

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CHUA HO SAN @ TSAY HO SAN, ACCUSED-APPELLANT.***G.R. No. 128222. June 17, 1999*

Ponente: DAVIDE, JR., C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-128222/>**DAVIDE, JR., C.J.:**

Chua Ho San @ Tsay Ho San (hereafter CHUA) prays for his acquittal and the reversal of the judgment of 10 February 1997 of the Regional Trial Court (RTC) of San Fernando, La Union, Branch 66, finding him guilty of transporting, without appropriate legal authority, the regulated substance methamphetamine hydrochloride, in violation of Section 15,[1] Article III of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972 as further amended by R.A. No. 7659,[2] and sentencing him to "die by lethal injection." In view thereof, the judgment was brought to this Court for automatic review pursuant to Article 47 of the Revised Penal Code, as amended by Section 11 of R.A. No. 7659.

In response to reports of rampant smuggling of firearms and other contraband, Jim Lagasca Cid (hereafter CID), as Chief of Police of the Bacnotan Police Station, of La Union began patrolling the Bacnotan coastline with his officers. While monitoring the coastal area of Barangay Bulala on 29 March 1995, he intercepted a radio call at around 12:45 p.m. from Barangay Captain Juan Almoite (hereafter ALMOITE) of Barangay Tammocalao requesting police assistance regarding an unfamiliar speedboat the latter had spotted. According to ALMOITE, the vessel looked different from the boats ordinarily used by fisherfolk of the area and was poised to dock at Tammocalao shores. CID and six of his men led by his Chief Investigator, SPO1 Reynoso Badua (hereafter BADUA), proceeded forthwith to Tammocalao beach and there conferred with ALMOITE. CID then observed that the speedboat ferried a lone male passenger. As it was routine for CID to deploy his men in strategic places when dealing with similar situations, he ordered his men to take up positions thirty meters from the coastline. When the speedboat landed, the male passenger alighted, and using both hands, carried what appeared a multicolored strawbag. He then walked towards the road. By this time, ALMOITE, CID and BADUA, the latter two conspicuous in their uniform and issued side-arms, became suspicious of the man as he suddenly changed direction and broke into a run upon seeing the approaching officers. BADUA, however, prevented the man from fleeing by holding on to his right arm. Although CID introduced themselves as police officers, the man appeared impassive. Speaking in English, CID then requested the man to open his bag, but he seemed not to understand. CID thus tried speaking Tagalog, then Ilocano, but still to no avail. CID then resorted to what he termed "sign language;" he motioned with his hands for the man to open the bag. This time, the man apparently understood and acceded to the request. A search of the bag yielded several transparent plastic packets containing yellowish crystalline substances. CID then gestured to the man to close the bag, which he did. As CID wished to proceed to the police station, he signaled the man to follow, but the latter did not to comprehend. Hence, CID placed his arm around the shoulders of the man and escorted the latter to the police headquarters.

At the police station, CID surmised, after having observed the facial features of the man, that he was probably Taiwanese. CID then "recited and informed the man of his constitutional rights" to remain silent, to have the

assistance of a counsel, etc. Eliciting no response from the man, CID ordered his men to find a resident of the area who spoke Chinese to act as an interpreter. In the meantime, BADUA opened the bag and counted twenty-nine (29) plastic packets containing yellowish crystalline substances which he and CID suspected was shabu. The interpreter, Mr. Go Ping Guan, finally arrived, through whom the man was "apprised of his constitutional rights." The police authorities were satisfied that the man and the interpreter perfectly understood each other despite their uncertainty as to what language was spoken. But when the policemen asked the man several questions, he retreated to his obstinate reticence and merely showed his I.D. with the name Chua Ho San printed thereon. CHUA's bag and its contents were sent to the PNP Crime Laboratory at Camp Diego Silang, Carlatan, San Fernando, La Union for laboratory examination. In the meantime, CHUA was detained at the Bacnotan Police Station.

Later that same day, Police Chief Inspector and Forensic Chemist Theresa Ann Bugayong Cid of the Philippine National Police, Region I, received a letter request<sup>[3]</sup> from CID - incidentally her husband - to conduct a laboratory examination of twenty-nine (29) plastic packets placed inside a multicolored strawbag. In her Chemistry Report No. D-025-95,<sup>[4]</sup> she stated that her qualitative examination established the contents of the plastic packets, weighing 28.7 kilos, to be positive of methamphetamine hydrochloride or shabu, a regulated drug.

CHUA was initially charged with illegal possession of methamphetamine hydrochloride before the RTC which docketed the case as Criminal Case No. 4037. However, pursuant to the recommendation of the Office of the Provincial Prosecutor of San Fernando, La Union, that the facts of the case could support an indictment for illegal transport of a regulated drug, the information was subsequently amended to allege that CHUA "willfully, unlawfully and feloniously transpor(ted) 28.7 kilos of [m]ethamphetamine [h]ydrochloride (shabu) without the necessary permit or authority to transport the same" in violation of Section 15, Article III of R.A. 6425 as amended by R.A. 7659.

At his arraignment on 31 July 1995, CHUA entered a plea of not guilty. The RTC was satisfied that CHUA understood the amended information read to him in Fukien by the Fukien-speaking interpreter, Thelma Sales Go.

Thereafter, the RTC exerted all efforts to obtain the services of a Taiwanese Interpreter through the auspices of the Department of Foreign Affairs. However, it was only after directing the request to the Taipei Economic and Cultural Office in the Philippines that interpreters were assigned to CHUA.

Trial finally ensued. The State presented evidence tending to establish the above narration of facts which were culled chiefly from the testimony of CID, its first witness, and whose testimony, in turn, was substantially corroborated by witnesses BADUA and ALMOITE.

Expert witness Theresa Ann Cid, confirmed the entries of her chemistry report in that the contents of the 29 plastic packets weighing 28.7 kilos sent to her for chemical analysis were pure, unadulterated methamphetamine hydrochloride or shabu. She also explained that they were unwashed, hence they appeared yellowish.

For the defense, CHUA testified in his own behalf through interpreter Steven Yu. He disclosed that he hails from Taiwan and was employed in a shipbuilding and repairing company. On 21 March 1995, he was instructed by his employer Cho Chu Rong (hereafter RONG) to board the latter's 35-tonner ship which would embark for Nan Au Port, Mainland China where they would buy fish. Upon arrival at their destination, RONG left the ship, came back without the fish, but with two bags, the contents of which he never divulged to CHUA. RONG then showed to CHUA a document purportedly granting them authority to fish on Philippine waters. So they sailed towards the Philippines and reached Dagupan, Pangasinan on 29 March 1995. At around 10:30 a.m., they disembarked on a small speedboat with the two bags RONG brought with him from China. While sailing, RONG made several phone calls using his mobile phone. CHUA heard RONG asked the person on the other side of the line if he could

see the speedboat they were riding. Apparently, the person on shore could not see them so they cruised over the waters for about five hours more when finally, low on fuel and telephone battery, they decided to dock. CHUA anchored the boat while RONG carried the bags to shore. The tasks completed, RONG left to look for a telephone while CHUA rested and sat one and half (1 1/2) meters away from one bag. A child thereafter pointed out to him that one bag was missing much to RONG's dismay when he learned of it. When a crowd started to mill around them, the police arrived. CHUA then realized that RONG was nowhere to be found. The police immediately approached CHUA, and with nary any spoken word, only gestures and hand movements, they escorted him to the precinct where he was handcuffed and tied to a chair. Later, the police, led by an officer who CHUA guessed as the Chief of Police arrived with the motor engine of the speedboat and a bag. They presented the bag to him, opened it, inspected and weighed the contents, then proclaimed them as methamphetamine hydrochloride.

CHUA denounced the prosecution's story as a distortion of the truth. He denied he was ever favored with an interpreter or informed of his "constitutional rights," particularly of his right to counsel. Consequently, his arrest was tainted with illegality and the methamphetamine hydrochloride found in the bag should have been regarded inadmissible as evidence. He also maintained that CID never graced the occasion of his setting foot for the first time at Tammocalao beach. BADUA certainly never prevented him from running away, as such thought failed to make an impression in his mind. Most significantly, he denied ownership and knowledge of the contents of the bag, emphasizing that RONG alone exercised dominion over the same.

Elmer Parong, (hereafter PARONG) a Sangguniang Bayan member, recalled that on the date in question, he arrived at the beach with the police. He saw CHUA standing with a bag beside him. He also remembered hearing from the people congregating at the beach that CHUA arrived with a companion and a certain policeman Anneb had chased the latter's car. He additionally claimed that when the crowd became unruly, the police decided to bring CHUA to police headquarters. There, the mayor took charge of the situation -- he opened CHUA's bag with the assistance of the police, he called for a forensic chemist surnamed CID to take a sample of the contents of the bag, and he ordered his officials to find an interpreter. Throughout the proceedings, photographers were busy taking pictures to document the event.

Last to testify was Arsenio CRAIG, a farmer and resident of Tammocalao who narrated that he was standing with CHUA on the beach when two men and a lady arrived. They were about to get a bag situated near CHUA when they detected the arrival of the local police. They quickly disappeared. CRAIG then noticed ALMOITE and PARONG at the beach but not CID.

In a decision promulgated on 10 February 1997, the RTC found that the prosecution successfully discharged its burden of proving that CHUA transported 28.7 kilos of methamphetamine hydrochloride without legal authority to do so. Invoking *People v. Tagliben*[5] as authority, the RTC characterized the search as incidental to a valid in flagrante delicto arrest, hence it allowed the admission of the methamphetamine hydrochloride as corpus delicti. The RTC also noted the futility of informing CHUA of his constitutional rights to remain silent, and to have competent and independent counsel preferably of his own choice, considering the language barrier and the observation that such irregularity was "rectified when accused was duly arraigned and ... (afterwards) participated in the trial of this case." The RTC then disregarded the inconsistencies and contradictions in the testimonies of the prosecution witnesses as these referred to minor details which did not impair the credibility of the witnesses or tarnish the credence conferred on the testimonies thus delivered.

The RTC also believed that CHUA conspired not only with his alleged employer RONG and the Captain of the 35-tonner vessel in the illegal trade of prohibited drugs on Philippine shores, but with several other members of an organized syndicate bent on perpetrating said illicit traffic. Such predilection was plainly evident in the dispositive portion, to wit:

WHEREFORE, and in view of all the foregoing, as proven and established by convincing and satisfactory evidence that the accused had conspired and acted in concert with one Cho Chu Rong, not to mention Chen Ho Fa, the Skipper of the 35-tonner ship they used in coming to the Country from China and Taiwan, this Court finds the accused Chua Ho San @ Tsay Ho San guilty beyond reasonable doubt of the offense of Violation of Sec. 15, Art. III of R.A. No. 6425, as amended by R.A. No. 7659 as charged in the Information, and considering the provisions of Sec. 20 of R.A. No. 7659 that the maximum penalty shall be imposed if the quantity sold/possessed/transported is '200 grams or more' in the case of Shabu, and considering, further that the quantity involved in this case is 28.7 kilograms which is far beyond the weight ceiling specified in said Act, coupled with the findings of conspiracy or that accused is a member of an organized syndicated crime group, this Court, having no other recourse but to impose the maximum penalty to accused, this Court hereby sentences the said accused Chua Ho San @ Tsay Ho San to die by lethal injection; to pay a fine of Ten Million Pesos (P10,000,000.00); and to pay the costs.

The Court hereby orders Director Ricareido [sic] Sarmiento of the Philippine National Police to immediately form an investigating Committee to be composed by [sic] men of unimpeachable integrity, who will conduct an exhaustive investigation regarding this case to determine whether there was negligence or conspiracy in the escape of Cho Chu Rong and the two (2) or three (3) persons who approached the accused in the seashore of Tammocalao, Bacnotan, La Union, and attempted to take the remaining bag from accused, as well as the whereabouts of the other bag; and to furnish this Court a copy of the report/result of the said investigation in order to show compliance herewith sixty (60) days from receipt hereof.

The confiscated 28.7 kilograms of Methamphetamine Hydrochloride or Shabu is ordered turned over immediately to the Dangerous Drugs Board for destruction in accordance with the law.

The fiberglass boat with its motor engine is hereby ordered confiscated in favor of the government and to be turned over to the Philippine National Police, La Union Command, for use in their Bantay-Dagat operations against all illegal seaborne activities.

SO ORDERED.[6]

Before this Court, CHUA posits that the RTC erred in (1) admitting as competent evidence the 29 plastic packets of methamphetamine hydrochloride since they were indubitably "forbidden fruits;" (2) granting weight and credence to the testimonies of prosecution witnesses despite glaring inconsistencies on material points; and in (3) appreciating conspiracy between him and an organized syndicate in the illicit commerce of prohibited drugs since this was not alleged in the information.

The Solicitor General traverses CHUA's contentions by asserting that: (1) the search was licitly conducted despite the absence of search and seizure warrants as circumstances immediately preceding to and contemporaneous with the search necessitated and validated the police action; and (2) that there was an effective and valid waiver of CHUA's right against unreasonable searches and seizures since he consented to the search.

We reverse the RTC.

Enshrined in the Constitution is the inviolable right to privacy of home and person. It explicitly ordains that people have the right to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose.[7] Inseparable, and not merely corollary or incidental to said right and equally hallowed in and by the Constitution, is the exclusionary principle which decrees that any evidence obtained in violation of said right is inadmissible for any purpose in any proceeding.[8]

The Constitutional proscription against unreasonable searches and seizures does not, of course, forestall reasonable searches and seizure. What constitutes a reasonable or even an unreasonable search in any particular case is purely a judicial question, determinable from a consideration of the circumstances involved.[9] Verily, the

rule is, the Constitution bars State intrusions to a person's body, personal effects or residence except if conducted by virtue of a valid search warrant issued in compliance with the procedure outlined in the Constitution and reiterated in the Rules of Court; "otherwise such search and seizure become 'unreasonable' within the meaning of the aforementioned constitutional provision." [10] This interdiction against warrantless searches and seizures, however, is not absolute and such warrantless searches and seizures have long been deemed permissible by jurisprudence [11] in instances of (1) search of moving vehicles, (2) seizure in plain view, (3) customs searches, (4) waiver or consent searches, (5) stop and frisk situations (Terry search), [12] and (6) search incidental to a lawful arrest. The last includes a valid warrantless search and seizure pursuant to an equally valid warrantless arrest, for, while as a rule, an arrest is considered legitimate if effected with a valid warrant of arrest, the Rules of Court recognize permissible warrantless arrests, to wit: (1) arrests in flagrante delicto, (2) arrests effected in hot pursuit, and (3) arrests of escaped prisoners. [13]

This Court is therefore tasked to determine whether the warrantless arrest, search and seizure conducted under the facts of the case at bar constitute a valid exemption from the warrant requirement. Expectedly and quite understandably, the prosecution and the defense painted extremely divergent versions of the incident. But this Court is certain that CHUA was arrested and his bag searched without the benefit of a warrant.

In cases of in flagrante delicto arrests, a peace officer or a private person may without a warrant, arrest a person, when, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense. The arresting officer, therefore, must have personal knowledge of such fact [14] or as recent case law [15] adverts to, personal knowledge of facts or circumstances convincingly indicative or constitutive of probable cause. The term probable cause had been understood to mean a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man's belief that the person accused is guilty of the offense with which he is charged. [16] Specifically with respect to arrests, it is such facts and circumstances which would lead a reasonably discreet and prudent man to believe that an offense has been committed by the person sought to be arrested. [17] In *People v. Montilla*, [18] the Court acknowledged that "the evidentiary measure for the propriety of filing criminal charges, and correlatively, for effecting warrantless arrest, has been reduced and liberalized." Noting that the previous statutory and jurisprudential evidentiary standard was "prima facie evidence" and that it had been dubiously equated with probable cause, the Court explained:

[F]elicitously, those problems and confusing concepts (referring to prima facie evidence and probable cause) were clarified and set aright, at least on the issue under discussion, by the 1985 amendment of the Rules of Court which provides in Rule 112 thereof that the quantum of evidence required in preliminary investigation is such evidence as suffices to 'engender as well founded belief' as to the fact of the commission of the crime and the respondent's probable guilt thereof. It has the same meaning as the related phraseology used in other parts of the same Rule, that is, that the investigating fiscal 'finds cause to hold the respondent for trial,' or where 'a probable cause exists.' It should, therefore, be in that sense, wherein the right to effect a warrantless arrest should be considered as legally authorized." (emphasis supplied) [19]

Guided by these principles, this Court finds that there are no facts on record reasonably suggestive or demonstrative of CHUA's participation in an ongoing criminal enterprise that could have spurred police officers from conducting the obtrusive search. The RTC never took the pains of pointing to such facts, but predicated mainly its decision on the finding that "accused was caught red-handed carrying the bagful of [s]habu when apprehended." In short, there is no probable cause. At least in *People v. Tangliben*, the Court agreed with the lower court's finding that compelling reasons (e.g., accused was acting suspiciously, on the spot identification by an informant that accused was transporting prohibitive drug, and the urgency of the situation) constitutive of probable cause impelled police officers from effecting an in flagrante delicto arrest. In the case at bar, the Solicitor General proposes that the following details are suggestive of probable cause -- persistent reports of

rampant smuggling of firearm and other contraband articles, CHUA's watercraft differing in appearance from the usual fishing boats that commonly cruise over the Bacnotan seas, CHUA's illegal entry into the Philippines (he lacked the necessary travel documents or visa), CHUA's suspicious behavior, i.e. he attempted to flee when he saw the police authorities, and the apparent ease by which CHUA can return to and navigate his speedboat with immediate dispatch towards the high seas, beyond the reach of Philippine laws.

This Court, however, finds that these do not constitute "probable cause." None of the telltale clues, e.g., bag or package emanating the pungent odor of marijuana or other prohibited drug,[20] confidential report and/or positive identification by informers of courier(s) of prohibited drug and/or the time and place where they will transport/deliver the same,[21] suspicious demeanor or behavior[22] and suspicious bulge in the waist[23]--accepted by this Court as sufficient to justify a warrantless arrest exists in this case. There was no classified information that a foreigner would disembark at Tammocalao beach bearing prohibited drug on the date in question. CHUA was not identified as a drug courier by a police informer or agent. The fact that the vessel that ferried him to shore bore no resemblance to the fishing boats of the area did not automatically mark him as in the process of perpetrating an offense. And despite claims by CID and BADUA that CHUA attempted to flee, ALMOITE testified that the latter was merely walking and oblivious to any attempt at conversation when the officers approached him. This cast serious doubt on the truthfulness of the claim, thus:

Q How far were you when the accused put the bag on his shoulder?

A We were then very near him about three meters away from the male person carrying the bag.

Q To what direction was he facing when he put the bag on his shoulder?

A To the east direction.

Q In relation to you, where were you.

A

With the company of Sgt. Reynoso and Maj. Cid we approached the accused and when Maj. Cid went near him, he spoke in Tagalog, English and Ilocano which accused did not understand because he did not respond.

Q When Maj. Cid was talking, what was the accused doing at that time?

A

He was walking.

Q To what direction he was walking?

A He was walking to the east direction. (sic)

Q He was walking away from you or going near you?

A He was going away from us. That is why Sgt. Reynoso held the right arm of the accused.

Q Was Sgt. Badua able to hold the right arm of the accused?

A Yes sir and he stopped.[24]

True, CHUA entered Philippine territory without a visa. This was not obvious to the police. But gossamer to the officers' sense perception and view were CHUA disembarking from a speedboat, CHUA walking casually towards the road, and CHUA carrying a multicolored strawbag. These acts did not convey any impression that he illegally entered Philippine shores. Neither were these overt manifestations of an ongoing felonious activity nor of CHUA's criminal behavior as clearly established in CID's testimony, thus:

Q Was the accused committing a crime when you introduced yourselves:

A No, sir.

Q No, so there was no reason for you to approach the accused because he was not doing anything wrong?

A

No, sir, that is our objective, to approach the person and if ever or whatever assistance that we can give we will give.[25]

The search cannot therefore be denominated as incidental to an arrest. While a contemporaneous search of a person arrested may be effected to deliver dangerous weapons or proofs or implements used in the commission of the crime and which search may extend to the area within his immediate control where he might gain possession of a weapon or evidence he can destroy,[26] a valid arrest must precede the search. The process cannot be reversed.

In a search incidental to a lawful arrest, as the precedent arrest determines the validity of the incidental search, the legality of the arrest is questioned in a large majority of these cases, e.g., whether an arrest was merely used as a pretext for conducting a search. In this instance, the law requires that there be first a lawful arrest before a search can be made - the process cannot be reversed.[27]

To reiterate, the search was not incidental to an arrest. There was no warrant of arrest and the warrantless arrest did not fall under the exemptions allowed by the Rules of Court[28] as already shown. From all indications, the search was nothing but a fishing expedition. It is worth mentioning here that after introducing themselves, the police officers immediately inquired about the contents of the bag. What else could have impelled the officers from displaying such inordinate interest in the bag but to ferret out evidence and discover if a felony had indeed been committed by CHUA -- in effect to "retroactively establish probable cause and validate an illegal search and seizure."

The State then attempted to persuade this Court that there was a consented search, a legitimate waiver of the constitutional guarantee against obtrusive searches. It is fundamental, however, that to constitute a waiver, it must first appear that the right exists; secondly, that the person involved had knowledge, actual or constructive, of the existence of such a right; and lastly, that said person had an actual intention to relinquish the right.[29] CHUA never exhibited that he knew, actually or constructively of his right against unreasonable searches or that he intentionally conceded the same. This can be inferred from the manner by which the search was performed, thus:

Q Together with your Chief Investigator, what was the first thing that you did when you approached him (CHUA)?

A We introduced ourselves as police officers, sir.

Q Okey, in the first place why did you introduce yourselves?

A That is normal practice in our part, sir.

\* \* \*

Q If it is possible . Okey (sic) now, after introducing yourselves what did you do?

A He did not answer me and he did not utter any word,

Q When he did not utter any word. What else did he do?

A I asked again a question that if he can open his bag sir.

Q And did he understand your question when you requested him to open his bag?

A No, sir, there is no answer.

Q No answer?

A Yes, sir, no answer.

Q And when there was no answer what did you do next?

A I used sign language sir.

Q Will you demonstrate to this Honorable Court how you demonstrated that sign language of opening the bag mr. (sic) witness?

A I pointed to the zipper of the bag and then made an action like this sir.

\* \* \*

SHERIFF:

The witness demonstrating (sic) by pointing to the straw bag and then manifesting a sign to open the zipper of the straw bag moving his right hand from left to right or from the opening to the end of the zipper.

COURT: From the start of the zipper where you open it up to the end of the zipper.

Witness: Yes, sir, and then I made a motion like this.

(The witness repeating the motion described on record.)

COURT: Did you open that personally?

WITNESS:

A No, your honor.

Q Now, mr. (sic) witness, why did you request the accused to open the bag?

A Because it is our duty also to inspect his belongings sir.

Q Why, why was it - no, I reform my question your honor. Is it normal procedure for you to examine anybody or to request anybody to open his bag?

A The fact that he was a foreigner, sir, it is also our duty to inspect the baggage, it is our routine duty of a police (sic), sir.

Q Is that the normal duty of a police officer to request a person to open his bag?

A yes, sir.

Q Okey, (sic) you did not ask the accused, mr. (sic) witness, to open his bag?

A No, sir.

Q But you simply requested him to open the nag?

A Yes, sir.[30]

CHUA obviously failed to understand the events that overran and overwhelmed him. The police officers already introduced themselves to CHUA in three languages, but he remained completely deadpan. The police hence concluded that CHUA failed to comprehend the three languages. When CHUA failed to respond again to the police's request to open the bag, they resorted to what they called "sign language." They claimed that CHUA finally understood their hand motions and gestures. This Court disagrees. If CHUA could not understand what was orally articulated to him, how could he understand the police's "sign language." More importantly, it cannot logically be inferred from his alleged cognizance of the "sign language" that he deliberately, intelligently, and consciously waived his right against such an intrusive search. This Court is not unmindful of cases upholding the validity of consented warrantless searches and seizure. But in these cases, the police officers' request to search personnel effects was orally articulated to the accused and in such language that left no room for doubt that the latter fully understood what was requested. In some instances, the accused even verbally replied to the request

demonstrating that he also understood the nature and consequences of such request.[31]

It was eventually discovered that the bag contained the regulated substance. But this is a trifling matter. If evidence obtained during an illegal search even if tending to confirm or actually confirming initial information or suspicion of felonious activity is absolutely considered inadmissible for any purpose in any proceeding, the same being the fruit of a poisonous tree[32] how much more of "forbidden fruits" which did not confirm any initial suspicion of criminal enterprise as in this case - because the police admitted that they never harbored any initial suspicion. Casting aside the regulated substance as evidence, the remaining evidence on record are insufficient, feeble and ineffectual to sustain CHUA's conviction.

Indeed, the likelihood of CHUA having actually transported methamphetamine hydrochloride cannot be quickly dispelled. But the constitutional guarantee against unreasonable searches and seizures cannot be so carelessly disregarded as overzealous police officers are sometimes wont to do. Fealty to the Constitution and the rights it guarantees should be paramount in their minds, otherwise their good intentions will remain as such simply because they have blundered. "There are those who say that... 'the criminal is to go free because the constable has blundered.'... In some cases this will undoubtedly be the result. But... 'there is another consideration -- the imperative of judicial integrity.'... The criminal goes free, if he must, but it is the law that sets him free. Nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence." [33]

As to the averred glaring inconsistencies in the testimonies of the prosecution witnesses, this Court considers them trivial as they refer to insignificant details which will not affect the outcome of the case. On a passing note, this Court calls the attention of the trial court regarding its erroneous appreciation of conspiracy. This aggravating circumstance is without question unsupported by the records. Conspiracy was not included in the indictment nor raised in the pleadings or proceedings of the trial court. It is also fundamental that conspiracy must be proven just like any other criminal accusation, that is, independently and beyond reasonable doubt.[34]

WHEREFORE, for all the foregoing, the decision of the Regional Trial Court, Branch 66, San Fernando, La Union in Criminal Case No. 4037 is hereby REVERSED and SET ASIDE and accused-appellant CHUA HO SAN @ TSAY HO SAN is hereby ACQUITTED of the crime charged, the evidence not being sufficient to establish his guilt beyond reasonable doubt.

Costs de oficio.

### **SO ORDERED.**

Romero, Bellosillo, Melo, Vitug, Kapunan, Mendoza, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.

Puno, J., no part. On official leave.

Panganiban, J., on leave.

---

[1] Sec. 15. Sale, Administration, Dispensation, Delivery, Transportation and Distribution of Regulated Drugs. - The penalty of reclusion perpetua to death and a fine ranging from five hundred pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, distribute, deliver, transport or distribute any regulated drug. . .

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

[3] Exhibit "C."

[4] Exhibit "F." It was completed on the same day of the arrest and search.

**[5] 184 SCRA 220 [1990].**

[6] Rollo, 127. Per Judge Adolfo F. Alacar.

[7] Article III, Section 2, Constitution. This constitutional guarantee covers the right against unlawful arrests and other forms of restraint on physical liberty. See 1 Joaquin G. Bernas, S.J., *The Constitution of the Philippines*, A Commentary 85 (1st ed. 1987)[hereafter 1 BERNAS].

[8] Art. III, Sec. 3, Constitution.

[9] See *Valmonte v. De Villa*, 178 SCRA 211, 216 [1989].

[10] See *People v. Barros*, 231 SCRA 557, 565 [1994].

[11] See *Carroll v. United States*, 267 US 132 [1925]; *Harris v. United States*, 390 US 234 [1968]; *Chimel v. California*, 395 US 752 [1969]; *Coolidge v. New Hampshire*, 403 US 443 [1971]; *Moreno v. Ago Chi*, 12 Phil. 439 [1909]; *People v. Veloso*, 48 Phil. 168 [1925]; *People v. Kagui Malasagui*, 63 Phil. 221 [1963]; *Papa v. Mago*, 22 SCRA 857 [1968]; See also the recent cases of *People v. Encinada*, 280 SCRA 72, [1997]; *People v. Lacerna*, 278 SCRA 561 [1997]; *People v. Fernandez*, 239 SCRA 174 [1994].

[12] *Terry v. Ohio*, 20 L Ed 2d, 896 adopted in *Posadas v. Court of Appeals*, 188 SCRA 288 [1990]; See also *People v. Ramos*, 222 SCRA 557 [1993].

[13] Rule 113, Sec. 5 provides: Sec. 5. -- Arrest, without a warrant; when lawful -- A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another....

[14] See *People v. Burgos*, 144 SCRA 1 [1986].

[15] *People v. Encinada*, supra note 11 at 85; *People v. Montilla*, 285 SCRA 703 [1998] *People v. Claudio*, 160 SCRA 646 [1988]; *People v. Maspil, Jr.*, 188 SCRA 751 [1988]; *People v. Lo Ho Wing*, 193 SCRA 122 [1991]; *People v. Tangliben*, supra note 5; *Posadas v. Court of Appeals*, supra note 12; *People v. Malmstedt*, 198 SCRA 401 [1991].

[16] *People v. Encinada*, supra note 11 at 85-86.

[17] 1 BERNAS 87. As applied to searches, probable cause refers to the existence of facts and circumstances which could lead a reasonable discreet and prudent man to believe that an offense has been committed and that the items, articles or objects sought in connection with said offense or subject to seizure and destruction by law is in the place to be searched.

[18]Supra note 15.

[19]People v. Montilla, supra note 15 at 720-721.

[20] People v. Claudio, supra note 15; See also People v. Lacerna, supra note 11.

[21]People v. Maspil, Jr., supra note 15; People v. Lo Ho Wing, supra note 15.

[22] People v. Tangliben, supra note 5; Posadas v. Court of Appeals, supra note 12.

[23] People v. Malmstedt, supra note 15.

[24]TSN, 6 March 1996, 12-13.

[25]TSN, 22 February 1996, 19 -20.

[26] See Preston v. US, 11 L Ed. 2d at 780-781; 376 at 367 [1964].

[27] Malacat v. Court of Appeals, 283 SCRA 159, 175 [1997].

[28] See People v. Aminnudin, 163 SCRA 402, 410 [1988].

[29]See People v. Burgos, supra note 14 at 16 [1986] citing Pasion Vda. de Garcia v. Locsin, 65 Phil 689 [1938].

[30] TSN, 22 February 1996, pp. 19-22.

[31]In People v. Montilla, supra note 15 at 722, the accused was asked about the contents of the bag and he replied that they contained personal effects. The officers then asked him to open the traveling bag and he voluntarily submitted to the search. In People v. Lacerna, supra note 11 at 575-576 [1997], the accused expressly gave his permission to have his luggage searched. . In People v. Omaweng, 213 SCRA 462, 470 [1992] the accused replied to the police's query for a search with "[y]ou can see the contents of the bag but those are only clothings." In People v. Ramos, supra note 12, the testimony of police officers that accused "voluntarily allowed himself to be frisked and that he gave the gun to the officer" remained unrebutted. In People v. Cuizon, 256 SCRA 325, 354 [1996], the Court validated the consented warrantless search against accused-appellant Pua who gave written permission to the search of his luggage, taking careful note that Pua understood both English and Tagalog and that he had resided in Vito Cruz, Manila. In People v. Fernandez, supra note 11 at 83, "the accused-appellant came out of the house and gave himself up to the police, the owner of the house turned over his luggage to said police authorities. With the acquiescence of accused-appellant, his suitcase was searched and it yielded the subject firearm and ammunition. He then signed and acknowledged a Receipt certifying one homemade shotgun with one (1) live ammunition and one (1) empty shell was confiscated from him. In People v. Kagui Malasugui, supra note 11, Kagui voluntarily surrendered to the police authorities a couple of bracelets belonging to the deceased victim. When asked if he had anything else to surrendered, he, in a quaking voice answered in the negative. The police then conducted a body search which he did not objected to which search resulted in the production of additional personal effects belonging to the victim. In the last two cases cited, the accused therein unequivocally consented to the search.

[32]See People v. Cuizon, supra note 31 at 339; People v. Rodriguez, 232 SCRA 498 [1994]; See also the concurring and dissenting separate opinion of Chief Justice Andres R. Narvasa in People v. Malmstedt, supra note 15 at 422.

[33] Mapp v. Ohio, 367 US 643, 659 [1961].

[34]Dans, Jr. v. People, 285 SCRA 504, 533 [1998]; See also People v. Hilario, 284 SCRA 344, 454 [1998].

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.