

NOEL CRUZ Y DIGMA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, THE COURT OF APPEALS AND THE REGIONAL TRIAL COURT BRANCH VI, MANILA, RESPONDENTS.

G.R. No. 121422. February 23, 1999

Ponente: PARDO, J.

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PARDO, J.:

The case before us is a petition for review of the decision of the Court of Appeals[1] denying for lack of merit the petition for certiorari filed by the accused to annul the following orders issued by the Regional Trial Court, Manila[2] in Criminal Case No. 90-85059, to wit:

(a) The order dated January 18, 1993, made in open court admitting the formal offer of evidence of the prosecution;

(b) The order dated December 20, 1993, denying the petitioner's demurrer to evidence;

(c) The order dated July 8, 1994, denying the petitioner's motion for reconsideration.

On June 19, 1990, police officers arrested petitioner without warrant for illegal possession of a .38 caliber revolver with six (6) rounds of ammunition while waiting outside the Manila Pavilion Hotel along U.N. Ave., Manila.

On June 25, 1990, Assistant Prosecutor Tranquil P. Salvador, Jr. filed with the Regional Trial Court, Manila, an information[3] against the accused for violation of Presidential Decree No. 1866[4], the accusatory portion of which reads:

"That on or about June 19, 1990, in the City of Manila, Philippines, the said accused did then and there willfully and unlawfully have in his possession and under his custody and control one (1) firearm .38 cal. Colt revolver bearing Serial Number 376420 with six (6) live ammunitions, without first having secured the necessary license or permit therefor from the proper authorities."

On June 26, 1990, before the arraignment of the accused, his parents, Timoteo and Ana Cruz, filed with the Regional Trial Court, Quezon City, a petition[5] for habeas corpus in his behalf. Thereafter, the accused was arraigned in the Manila court and pleaded not guilty to the charge.

The trial court proceeded to try the case. After the prosecution presented and formally offered its evidence, the trial court issued an order[6] dated January 18, 1993, admitting in evidence the gun and ammunition seized from the accused, over his objections. After the prosecution had rested its case, petitioner, on motion and upon leave of court, filed a demurrer to evidence. On December 20, 1993, the trial court denied the demurrer, and ordered the accused to present his evidence.[7] Instead, the petitioner filed a motion for reconsideration, which the trial court

denied in an order[8] dated July 8, 1994.

On October 27, 1994, petitioner filed with the Court of Appeals a petition for certiorari to annul the three (3) orders, namely: the order admitting the prosecution's formal offer of evidence; the order denying his demurrer to evidence; and the order denying petitioner's motion for reconsideration, for being issued capriciously, arbitrarily and whimsically, in utter disregard of controlling law and jurisprudence, and with grave abuse of discretion, amounting to lack or excess of jurisdiction.

On November 7, 1994, the Court of Appeals gave due course to the petition and ordered the trial court to temporarily refrain from further proceeding with the trial of Criminal Case No. 90-85059.

On August 8, 1995, the Court of Appeals rendered decision[9] denying the petition for lack of merit. The Court of Appeals ruled that the assailed orders were interlocutory in nature and not reviewable by certiorari. Petitioner should wait until the trial court has decided the case on its merits and if aggrieved, appeal from his conviction. The Court of Appeals held that the trial court's order admitting the allegedly inadmissible evidence involved questions of facts, which are not reviewable in petitions for certiorari. There being no error in jurisdiction, whatever error in judgment committed by the trial court can not be corrected by certiorari.

Hence, this petition for review.

Petitioner avers that the Court of Appeals erred in upholding the trial court's order admitting in evidence the gun and ammunition, which are allegedly inadmissible for being the fruits of an illegal warrantless arrest and search. He further claims that the prosecution's evidence is insufficient to sustain a conviction. Petitioner contends that the questioned orders, while admittedly interlocutory in nature, are no longer subject to amendment or correction by the trial court, hence, a review thereof is warranted to prevent extreme prejudice to petitioner. Petitioner prays for a temporary restraining order (TRO) to restrain the trial court from proceeding with the criminal case pending this petition; a writ of preliminary injunction after the expiration of the TRO; and to reverse the questioned resolution of the Court of Appeals.

We resolve to deny the petition.

We find no reversible error in the decision of the Court of Appeals dismissing the petition for certiorari. The rulings of the trial court on procedural questions and on admissibility of evidence during the course of a trial are interlocutory in nature and may not be the subject of a separate appeal or review on certiorari, but may be assigned as errors and reviewed in the appeal properly taken from the decision rendered by the trial court on the merits of the case.[10] When the court has jurisdiction over the case and person of the accused, any error in the application of the law and the appreciation of evidence committed by a court after it has acquired jurisdiction over a case, may be corrected only by appeal.[11]

Regarding the denial of the demurrer to evidence, we have likewise ruled that the question of whether the evidence presented by the prosecution is sufficient to convince the court that the defendant is guilty beyond reasonable doubt rests entirely within the sound discretion of the trial court. The error, if any, in the denial of the demurrer to evidence may be corrected only by appeal. The appellate court will not review in such special civil action the prosecution's evidence and decide in advance that such evidence has or has not established the guilt of the accused beyond reasonable doubt. The orderly procedure prescribed by the Revised Rules of Court is for the accused to present his evidence, after which the trial court, on its own assessment of the evidence submitted, will then properly render its judgment of acquittal or conviction.[12] If judgment is rendered adversely against the accused, he may appeal the judgment and raise the same defenses and objections for review by the appellate court.[13]

Admittedly, the general rule that the extraordinary writ of certiorari is not available to challenge interlocutory orders of the trial court may be subject to exceptions. When the assailed interlocutory orders are patently erroneous^[14] or issued with grave abuse of discretion,^[15] the remedy of certiorari lies.

Petitioner insists that he falls within the above exceptions, warranting a review of the denial of his petition for certiorari filed with the Court of Appeals. Petitioner stresses that he was illegally arrested, and consequently any evidence taken after the subsequent search on his person is inadmissible in evidence. He points to alleged inconsistencies in the testimonies of the prosecution witnesses to show that he was illegally arrested. He maintains that the evidence presented is insufficient to sustain a conviction due to the inconsistencies in the testimonies of witnesses. He likewise claims that the prosecution has failed to establish that the gun and ammunition presented during the trial were the same items confiscated from him.

We disagree. The trial court, in resolving petitioner's motion for reconsideration, squarely addressed the above contentions. The trial court ruled that the seized evidence was admissible, and that the evidence presented was sufficient to sustain a conviction, if the accused presented no contrary evidence.

We find neither error nor patent abuse of discretion in the rulings of the trial court on these issues. Thus, upon the denial of petitioner's demurrer to evidence, he may present his evidence.^[16] After trial on the merits, and the court issues a verdict of conviction, petitioner may seasonably appeal such decision, raising once again his defenses and objections.

ACCORDINGLY, the Court hereby DENIES the petition. We order the trial court to continue with the proceedings in Criminal Case No. 90-85059, with deliberate dispatch.

No costs.

SO ORDERED.

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

[1] CA-SP G. R. No. 35586, promulgated on August 8, 1995, Rollo, pp. 47-54.

[2] Presided over by Judge Roberto M. Lagman.²

[3] Rollo, p. 60.

[4] Illegal Possession of Firearm and Ammunition.

[5] SP No. 90-5898, Court of Appeals Record, pp. 94-98; the records, however, do not indicate the ruling of the court on the petition.

[6] Rollo, p. 55.

[7] Rollo, p. 56.

[8] Rollo, pp. 57-59.

[9] Rollo, pp. 47-54, penned by Justice Austria-Martinez.

[10] *Peza v. Alikpala*, 160 SCRA 31.

[11] *Day v. RTC of Zamboanga City*, Br. XIII, 191 SCRA 610.

[12] *Cruz v. People*, 144 SCRA 677.

[13] Cruz, Jr. v. Court of Appeals, 194 SCRA 145.

[14] Salcedo-Ortañez v. Court of Appeals, 235 SCRA 111.

[15] Villon, Jr. v. IAC, 144 SCRA 440.

[16] Rule 120, Section 15, Revised Rules of Court.

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