a distance where I can see him because I cannot penetrate the place, sir.

Q

Why, where did Alilio go?

A

It is a small interior or alley, sir

Q

What else, where did he go?

A

He talked to somebody, sir.

Q

Did you see the person to whom Alilio talked with?

A

I saw him, sir.

Q

When SPO1 Alilio talked to the accused, what happened. if any?

COURT:

Q

Before that, did you hear what Alilio and the accused talked about?

A

No, Your Honor.

COURT:

Answer the question

WITNESS:

A He placed his arm over his shoulder, sir.

PROSECUTOR:

Q

Who placed his arm to whose shoulder?

A

SPO1 Alilio placed his arm on the shoulder of the suspect, sir.

Q

What else did you see?

A

No more because they already approached us and we approached him, sir.

Q

Also, other than that, what happened next

A

We brought him to the police station already, sir."[9](Underscoring ours)

Just as the trial court concluded, PO3 Maravilla could have corroborated the testimony of SPO1 Alilio in its material points considering that the former had posted himself at a place where he can see the latter and the appellant.[10] After all, SPO1 Alilio asserted that they (SPO1 Alilio and appellant) "were in the acts of exchanging things with each other" when PO3 Maravilla and PO3 Blanco showed up.[11] However, notwithstanding this claim of SPO1 Alilio, all that PO3 Maravilla testified seeing was that SPO1 Alilio talked with and thereafter placed his arm over appellant's shoulder. Nowhere in his testimony did he ever state that SPO1 Alilio and the appellant did exchange something prior to the latter's arrest. It is inconceivable that such exchange, if there was any, could have escaped his attention considering that it was supposedly the event which immediately preceded their pre-arranged signal, viz., the placing of SPO1 Alilio's arm over appellant's shoulder.

But what perplexed us more are the following declarations of PO3 Maravilla which further casts serious doubt on the veracity of SPO1 Alilio's testimony. Thus:

Q

Do you know why you brought the accused to the station?

A

Allegedly, a shabu was confiscated from him, sir.

Q

Who confiscated the shabu from the accused?

A

I did not see that thing, sir.

Q

What about at the police station, did you see the shabu?

A

No, sir, because I left the place, sir."[12] (Underlining ours.)

On cross-examination, PO3 Maravilla's denial was as stunning, thus:

Q

But you did not know what took place between them?

A

No, sir.

Q

And after their talk and after police officer Alilio placed his arm around the accused, that was the time that you approached them?

A

Yes, sir.

Q

And that was the time that you know that the accused was being arrested?

A

Yes, sir.

Q

At the time when the accused was arrested you did not see any shabu?

A

Yes, sir.

Q

Nor even the marked money?

A

Yes, sir."[13] (Underlining ours.)

It appears to us that Danny, the alleged civilian companion of SPO1 Alilio, or at least PO3 Roque Blanco, could have shed light on the material details of the alleged buy bust operation. But despite the availability of the trial court's coercive process, these two were not called to the witness stand. While the corroborative testimonies of

Danny and PO3 Roque may ordinarily be dispensed with, they nevertheless assume significance in view of the material irreconcilable differences between the testimonies of SPO1 Alilio and PO3 Maravilla, the two supposed eyewitnesses for the prosecution.

Furthermore, it appears that prior to his arrest by SPO1 Alilio appellant already knew that he is a police officer.[14] In fact, as testified to by the appellant[15] and admitted by the prosecution,[16] SPO1 Alilio was one of the police officers who previously arrested appellant's friend, Alquin Ormoc, allegedly for selling shabu. This was corroborated by Alquin Ormoc himself who confirmed that "it was only [the appellant] who witnessed said apprehension." [17] Viewed from this light, we cannot, by any stretch of imagination, accept that appellant could have still sold shabu to SPO1 Alilio knowing the obvious risk involved.[18] While we held in previous cases that knowledge by the accused that the poseur-buyer is a police officer is insufficient to deter him from pursuing his nefarious trade, nevertheless, these pronouncements cannot be applied to this case considering that herein appellant himself had witnessed[19] how SPO1 Alilio previously arrested his friend, for allegedly selling shabu.[20] It was highly inconceivable that appellant would fall prey to the same arresting officer.

The foregoing circumstances militate against affirming appellant's conviction. For the same reason, we can not stamp with approval the trial court's undue reliance with the presumption of regularity in the performance of duty.[21] While SPO1 Alilio is presumed to have regularly performed his official duty, this presumption alone cannot by itself support a judgment of conviction. Indeed, under our Constitution, an accused, no matter how despicable the crime for which he may have been charged, still enjoys the presumption of innocence.[22] And this presumption prevails over the presumption of regularity of the performance of official duty.[23] Nor can it be overcome by just an ordinary proof to the contrary or to convict an accused, no less and nothing more than proof beyond reasonable doubt is necessary. In this case, the threshold issue is whether or not the guilt of the appellant has been established by this required quantum of proof? We rule in the negative. Accordingly, we reverse his conviction based on reasonable doubt.

WHEREFORE, in view of the foregoing, the judgment appealed from is REVERSED, and appellant ALFREDO BRIONES Y RUVERA is ACQUITTED. His immediate release from custody is hereby ordered unless he is being held on other legal grounds.

SO ORDERED.

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

[1] Regional Trial Court of Manila, Branch 35, Presided by Judge Ramon P. Makasiar.

[2] Dangerous Drugs Act of 1972.

[3] Information dated March 9, 1993; Record, p. 1.

[4] RTC Decision dated October 22, 1993, pp. 1-2; Rollo, pp. 10-11.

[5] Brief for the Accused-Appellant dated October 28, 1994, p. 1; Rollo, p. 32.

[6] RTC Decision, *supra* at p. 12.

[7] TSN, SPO1 Eulalio Alilio, August 30, 1993, p. 4.

[8] TSN, PO3 Amorsolo Maravilla, September 1; 1993, p. 14.

[9] TSN, PO3 Amorsolo Maravilla, *supra* at pp. 15-16.

[10] PO3 Maravilla was only 50 to 70 meters away from the location of SPO1 Alilio and the appellant. See TSN, Amorsolo Maravilla, *supra* at p. 21.

[11] TSN, SPO1 Alilio, *supra* at p. 4.

[12] TSN, PO3 Amorsolo Maravilla, *supra* at p. 17.

[13] *Id.*, pp. 21-22.

[14] TSN, Alfredo Ruvera, September 8, 1993, p. 8; See Record, p. 37.

[15] TSN, Alfredo Ruvera, *supra* at p. 10-11.

[16] TSN, Clarita Santiago, September 10, 1993, p. 21.

[17] TSN, Alquin Ormoc, September 10, 1993, p. 8.

[18] See *People v. Quintero*, 238 SCRA 173 (1994).

[19] TSN, Alfredo Ruvera, *supra* at p. 4.

[20] Exhibit 2; Record, p. 34.

[21] RTC Decision, *supra* at p. 13.

[22] Article III, Section 14(2).

[23] See *People v. Tadepa*, 244 SCRA 339 (1995); *People v. Alvarado*, 242 SCRA 464 (1995); *People v. Taruc*, 157 SCRA 178 (1988); *People v. Ale*, 145 SCRA 50 (1986).

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