

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CHENG HO CHUA, ACCUSED APPELLANT.

G.R. No. 127542. March 18, 1999

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Courts generally view with disfavor the defense of *hulidap* commonly raised in illegal drug cases. This defense is easy to concoct. More odiously, it subverts the *prima facie* presumption of regularity in the performance of official duties. Since the appellant failed to prove this defense in a clear and convincing manner, the trial court gave credence to the evidence gathered by the Presidential Anti-Crime Commission headed by then Vice President Joseph Ejercito Estrada. Hence, the prosecution evidence stands.

The Case

Cheng Ho Chua appeals the Decision[1] of the Regional Trial Court (RTC) of Manila, Branch 11, which convicted him of violating the dangerous Drugs Act of 1972. The dispositive portion of the RTC Decision reads:

"WHEREFORE, judgment is rendered finding the accused CHENG HO CHUA GUILTY beyond reasonable doubt of the [v]iolation of Section 15, Article III, of Republic Act No. 6425,[2] as amended, otherwise referred to as the [s]ale of [r]egulated [d]rugs, involving [o]ne [t]housand (1,000) grams of methamphetamine hydrochloride or shabu. He is meted the penalty of LIFE IMPRISONMENT AND a FINE OF TWENTY THOUSAND PESOS (P20,000.00).

"The dangerous drugs subject of this case [are] ordered forfeited in favor of the [g]overnment, and it is directed that th[ese] be submitted forthwith to the Dangerous Drugs Board."[3]

On March 26, 1993, State prosecutor Archimedes V. Manabat charged appellant in an Information which reads:

"On about March 14, 1993 in Manila and within the jurisdiction of this Honorable Court, the above-named accused did then and there wilfully, unlawfully and feloniously dispense, transport, distribute, sell and deliver to a buyer without authority of law approximately 1,000 grams of [m]ethamphetamine [h]ydrochloride, a regulated drug popularly known as 'shabu'."[4]

Chua, assisted by Counsel de Parte Wilfredo T. Garcia, entered a plea of not guilty when arraigned on May 5, 1993. On May 28, 1993, the lower court denied appellant's application for bail. Trial proceeded in due course. Thereafter, the court *a quo* rendered its assailed Decision.

Hence, this appeal direct to this Court.[5]

The Facts

Version of the Prosecution

In the Brief for the Appellee, the testimonies of the prosecution witnesses[6] were summarized by the Office of the Solicitor General[7] as follows:

"Prosecution evidence shows that based on police surveillance against a group of Chinese-Filipino drug traffickers known as the Dama de Noche Gang, the name of Ben Chua, also identified as Cheng Ho Chua, cropped up as a suspected drug dealer operating in the Binondo area.

"On March 13, 1993, at 2:00 in the afternoon, an unnamed police informant allegedly contacted appellant at the lobby of Fortune Hotel in Salazar Street, Binondo, Manila, and negotiated with him for the purchase of shabu. The informant introduced SPO2 Jeffrey Inciong to appellant as the alleged prospective buyer of shabu. After some discussion, appellant agreed to sell to SPO2 Inciong one kilo of shabu for P600,000.00. Appellant then instructed SPO2 Inciong to return to the hotel at 9:00 that evening for the exchange and consummation of their agreement.

"Backed up by a team of eight policemen who positioned themselves strategically in various places outside the hotel where they could observe the activities, SPO2 Inciong, together with the police informant and SPO1 Retubado [sic], returned to Fortune Hotel at 9:00 that evening. Soon, SPO2 Inciong and the informant met appellant outside the entrance of the hotel. They told appellant that they had the money with them. Appellant told them to wait for him as he went inside the hotel.

"After three to five minutes, appellant came out of the hotel carrying a shopping bag. He approached SPO2 Inciong and asked the latter to join him at the side of the hotel building. Arriving thereat, SPO2 Inciong asked to see the shabu first and appellant handed to him the shopping bag. After checking the content of the bag, SPO2 Inciong handed over to him the purchase money which was actually 'boodle money' because it consisted of a bundle of cut papers sandwiched between two genuine P1,000.00. The 'boodle money' was in a brown leather clutch bag.

"While examining the contents of the leather clutch bag, SPO2 Inciong gave the signal for his companions to come forward. They introduced themselves as police officers and arrested appellant who went quietly with them to their headquarters at Camp Bagong Diwa. At the headquarters, they turned over appellant and the 'boodle money' to the investigator-in-charge, SPO3 Florentino Tasara. They also requested the Philippine National Police (PNP) Crime Laboratory to make a chemistry analysis of the seized kilo of shabu. After examination by Chief Superintendent Marlene Salangad, the substance was determined to be methamphetamine hydrochloride, the scientific name for shabu."[8]

Version of the Defense

Asserting that appellant was a victim of "hulidap," the defense presented the following as witnesses: Lauro C. Reyes and Jose Doloiras, NBI agents; Gherwin Bautista and Lourdes Martines, Fortune Hotel employees; Lolita Lee; Luisito Go; and the appellant himself. In his Brief,[9] appellant presents the following narration of facts:

"The accused was a businessman from Butuan City. On March 14, 1993, he had lunch in Ongpin at Binondo with Luisito Go from whom he had been renting a townhouse on Ortigas Street in San Juan for over a year. After lunch, the accused asked Go to drop him at the Fortune Hotel in Binondo where he had a tryst with his girlfriend, Menchie Tolentino. Menchie left his hotel room (Room 380) at about 6:00 o'clock in the evening and the accused settled for the night.

"At 12:15 o'clock in the early morning of March 15, 1993, the accused heard persistent knocking at his hotel room door but when he asked who it was, no one answered him. When he finally opened the door, six or seven men who were shouting that they were policemen pushed open the door and searched his room. The men wore plain clothes and had Luisito Go and a reporter with them. After the search, the raiding team brought the accused and Go with them to their camp in Bicutan. They mauled the accused for about half an hour and asked him if he had shabu in his possession. He denied knowing anything about the drug. During this time, the police did not allow the accused to get in touch with a lawyer. While he was being mauled, a policeman told the accused that his problem could be fixed and that he could be released for P1.0 million.

"at 7:00 o'clock in the morning of March 15, 1993, the police brought the accused back to his room at Fortune

Hotel where they gave him a cellular phone so he could ask his friends to come to the hotel. The accused called Anthony Co and Lolita Lee but only Anthony came. The accused called Lolita about four times telling her to call up friends so she could raise P1.0 million for his release or he would be killed. Lee was aghast but at about 10:30 o'clock in the evening she told the accused that she was able to raise only P700,000.00. The police officers at the other end of the line then talked to Lee and told her where to deliver the money. After discussing the details of the delivery, L[ee] brought the money to Bicutan and gave it to a man who waited for her near the gate of the police camp. The latter promised to release the accused shortly but this did not happen.

"On March 16, 1993 Vice President Joseph Estrada presented the accused, Luisito Go, Anthony Co, another man, and a woman to the press for a photo session where they were paraded with their names hanging around their necks. From the time of his arrest, the accused had not been allowed to get in touch with any lawyer. Only on March 17, 1993 when police presented him at the Department of Justice before State Prosecutor Manabat for inquest was the accused allowed to get in touch with his lawyer." [10]

Ruling of the Trial Court

The trial court gave credence to the evidence of the prosecution and dismissed that of the defense. Finding that appellant was the subject of a lawful buy-bust operation, not of a "hulidap," the court ruled:

"The investigative efforts [of the NBI] were superficial and misdirected. Butuan City is not the place where the accused plied his drugs, and their queries should have gone beyond just the hometown narcotics agent and the step-brother of the accused. It was predictable that no derogatory record but only favorable endorsements of the accused would turn out from such cursory and off-track investigation.

"Neither can much faith and credence be given [to] the statements and testimonies of the staff at Fortune Hotel, nor in the entries in its record and logbook. The accused was their frequent and regular customer, xxx who they claim was forcibly taken out of his room in the middle of the night by several strangers in civilian clothes. Yet no measure of protection or concern was given him, and the alarming event was not even reported to the authorities, not even when their guest was supposedly brought back hours later and his captors reoccupied his room. Instead what the hotel supervisor merely did was to declare their guest as 'checked- out'. Said nonchalance of the hotel personnel [was] not the normal reaction to such a startling occurrence if indeed it took place. As to the hotel logbook and record, entries in these can [be] easily fabricated to suit a particular purpose and are of dubious accuracy and unclear authorship.

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"Lolita Lee said she collected the P700,000.00 from about ten (10) relatives and friends of the accused who[m] she phoned and saw at their places. She started her task after the 3:00 p.m. call, and when he made phone contact at 10:30 p.m., the money was ready. It was a Sunday and banks were closed[;] she was but a casual friend of the contributors whom she refused to name[;] they lived in separate homes spread in Metro Manila[;] she had but a sketchy inkling of why the accused required money[;] the time frame was short, and the amount to be raised was not something to sneeze at. How Lolita Lee got hold of the amount against such constraints, could be a good lesson to any aspiring fund raiser. It is intriguing why the accused chose Lolita Lee to raise the money[;] they were not close friends but just casual business associates. He could have just easily talked directly with any of his relatives and friends who put up the amounts anyway, while she did not chip in a single centavo. It is a wonder how Lolita Lee could convince these people to give money when they were mere acquaintances and she had but cryptic messages from the accused with which to justify the dole. It is similarly puzzling how under the tenuous given circumstances Lolita Lee could agree to face grave perils for the accused." [11]

Assignment of Errors

In his Brief, the appellant raised the following errors allegedly committed by the trial court:

"1. The trial court erred in finding that the police officers in the case arrested the accused and seized a kilo of

prohibited drugs from him in a buy-bust operation outside his hotel at 9 o'clock in the evening of March 14, 1993;

"2. The trial court erred in not finding that, in truth, the police officers forcibly barged into the accused's hotel room at 12:15 o'clock in the morning of March 15, 1993, searched it without a search warrant, and arrested him without lawful ground; and

"3. The trial court erred in not finding that the accused [was] entitled to an acquittal given the absence of any credible evidence that he had been engaged in the distribution of prohibited drugs." [12]

Briefly stated, appellant questions (1) the sufficiency of the prosecution evidence; and (2) his arrest, the search of his personal belongings, and the alleged extortion by the police.

The Court's Ruling

The appeal is devoid of merit.

First Issue:

Sufficiency of Prosecution Evidence

It is an established rule that the findings of the trial court on the credibility of witnesses and their testimonies are accorded great respect, unless the court a quo overlooked substantial facts and circumstances which, if considered, would materially affect the result of the case. [13] Here, we see no reason to depart from the general rule.

Policemen Jeffrey Inciong and Pablo Rebaldo positively identified Chua as the person whom they had apprehended selling one kilo of shabu during a lawful buy-bust operation. Inciong, who had acted as poseur-buyer, unequivocally testified thus:

"PROSECUTOR TEVES:

Q At what particular place did you meet Mr. Ben Chua or Cheng Ho Chua?

A In front of the entrance of the Fortune Hotel, Ma[']am.

Q And that was about what time?

A More or less 9:00 o'clock in the evening, ma[']am.

Q After you met Mr. Cheng Ho Chua in front of the entrance of the hotel, what happened?

A My informant and I approached Ben Chua in front of the Fortune Hotel and I told him that the money [even] already, ready ma[']am.

Q And what was the reply of Mr. Ben Chua, Mr. [Wit]ness?

A Mr. Ben Chua told us to wait for a moment and he went inside the hotel, and he back came about more or less 3 to 5 minutes carrying a shopping bag, ma[']am.

Q And, what happened after he came back having a shopping bag?

A He asked me to go with him at the side of the Fortune Hotel building, ma[']am.

Q So you transacted business with the accused outside the Fortune Hotel?

A Yes, ma[']am.

Q What happened after you went to the side of the Fortune Hotel?

A I told him I [would] look first for the stuff and he showed me the stuff. Then I gave to him the boodle money

placed inside a brown leather attache bag, ma[`]am.

Q [P]laced inside a what?

A [L]eather clutch bag, ma[`]am.

Q Brown leather attache bag. How much was that money supposed to be?

A The boodle money representing SIX HUNDRED THOUSAND PESOS, ma[`]am.

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Q And, who in particular received this boodle money from you?

A It was Ben Chua, ma[`]am.

Q After Ben Chua received the boodle money, [w]hat happened?

A I signaled the rest of my companions, my back up, to arrest Ben Chua, ma[`]am.

Q And were you able to arrest Mr. Ben Chua?

A Yes, ma[`]am.

Q What happened after your backup team came forward to assist you?

A We introduced ourselves as policemen and Ben Chua did not resist and he came with us quietly and we brought him to our office headquarters for investigation, ma[`]am."^[14]

Corroborating Inciong, Witness Rebaldo testified in this wise:^[15]

"Q After having informed your [c]hief [o]fficer, what happened now, Mr. [W]itness?

A We formed a team to effect the arrest of the accused and the buy bust operation will be continuing, ma[`]am.

Q On March 14, 1993, did you actually [go] back to Fortune Hotel?

A Yes, ma[`]am.

Q And, who were your companions when you went back to Fortune Hotel?

A We boarded xxx my car together with SPO2 Jeffrey Inciong and our civilian informant. And we arrived at Fortune Hotel at around 8:55 in the evening, ma[`]am.

Q So aboard your car SPO2 Inciong, you and the informant xxx proceeded [to] Fortune Hotel, and you arrived there at 8:55 in the evening. A[l]right, upon arriving thereat, where did you position yoursel[ves]?

A When we arrived at the Fortune Hotel[,] Ben Chua was already beside the hotel, ma[`]am.

Q Alright, upon seeing Ben Chua, what did you do?

A SPO2 Inciong approached the suspect and the suspect said in [T]agalog [`]Hintayin ninyo lang ako sa baba[`], then after that he went upstairs, ma[`]am.

Q Where were you then Mr. Rebaldo when SPO2 Inciong and the accused were talking?

A I alighted from my car and then I positioned myself at about one arm leng[th] away from the two, ma[`]am.

Q How about the civilian informant, where was he?

A I was with the civilian informer, ma[`]am.

Q Now, what happened after Ben Chua, the accused left and went up in the hotel?

A After about 5 minutes h[e] went back to the place where we were and he was carrying a plastic shopping bag, ma[']am/

Q What kind of plastic shopping bag, white, blue or black?

A Probably blue, ma[']am.

Q Was the place where Mr. Chua then lighted?

A It was not properly lighted. It was partially lighted because the light was far from our place, ma[']am.

Q From where you were, could you see Mr. Chua, as well as SPO2 Inciong?

A Yes, ma[']am.

Q Where were you when you saw Mr. Chua carrying a plastic bag?

A We were together, I and the civilian informant, ma[']am.

Q How far were you from Inciong then?

A We were then an arm leng[th] away from SPO2 Inciong, ma[']am.

Q And SPO2 Jeffrey Inciong was supposed to be the poseur buyer?

A Yes, ma[']am.

Q Now, what happened when Mr. Chua arrived carrying a plastic bag?

A He approached SPO2 Inciong and handed the plastic bag and SPO2 Inciong handed also the clutch bag containing the buy-bust money, ma[']am."^[16]

The clear, straightforward and consistent testimonies of the two arresting officers, which are concurrent on material points and replete with relevant details, sufficiently support the trial court's conclusions.

Moreover, the prosecution also established that the substance being peddled by the appellant was shabu. Chemistry Report No. D-249-93 states: "Qualitative examination conducted on Exh. `A' gave POSITIVE result to the tests for Methamphetamine Hydrochloride (shabu), a regulated drug."^[17] Chief Chemist Salangad of the PNP Crime Laboratory repeated this finding on the witness stand.

Alleged Inconsistencies Between Testimonies and Documentary Exhibits

Appellants argues that the testimonies of the police officers were inconsistent with their Joint Affidavit and the Chemistry report. Although "Inciong narrated that he and Rebaldo executed their joint affidavit of arrest that very same night of March 14," the date of execution appearing in the said affidavit is March 16, 1993.^[18] Furthermore, although the policemen stated that "they immediately turned over the seized substance to the PNP Crime Laboratory for chemistry analysis" right after they made the arrest on March 14, the Chemistry Report shows that the request was made only on March 16.^[19]

The records, however, belie appellant's contention. Inciong testified that they "prepared" the joint affidavit on March 14, 1993, but that they subscribed to it only on March 16, 1993. Thus, although the document itself was typewritten - that is, "prepared" -- right after the arrest was made on March 14, 1993, in conformity with the standard operating procedure of the particular police unit, the policemen affirmed the statement before an

administering officer only on March 16, 1993. This is clear from Inciong's testimony on redirect examination:

"Q. Mr. Witness, why did you prepare this affidavit of arrest earlier even before having the result of the examination?

A. Because it's our SOP in our headquarters [that] after the arrest of the suspect we ma[k]e our affidavit of arrest after we [bring] in the said evidence to the investigator, ma'am

Q. Please tell this Court [if] you just prepared all the documents necessary relative to the apprehension of Mr. Cheng Ho Chua?

A. Yes, ma'am.

Q. But it does not necessarily follow that you have already affirmed and subscribed [to] this statement you prepared on the same day?

A. Yes, ma'am."[20] (Underscoring supplied.)

Nor is there an inconsistency between the Chemistry Report and the testimony of the policemen. Contrary to the appellant's claim, the arresting officers did not state that, after making the arrest, they turned over the seized substance to the PNP Crime Laboratory. Rather, in the transcript cited by appellant himself,[21] SPO2 Inciong merely declared that "we also brought [the substance] to our headquarters and we immediately made a request for the examination if it is positive for methamphetamine hydrochloride." [22] Indeed, Inciong submitted the seized substance not to the PNP Crime Laboratory but to SPO3 Florentino Tasara, the unit investigator. For his part, Tasara testified that he delivered the substance to the PNP Crime Laboratory on March 16, 1993.[23]

Appellant also questions why "such all-important evidence of a buy-bust operation" was submitted for chemical analysis only on March 16, two days after the arrest.[24] The delay was sufficiently explained by Tasara as follows.:

"PROSECUTOR MANABAT:

Q And upon receiving this evidence Exhibit 'F-3' [the shabu], what did you do with this evidence as an investigator?

A As an investigator, sir, I prepared all the necessary papers with regards to the cases, and one of them was the Request for laboratory examination addressed to the PNP Criminal Laboratory Service, Camp Crame.

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Q And after you prepared this request for laboratory examination, what did you do?

A I also made a letter request for laboratory examination of the other suspects [who] were arrested by the other teams, [because] at the time there were series of operations conducted.

Q after preparing these other laboratory requests and particularly this one Request with respect to Mr. Cheng, marked as Exhibit 'A-1', what did you do?

A I prepared the other [--] all the other things, the Joint Affidavit of arrest of the arresting officers [which] they stated to me and I decided to submit all the evidences submitted in [a] series of operations at the same time. I decided to have them submitted at the Crime Lab at the same time.

Q And what are these evidences?

A The suspected methamphetamine hydrochloride. These substances or suspected drugs xxx and the boodle money that were confiscated from each of the suspects that were turned over to me by the arresting officers.

Q Where did you submit this evidence, particularly the suspected methamphetamine hydrochloride marked as Exhibit 'F-3' relating to the case of Cheng Ho Chua?

A I, together with SPO3 Cesar Pilosopo and PO3 Miguel Abong and other operatives, were the ones who delivered the evidence submitted to us to the PNP Crime Laboratory Services for laboratory examinations.

Q Do you recall the date?

A It was only on March 16, 1993.

Q How about the time?

A It was already nighttime at about 8:00 or 8:30, sir.

Q And why was it that it was xxx submitted [only] on the night of March 16 by you?

A There [was a] series of operations conducted by different teams regarding violation of Republic Act No. 6425, with different venues and I decided to submit all the evidences at the same time to the Crime laboratory Services to save time and effort." [25]

In his Reply Brief, appellant further maintains that the testimonies of Rebaldo and Inciong were inconsistent with each other. Inciong allegedly stated that he met appellant "in front of the entrance" of the Fortune Hotel. Rebaldo, however, averred that Inciong and appellant met "beside" the hotel. This inconsistency is minor and insignificant and does not affect the claim of the prosecution that a buy-bust operation was conducted at the time.

Setting of the Sale

We are not persuaded by appellant's argument that vendors of prohibited or regulated drugs do not deal with strangers in public places. In fact, this Court has consistently ruled that it is not uncommon for drug dealers or pushers to sell their commodities to total strangers at any time and at any place. In any case, the law does not prescribe as an element of the crime that the vendor and the vendee be familiar with each other, or that the transaction be consummated in a particular place and time. The law simply penalizes the actual sale of shabu. [26]

Non-Presentation of Informant

Appellant also argues that the informant should have been presented in order to give more credence to the version of the policemen. Since the informant had allegedly transacted with appellant, the defense contends that there was no need to conceal his identity any further. The failure of the policemen to give even the name of the informant allegedly showed that the latter did not really exist.

We do not agree. The presentation of an informant is not a requisite in the prosecution of drug cases. [27] In *People v. Nicolas*, [28] the Court ruled that "[p]olice authorities rarely, if ever, remove the cloak of confidentiality with which they surround their poseur-buyers and informers since their usefulness will be over the moment they are presented in court. Moreover, drug dealers do not look kindly upon squealers and informants. It is understandable why, as much as permitted, their identities are kept secret." In any event, the testimony of the informant would be merely corroborative.

Second Issue: "Hulidap"

Appellant insists that he was a victim of "hulidap," and not of a legal buy-bust operation. He iterates his earlier claim that the policemen barged into his room at the Fortune Hotel in the wee hours of March 15 and illegally arrested him. Around 6:30 that morning, the arresting policemen took him back to his hotel room, and they all left only at 6:00 in the evening. Appellant maintains that his claim of illegal arrest was supported by the hotel

employees' and NBI agents' testimonies, the hotel logbook and record, as well as the NBI Report. Alleging that the policemen arrested him in order to extort money, he testified that the policemen demanded one million pesos for his release, but that his friend Lolita Lee, a defense witness, was able to raise only P700,000.

We are not convinced. Courts generally view with disfavor this defense commonly raised in drug cases, for it is easy to concoct and difficult to prove.[29] Moreover, there is a presumption that public officers, including the arresting officers, regularly perform their official duties.[30] In the present case, the defense failed to overcome this presumption or to present clear and convincing evidence to prove "hulidap."

The two NBI agents stated that they went to Butuan City, where the accused was based, in order to investigate, and that they found that he had no record of drug trafficking. However, we can give no weight to these testimonies. We agree with the trial court that their "investigative efforts were superficial and misdirected," for they focused on his stepbrother and the narcotics authorities in Butuan City, which was not his area of operation. Thus, the trial court rightly concluded that "it was predictable that no derogatory record but only favorable endorsements of the accused would turn out from such cursory and off-track investigation." [31]

It is noteworthy that on the basis of their findings, the NBI agents recommended that the arresting officers and some other policemen be charged with robbery, arbitrary arrest and incriminatory machinations. The trial court, however, did not give credence to the NBI Report, a ruling that was reinforced by the Office of the Ombudsman when it dismissed the charges.[32]

In any event, the NBI agents relied merely on the statements of hotel employees and appellant's friends, most of whom subsequently testified in this case as defense witnesses. The trial court, thus, had the opportunity to hear these witnesses and to determine their credibility.

In dismissing the testimonies of the hotel employees, the trial court noted that they did not even report the incident to authorities or raise an alarm; hence, the court *a quo* ruled that their "nonchalance x x x is not the normal reaction to such a startling occurrence, if indeed it took place." [33] We are not persuaded by appellant's contention that the hotel employees could not have reported the incident to the police, for the reason that the persons who went to the hotel were policemen themselves.[34] On the contrary, the witnesses merely declared that the alleged "policemen" were in civilian clothes, and that one of them showed an "official ID." If, indeed, the said occurrence had taken place, it behooved the hotel employees to notify the authorities. The fact that they did not casts doubt on their testimonies.

Appellant relies too much on the "hotel logbook and record." Specifically, he presented as evidence the logbook prepared by the hotel security guard, who wrote therein that members of the "regional command" went to Room 380 and took appellant with them on March 15 at 12:15 a.m.[35] The hotel registration book,[36] on the other hand, showed that a certain "Menchie Tolentino" was a guest at Rm. 380, thereby supporting appellant's claim that after lunch on March 14, he had a tryst in his hotel room with his girlfriend named Menchie Tolentino, who left around 6:00 in the evening, after which he settled for the night.[37] Because the hotel registration book is a record required by a city ordinance of Manila, appellant contends that it is a public document which enjoys a presumption of truth.

First, it must be stressed that the hotel registration book does not establish appellant's defense. The fact that Menchie Tolentino was a guest of appellant in his room until 6:00 in the evening of March 14 does not controvert the prosecution's claim that he was arrested at 9:00 in the evening of the same day. Thus, there is no need to determine whether the hotel registration book is a public document.

Second, appellant does not insist that the security guard logbook is a public document, unlike the hotel

registration book. In any event, we cannot give credence to the logbook, because the security guard who wrote down the pertinent entries did not appear in court. Accordingly, the contents of the logbook are hearsay evidence,[38] with no probative value.[39]

Appellant, who alleges that he was a victim of an extortion attempt cites the testimony of Lolita Lee, who stated that she collected the sum of P700,000 upon his instruction. The trial court did not give credence to this witness, and rightly so. Not only must evidence come from a credible witness; it must be credible in itself. Her account does not satisfy this standard. As the trial court observed, "it is a wonder how Lolita Lee could convince these people to give money when they were mere acquaintances and she had but [a] cryptic message from the accused with which to justify the dole." [40]

The Erasure in the DOJ

Referral Letter

Appellant further contends that, in the police referral letter to the Department of Justice, the original entry indicating the time and date of the arrest was erased; and a new entry, "9:00 P.M., March 14," was superimposed to conform with the testimony of the policemen. According to appellant, this "fatal flaw" shows that he was actually arrested in the wee hours of March 15, not on the night of March 14.

We reject this contention. One cannot infer from the correction in the referral letter that the appellant was arrested on March 15, and not on March 14. Furthermore, appellant fails to show the import of his insistence that the buy-bust operation was conducted on the early morning of March 15. Even assuming that he was arrested on March 15, this cannot detract from the fact that he was apprehended in a buy-bust operation.

WHEREFORE, the appeal is hereby DENIED and the assailed Decision is AFFIRMED. Costs against appellant.

SO ORDERED.

Romero, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Penned by Judge Roberto A. Barrios.

[2] It reads:

"SEC. 15. Sale, Administration, Dispensation, Delivery, Transportation and Distribution of Regulated Drugs. -- The penalty of life imprisonment to death and a fine ranging from twenty thousand to thirty thousand pesos, shall be imposed upon any person who, unless authorized by law, shall sell, dispense, deliver, transport or distribute any regulated drug. If the victim of the offense is a minor, or should a regulated drug involved in any offense under this section be the proximate cause of the death of a victim thereof, the maximum penalty herein provided shall be imposed."

[3] RTC Decision, p. 8; rollo, p. 33.

[4] Rollo, p. 10.

[5] This case was deemed submitted for resolution on August 3, 1998; when this Court received the Reply Brief.

[6] The prosecution presented these witnesses: (1) SPO2 Jeffrey Inciong, (2) SPO1 Pablo Rebaldo, (3) Forensic Chemist Marlene Salangad and (4) Investigating Officer Florentino Tasara.

[7] The Appellee's Brief was signed by Assistant Solicitor General Carlos N. Ortega and Solicitor Benilda A. Tejada.

[8] Brief for the Appellee, pp. 3-5; rollo, pp. 127-129.

[9] The Appellant's Brief was signed by Atty. Roberto A. Abad.

[10] Appellant's Brief, pp. 4-6; rollo, pp. 78-80. Citations omitted.

[11] Assailed Decision, pp. 5-7; rollo, pp. 30-32.

[12] Appellant's Brief, p. 2; rollo, p. 74.

[13] *People v. Juatan*, 260 SCRA 532, 537, August 20, 1996; *People v. Lua*, 256 SCRA 539, 546, April 25, 1996; *People v. Ballagan*, 247 SCRA 535, 543-544, August 23, 1995; and *People v. Ong Co*, 245 SCRA 733, 742, July 11, 1995; *People v. Sibug*, 229 SCRA 489, 496, January 24, 1994; *People v. Yap*, 229 SCRA 787, 792-793, February 9, 1994; *People v. Simon*, 209 SCRA 148, 156, May 21, 1992; *People v. Mauyao*, 207 SCRA 732, 738, April 6, 1992; *People v. Salameda*, 111 SCRA 405, 410, January 30, 1982.

[14] TSN, May 25, 1993, pp. 9-13. See also TSN, May 26, 1993, pp. 2-23; and March 23, 1994, pp. 7-30.

[15] TSN, May 27, 1993, pp. 2-3.

[16] TSN, May 27, 1993, pp. 16-19.

[17] The substance taken from the appellant was examined by Noemi P. Austerio, forensic chemist; assisted by Marlene M. Salangad, chief of the chemical division of the PNP Crime Laboratory. See TSN, January 6, 1994, pp. 3-41.

[18] Appellant's Brief, p. 8; rollo, p. 82.

[19] *Ibid.*

[20] TSN, March 23, 1994, p. 27.

[21] Appellant's Brief, p. 10; rollo, p. 84.

[22] TSN, May 25, 1993, p. 13.

[23] TSN, November 5, 1996, pp. 11 and 16.

[24] Appellant's Brief, p. 10; rollo, p. 84.

[25] TSN, November 5, 1996, pp. 11-13.

[26] *People v. Velasco*, 252 SCRA 135, 143, January 23, 1996; *People v. Manalo*, 230 SCRA 309, 316, February 23, 1994; *People v. Yap*, 229 SCRA 787, February 9, 1994; *People v. Macasa*, 229 SCRA 422, 427, January 21, 1994; *People v. Alaban*, 214 SCRA 301, 305, September 28, 1992; *People v. Pablo*, 213 SCRA 1, 12, August 25, 1992; *People v. Madrid*, 210 SCRA 196, 205, June 22, 1992; *People v. Blas*, 209 SCRA 339, 346, May 27, 1992; *People v. De Jesus*, 205 SCRA 383, 389, January 24, 1992.

[27] *People v. De los Reyes*, 229 SCRA 439, 447, January 21, 1994; *People v. Li Wai Cheung*, 214 SCRA 504, 512-513, October 13, 1992; *People v. Abelita*, 210 SCRA 497, 502, June 26, 1992; *People v. Carpio*, 207 SCRA 569, 575, March 25, 1992; and *People v. Atilano*, 204 SCRA 278, 283-284, November 13, 1992; and *People v. Lati*, 184 SCRA 336, 343-344, April 17, 1990.

[28] 241 SCRA 67, 74, February 1, 1995, per Bellosillo, J. See also *People v. Olivares*, 186 SCRA 536, 544-545, June 14, 1990.

[29] *People v. Lua*, 256 SCRA 539, 546, April 25, 1996; *People v. Velasco*, 252 SCRA 135, 142-143, January 23, 1996; *People v. Gireng*, 241 SCRA 11, 19, February 1, 1995; *People v. Tranca*, 235 SCRA 455, 463, August 17, 1994; *People v. Bagares*, 235 SCRA 30, 35, August 4, 1994; *People v. De los Reyes*, 229 SCRA 439, 449 January 21, 1994; *People v. Sibug*, 229 SCRA 489, 499, January 24, 1994; and *People v. Rualo*, 152 SCRA 635, 639, July 31, 1987.

[30] Section 3, Rule 131, Rules of Court.

[31] RTC Decision, p. 5; rollo, p. 30.

[32] *Ibid.*

[33] *ibid.*

[34] Appellant's Brief, p. 15; rollo, p. 89.

[35] Exhibit "14"; records, pp. 329-330.

[36] Exhibit "17"; records, p. 325.

[37] Appellant's Brief, p. 4; rollo, p. 78.

[38] *People v. Fortich*, 281 SCRA 600, November 13, 1997; *Philippine Home Assurance Corporation v. Court of Appeals*, 257 SCRA 468, 479-480; *People v. Cartuano Jr.*, 255 SCRA 403, 427, citing *People v. Nguyen Dinh Nhan*, 200 SCRA 292, 297 (1991).

[39] *People v. Parungao*, 265 SCRA 140, 147-148, November 28, 1996; *People v. Villaviray*, 262 SCRA 13, 20, September 18, 1996; *People v. Melosantos*, 245 SCRA 569, 576, July 3, 1995; *Baguio v. Court of Appeals*, 226 SCRA 366, September 14, 1993; *People v. Damaso*, 212 SCRA 547, August 12, 1992; and *People v. Nebreja*, 203 SCRA 45, 58, October 17, 1991.

[40] RTC Decision, p. 7; rollo, p. 22.

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