

JESUSA CRUZ, PETITIONER, VS. CORRECTIONAL INSTITUTION FOR WOMEN IN MANDALUYONG, RESPONDENT.

G.R. No. 125672. September 27, 1996

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

After having served five and a half years of her life sentence, may petitioner -- who was convicted of selling 5.5 grams of prohibited drugs, namely, dried marijuana leaves -- be now entitled to the beneficent penalty provisions of R.A. 7659 and be now released from imprisonment?

The Facts

Petitioner Jesusa Cruz, a.k.a. Jesusa Mediavilla, is at present confined at the Correctional Institution for Women in Mandaluyong City serving the penalty of life imprisonment imposed upon her as a consequence of her conviction on March 31, 1992 for violation of Section 4, Article II of R.A. 6425 otherwise known as the Dangerous Drugs Act of 1972. Her appeal from the judgment of conviction rendered by the Regional Trial Court of Iloilo City, Branch 33, was dismissed by this Court on March 1, 1993 in G.R. No. 106389, *People vs. Jesusa Cruz*. Hence, her life sentence has become final and executory.

On August 6, 1996, the present petition for habeas corpus was filed by Atty. Mylene T. Marcia-Creencia (of the law firm of Fortun and Narvasa) who was appointed by this Court on September 13, 1995 as counsel de oficio to assist the accused in the preparation of the said pleading. Petitioner alleges that, as of the date of filing of her herein petition, she has already served five and a half years of her life sentence (February 2, 1991 to August 5, 1996). She argues that the penalty of life imprisonment imposed by the trial court is "excessive considering that the marijuana allegedly taken from her was only 5.5 grams or less than 750 grams". The Solicitor General, in his Comment filed with this Court on August 30, 1996, interposed "no objection to a favorable application of Section 20, Article IV of R.A. No. 6425, as amended by R.A. No. 7659."

The Court's Ruling

The petition is meritorious.

R.A. 7659, which took effect on December 13, 1993, partly modified the penalties prescribed by R.A. 6425; that is, inter alia, where the quantity of prohibited drugs involved is less than 750 grams, the penalty is reduced to a range of prision correccional to reclusion perpetua. (*Ordoñez vs. Vinarao*, G.R. No. 121424, March 28, 1996). In *People vs. Simon* (234 SCRA 555, July 29, 1994) and *People vs. De Lara* (236 SCRA 291, September 5, 1994), this Court ruled that where the marijuana is less than 250 grams, the penalty to be imposed shall be prision correccional. Moreover, applying the Indeterminate Sentence Law, the penalty imposable is further reduced to any period within arresto mayor, as minimum term, to the medium period of prision correccional as the maximum term, there being no aggravating or mitigating circumstances (*Garcia, et al. vs. Court of Appeals, et al.*, G.R. No. 110983, March 8, 1996).

All told, the petitioner should now be deemed to have served the maximum period imposable for the crime for which she was convicted, i.e., selling 5.5 grams of dried marijuana leaves. Although her penalty of life imprisonment had already become final, the beneficial effects of the amendment provided under R.A. 7659 should be extended to petitioner.

WHEREFORE, the petition is GRANTED. The petitioner is hereby ORDERED RELEASED IMMEDIATELY, unless she is being detained on some other legal charge. No costs.

SO ORDERED.

Davide, Jr., Melo, and Francisco, JJ., concur.

Narvasa, C.J., (Chairman), took no part. Related to Counsel of a party.

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