

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICKY UY Y CRUZ, ACCUSED-APPELLANT.

G.R. No. 129019. August 16, 2000

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

This is an appeal from the Decision,[1] dated April 24, 1997, of the Regional Trial Court of Pasay, National Capital Judicial Region, Branch 110, in Criminal Case No. 96-8899, finding the accused-appellant Ricky Uy y Cruz guilty beyond reasonable doubt of the offense of violation of Section 15, R.A. No. 6425, as amended by R.A. No. 7659, and imposing the penalty of reclusion perpetua and to pay a fine of Five Hundred Thousand Pesos.

Accused-appellant was charged with Violation of Sec. 15, Art. III, R.A. 6425, as amended by R.A. 7659, in an Information reading as follows:

That in the evening of 13 June 1996 in Pasay City and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and feloniously sell, distribute, and/or deliver 250.36 grams of Methamphetamine Hydrochloride otherwise known as “shabu”, a regulated drug without the corresponding license and/or legal authority to sell, distribute and/or deliver the aforesaid regulated drug.

CONTRARY TO LAW.[2]

The accused-appellant, assisted by his counsel de parte, when duly arraigned on July 19, 1996 entered a plea of NOT GUILTY to the crime charged in the Information.[3] Thereafter, trial ensued.

After trial, on April 24, 1997, the trial court rendered judgment convicting the accused of the offense of Violation of Section 15 of R.A. 6425, as amended by R.A. 7659. The dispositive portion of the Decision reads as follows:

WHEREFORE, judgment is hereby rendered finding the accused RICKY UY y CRUZ Guilty beyond reasonable doubt of the offense of Violation of Section 15 of RA 6425 as amended by RA 7659, and hereby imposes on him the penalty of RECLUSION PERPETUA and condemns said accused to pay a fine of Five Hundred Thousand (P500,000.00) PESOS without subsidiary imprisonment in case of insolvency and to pay the costs of suit.

The 250.36 grams of Methamphetamine Hydrochloride or “shabu” (Exhibits “B”, “B-1”, “B-2”, “B-3”, “B-4” and “B-5”) are hereby confiscated in favor of the government and the Branch Clerk of Court of this Court is hereby ordered to cause the delivery and transportation thereof to the Dangerous Drugs Board for disposition in accordance with law.

The accused shall be credited in full for the period of his detention at the City Jail during the pendency of his case provided that he agreed in writing to abide by and comply strictly with the rules and regulations of the City Jail.

SO ORDERED.[4]

The prosecution presented the following witnesses: (1) Police Inspector Ofelio Sotelo, Forensic Chemist of the PNP Crime Laboratory, (2) PO3 Emmanuel Lopez, (3) PO3 Edgar Bitadora, (4) SPO1 Juanito Lazaro, and (5) PO3 Wilfredo Lumba, the last four came from the Narcotics Command.

The facts as synthesized by the Solicitor General based on the evidence on record are as follows:

On June 13, 1996, at around 5:00 p.m., one Lino Buenaflor was arrested as a result of a buy-bust operation in Taguig, Metro Manila. When investigated, Lino Buenaflor divulged that his source of shabu is Ricky Uy, appellant herein (TSN, 8-28-96, pp. 2-5).

Thereafter, Lino Buenaflor cooperated with the arresting officers to entrap appellant. The team was composed of PO3 Bitadora, PO3 Manuel Lopez, PO3 Lumba, PO3 Anabiso, PO3 Lazaro and PO3 Labrador as the poseur buyer.

On their way, Lino Buenaflor placed a call through a cellular phone to appellant, informing the latter that he has a good buyer, hence he ordered 250 grams of shabu. Appellant instructed them to proceed to his house at 767-C F. Cruz St., Malibay, Pasay City. The team proceeded to the house of appellant on board a white Toyota Corolla owned by Lino Buenaflor and a Lite Ace as a backup vehicle. (TSN, 8-28-96, pp. 5-10)

Five minutes after arrival of the team near his house, appellant came out making a waving sign to Lino Buenaflor, then went back to his house. (TSN, 11-11-96, pp. 29-32)

Lino Buenaflor and PO3 Labrador alighted from the car and later, appellant came out from the house with a plastic bag. The three were then already facing each other. Afterwards, PO3 Labrador first extended to appellant the money and the latter extended to the former the shabu. PO3 Labrador then started scratching his head as the pre-arranged signal that the transaction was already consummated, hence, appellant was arrested. (TSN, 11-11-96, pp. 35-40)[5]

For his defense, appellant Ricky Uy testified that he was the victim of a frame-up. Appellant's testimony is summed by the trial court as follows:

On the evening of July 13, 1996, he was at home suffering from diarrhea. It was around 6:00 p.m. when Lino Buenaflor called inviting him for a disco. He, however, refused the invitation due to the said stomach ache. At around 11:00 p.m. Lino Buenaflor called again, this time being answered by the wife since he was inside the comfort room. After twenty minutes, he called again and insisted on his invitation because he is going to tell him something, and that he is already near the place.

Accused told Eddie Baybago, cousin of his wife, to open the gate as Lino Buenaflor would be arriving. Later accused heard the blowing of horns of the car of Lino Buenaflor. After 2-3 minutes, Eddie Baybago did not come back and a person entered then followed by another two persons. They asked if he is Ricky Uy. Four men came along, one of whom hit accused with a 45 cal. pistol on his back.

Accused asked them what were they doing inside the house and actually one of them entered a part of the house carrying a tissue box paper. Then they proceeded to the kitchen, and the one carrying the tissue box, opened the cabinet below the sink and brought out something and they said "this is the thing." Accused, however said, he does not own it, but was hit instead.

Several men entered the house and some of them went upstairs and there was already a commotion inside the house. Later, pictures were taken from the accused with the alleged "shabu" and later accused was brought out of

the house and proceeded to Camp Crame for investigation.[6]

Accused-appellant appeals his conviction to this Court, raising the following errors:

I

THE TRIAL COURT ERRED IN GIVING UNDUE WEIGHT AND CREDENCE TO THE TESTIMONIES OF THE POLICE OFFICERS, DESPITE THE FACT THAT THEIR TESTIMONY WERE NOT ONLY DOUBTFUL, UNRELIABLE AND UNWORTHY OF CREDENCE, BUT WERE FULL OF INHERENT CONTRADICTIONS AND IMPROBABILITIES, WHILE DISREGARDING THE STRONG DEFENSE OF THE ACCUSED THAT THE ALLEGED BUY-BUST OPERATION WAS ACTUALLY A FRAME-UP.

II

THE TRIAL COURT ERRED IN HOLDING THAT THE ELEMENTS NECESSARY FOR THE CHARGE OF ILLEGAL SALE OF SHABU WERE DULY SUBSTANTIATED.

III

THE TRIAL COURT ERRED IN FINDING THAT THE ACCUSED WAS POSITIVELY IDENTIFIED BY A PROSECUTION WITNESS AS THE SELLER OF THE SHABU TO A POSEUR-BUYER, DESPITE THE FACT THAT THE POSEUR-BUYER DID NOT TESTIFY IN COURT.

IV

THE TRIAL COURT ERRED IN NOT FINDING THAT THE BARANGAY OFFICIAL WAS PRESENT ONLY AFTER THE COMMOTION INSIDE THE HOUSE HAD BEEN FINISHED AND CONSEQUENTLY AFTER THE FRAME-UP HAD ALREADY BEEN COMMITTED.

V

THE TRIAL COURT ERRED IN NOT HOLDING THAT THE FAILURE OF THE BARANGAY OFFICIAL TO TESTIFY IN COURT WAS DUE TO HIS REFUSAL TO TESTIFY FOR FEAR OF THREATS FROM THE POLICE.

VI

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE REFUSAL OF THE WIFE TO ACCOMPANY HER HUSBAND TO GO TO CAMP CRAME AFTER HIS ARREST, DESPITE THE FACT THAT THE WIFE, TOGETHER WITH HER COUSIN, EDDIE BAYBAGO, AND OTHER PERSONS, FOLLOWED THE GROUP TO CAMP CRAME BUT THEY WERE DELAYED IN REACHING THE CAMP BECAUSE THEIR JEEP DEVELOPED ENGINE TROUBLE.

VII

THE TRIAL COURT ERRED IN NOT BELIEVING THE CLAIM OF THE ACCUSED THAT THE POLICE OFFICERS BARGED INTO THEIR HOUSE, PLANTED EVIDENCE AND TOOK AWAY THEIR JEWELRY BY TAKING JUDICIAL COGNIZANCE OF ALLEGED PERNICIOUS PRACTICE OF THOSE CAUGHT IN FLAGRANTE DELICTO OF ASCRIBING TO POLICE OFFICES WHO ARREST THEM CRIMINAL AND/OR IRREGULAR ACTS TO EVADE CRIMINAL CULPABILITY.

VIII

THE TRIAL COURT ERRED IN HOLDING THAT THERE WAS NOT EARNEST EFFORT ON THE PART OF THE WIFE TO PURSUE HER COMPLAINT WITH THE OFFICE OF THE NARCOTICS COMMAND OR PURSUED HER COMPLAINT FOR THE RECOVERY OF THE ARTICLES ILLEGALLY TAKEN FROM THEM, OVERLOOKING THE FACT THAT THE SAID PERSONAL ARTICLES WERE TAKEN FROM THEM THROUGH ILLEGAL AND UNLAWFUL SEARCH AND SEIZURE AND WITHOUT ANY SEARCH WARRANT IN VIOLATION OF THEIR CONSTITUTIONAL RIGHTS, AND MOREOVER, THEIR FAILURE TO MAKE CONTINUOUS FOLLOW-UP OF THE COMPLAINT WAS NOT THROUGH THE FAULT OF THE ACCUSED'S WIFE BUT DUE TO THREATS ON HER LIFE.

IX

THE TRIAL COURT ERRED IN IMPUTING ALLEGED INCONSISTENCIES IN THE TESTIMONIES OF THE ACCUSED AND HIS WIFE REGARDING THE PRESENCE OF THE BARANGAY OFFICIAL, DESPITE THE FACT THAT SUCH ALLEGED INCONSISTENCIES DO NOT IMPAIR THEIR CREDIBILITY AS THEY WERE SPEAKING OUT THE TRUTH IN THEIR TESTIMONY.

X

THE TRIAL COURT ERRED IN NOT GIVING CREDENCE AND WEIGHT TO THE TESTIMONY OF DEFENSE WITNESS EDDIE BAYBAGO AND IN HOLDING THAT HIS TESTIMONY REGARDING THE OCCURRENCE INSIDE THE HOUSE WAS HEARSAY.

XI

THE TRIAL COURT ERRED IN HOLDING THAT THE ACCUSED'S DEFENSE OF FRAME-UP, LIKE ALIBI, IS A WEAK DEFENSE, DESPITE AMPLE EVIDENCE PRESENTED TO SUPPORT THE SAID DEFENSE.

XII

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED OF THE CRIME CHARGED, DESPITE THE INSUFFICIENCY OF PROSECUTION EVIDENCE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[7]

At the core of the assigned errors is the issue of whether or not the prosecution was able to prove beyond reasonable doubt the guilt of the accused-appellant.

We rule in the affirmative.

Accused-appellant asserts that the prosecution failed to establish his guilt beyond reasonable doubt. He posits that the prosecution could not have proved an essential element of the crime which is the identity of buyer and seller due to their failure to present the poseur buyer in open court. He maintains that he was the victim of a frame-up and that what really happened on the night of the alleged buy-bust operations was that the police officers barged into their house, planted evidence and stole valuable property. Thus, the trial court erred in not believing his version of the facts, which is supported by the testimony of his wife and Eddie Baybago, as against the inconsistent testimonies of the prosecution witnesses.

It is axiomatic that the accused is accorded in his favor the disputable presumption of innocence.[8] It is the burden of the prosecution to overcome such presumption of innocence by presenting quantum of evidence therein required.[9] Corollarily, the prosecution must rest on its own merits and must not rely on the weakness of the

defense.[10] In fact, if the prosecution fails to meet the required quantum of evidence, the defense may logically not even present evidence on its behalf. In which case, the presumption of innocence shall prevail and, hence, the accused shall be acquitted. However, once the presumption of innocence is overcome, the defense bears the burden of evidence to show reasonable doubt as to the guilt of the accused. By reasonable doubt is not meant that which of the possibility may arise, but it is that doubt engendered by an investigation of the whole proof and an inability after such investigation, to let the mind rest each upon the certainty of guilty. Absolute certainty of guilt is not demanded by the law to convict a criminal charge, but moral certainty is required as to every proposition of proof requisite to constitute the offense.[11]

Existing jurisprudence has set the requisites for the prosecution of a dangerous drugs case. The elements necessary in every prosecution for the illegal sale of shabu are: (1) identity of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment therefor.[12]

The actual sale of the shabu, which is the corpus delicti in the crime of illegal distribution and sale of prohibited or regulated drugs, has been sufficiently established by the testimonies of prosecution witnesses.

PO3 Edgar Bitadora, who was part of the team which conducted the buy-bust operation, testified that he saw the exchange of the marked money and the bag between accused-appellant Ricky Uy and poseur-buyer Labrador.[13]

The records are clear on this point, to wit:

FISCAL VIBANDOR

Q Now after you saw Lino Buenaflor, Ricky Uy and Labrador talking or conversing with each other what else did you observe?

PO3 EDGAR BITADORA

A Ricky Uy left and entered his house sir.

Q. And after Ricky Uy left, what transpired next?

A. He came out with something sir.

Q. Alright, when Ricky Uy returned with something where was Labrador then?

A. He was already outside the car, sir.[14]

x x x

Q. Alright, when Labrador alighted from the car what else did you observed (sic).

A. I saw there was an exchange of something sir. Well I guess something inside a "supot" sir, and marked money.[15]

ATTY. GATPATAN:

The witness said "pera" siguro na marked money.

FISCAL VIBANDOR

Q. And after the exchanges what happened next?

A. Labrador made a signal by scratching his head.

Q. Will you tell us the significance of the sign by scratching his head?

A. Because before we left the office it was agreed if he makes a signal by scratching his head the transaction has been consummated.

Q. And when the transaction is consummated what will happen Mr. Witness?

A. We can already arrest the person, sir.[16]

Thus, we agree with the trial court when it declared that “the (trial) court is satisfied from a careful scrutiny and evaluation of the evidence for the prosecution that the elements necessary for the charge of illegal sale of “shabu” (violation of Sec. 15, R.A. 6425 as amended by R.A. 7659) are duly substantiated x x x.”[17]

The identities of the seller and the buyer have also been established. Accused Ricky Uy was positively identified in open court by PO3 Edgar Bitadora as the seller of the 250.36 grams of shabu to PO3 Nelson Labrador who acted as the poseur-buyer in the buy-bust operation on June 14, 1996. The records show:

FISCAL VIBANDOR

Q. Now, Mr. Witness, this person Ricky Uy, if you will see him, will you be able to identify him?

PO3 EDGAR BITADORA

A. Yes, sir.

Q. Will you look around the courtroom and see for yourself if Ricky Uy is in the courtroom.

A. Witness approaching the gallery and tap the shoulder of a man in the courtroom who responded to the name when asked as Ricky Uy.

Q. Now, Mr. Witness, did you come to know whether these was really shabu confiscated from the accused Ricky Uy?

A. Well, I saw it sir.

Q. If you will see that shabu, will you be able to identify?

A. Yes, sir.

Q. Now, there is shabu here which was already previously marked as Exhibit "B" containing five (5) plastic packs marked as Exhibit "B-1" to "B-5", tell us the relation of these exhibits to the one you saw.

A. That came from Ricky Uy, sir.[18]

Accused-appellant, however, argues that the failure of PO3 Nelson Labrador to testify on his allegedly having purchased “shabu” from the accused during the incident in question was fatal to the prosecution’s case.

We disagree.

We have previously declared that what can be fatal is the non-presentation of the poseur-buyer if there is no other eyewitness to the illicit transaction.[19] In the case at bar, the other members of the team that conducted the buy-bust operation testified in court. They declared that they witnessed the consummation of the illegal sale perpetrated by the accused-appellant. Hence, their positive identification of the accused-appellant rendered the non-presentation of the poseur-buyer non-fatal to the case of the prosecution. We, likewise, note that the absence of the poseur-buyer was sufficiently explained, as PO3 Labrador was at the time of the trial paralyzed and confined in a hospital due to gunshot wounds received.[20]

The accused-appellant also points to inherent contradictions and improbabilities in the prosecution witnesses’ testimonies. However, the only inconsistency he cites is the number of cars used in the operation. Accused-appellant makes much of the fact that, on the one hand, PO3 Edgar Bitadora testified in direct examination that only two vehicles were used in the alleged buy-bust operation. But, on cross-examination, he changed his testimony and stated that there were actually three vehicles instead of only two vehicles.[21] On the other hand, PO3 Wilfredo Lumba testified that five vehicles that were used when they conducted the alleged buy-bust operation.[22]

This contention is without merit.

The crux of this case is the alleged illegal sale of “shabu” by the accused-appellant. Whether two or three cars were used in the buy-bust operation is immaterial and does not impair the credibility of the prosecution witnesses.

Besides, we have previously held that discrepancies and inconsistencies in the testimonies of witnesses referring to minor details, and not in actuality touching upon the central fact of the crime, do not impair their credibility.[23] These alleged inconsistencies and contradictions are only with respect to minor details and are so inconsequential that they do not in any way affect the credibility of the witnesses nor detract from the established fact of illegal sale of shabu by appellant.[24]

Testimonies of witnesses need only corroborate each other on important and relevant details concerning the principal occurrence.[25] In the case at bar, the prosecution witnesses were in chorus in pointing to the accused as the seller of the shabu to the poseur-buyer.

Accused-appellant insists that no buy-bust operation was conducted and, instead, he was a victim of a frame-up. He claims that he was falsely accused by Lino Buenaflor.[26] As a result of this accusation, the law officers carried on an illegal and unlawful search of his house and premises without a warrant of arrest, planted shabu inside the house, branded him as a seller of drugs, pretended that they caught him in flagrante delicto and even took pictures of the accused together with a barangay official and the shabu.[27]

A buy-bust operation has been considered as an effective mode of apprehending drug pushers. If carried out with due regard to constitutional and legal safeguards, a buy-bust operation deserves judicial sanction.[28] The delivery of the contraband to the poseur-buyer and the receipt by the seller of the marked money successfully consummates the buy-bust transaction between the entrapping officers and the accused.[29]

We are not unaware that in some instances law enforcers resort to the practice of planting evidence to extract information or even to harass civilian.[30] However, like alibi, frame-up is a defense that has been invariably viewed by the Court with disfavor as it can be easily concocted hence commonly used as a standard line of defense in most prosecutions arising from violations of the Dangerous Drugs Act.[31] We realize the disastrous consequences on the enforcement of law and order, not to mention the well-being of society, if the courts, solely on the basis of the policemen’s alleged rotten reputation, accept in every instance this form of defense which can be so easily fabricated. It is precisely for this reason that the legal presumption that official duty has been regularly performed exists.[32] Bare denials cannot prevail over the positive identification by the prosecution witnesses of appellant as the person who was in possession of, and who delivered the methamphetamine hydrochloride (“shabu”) to the poseur-buyer.[33] In the case at bar, the records clearly show that accused-appellant was entrapped through a buy-bust operation. The testimony of PO3 Bitadora identifying him as the seller of the illegal drugs is clear and straightforward:

FISCAL VIBANDOR

Q You stated a while ago you brought Lino to your headquarters and cooperated with your office, in what way did he cooperated with your office?

A He revealed to us his services of shabu.

Q And did your office came (sic) to know the source of shabu?

A Yes, sir.

Q Tell us?

A A certain Ricky Uy sir.[34]

Q After that what happened next?

A We formed a team we conducted a buy bust.

Q Was there any occasion this Lino Buenaflor had any conversation with Ricky Uy while at your office?

A Before we proceeded to the area Lino first called up Ricky Uy through the cellular phone.[35]

x x x

FISCAL VIBANDOR

Q Do you know the reason why Lino Buenaflor would call a certain person by the name of Ricky Uy?

A As far as I know Ricky Uy is Lino's Kumpare and he was ordering shabu.[36]

x x x

FISCAL VIBANDOR

Q Do you know how much shabu Lino Buenaflor will order from Ricky Uy?

A I overheard 250 grams sir.

Q While Lino Buenaflor was talking to Ricky Uy did you hear what they were conversing about?

A Yes, sir.

Q Tell us the exact words.

A "Pare, oorder ako ng 250 shabu may kasama akong good buyer."

Q What was the answer Mr. Witness?

A I don't know what was the answer of the person in the other line but we performed another buy-bust operations.[37]

x x x

FISCAL VIBANDOR

Q Tell us, what will be the participation of PO3 Nelson Labrador In this drug buy-bust operations?

A He will act as poseur-buyer.

x x x

FISCAL VIBANDOR

Q While you were on board the white Toyota Corolla car what happened?

A Approximately 20 meters before reaching the house of Ricky Uy, I alighted from the car, while the car proceeded to the house of Ricky Uy sir.[38]

x x x

FISCAL VIBANDOR

Q You said that the car parked near the house of Ricky Uy after it parked what happened?

A Well, I saw Ricky and Lino talking to each other sir.

COURT

Q At what distance did you see?

WITNESS

A Approximately 20 meters Your Honor.

FISCAL VIBANDOR

Q When Ricky Uy was talking to Labrador, Lino to Labrador, where was Lino then?

A Lino was still inside the car, sir.

Q What about Labrador?

A Labrador was also inside the car, sir.

Q And what about Ricky Uy?

A He was outside sir.[39]

x x x

Q And after Ricky left, what transpired next?

A He came out with something sir.

Q Alright, when Ricky Uy returned with something where was Labrado then?

WITNESS

A He was already outside the car, sir.

Q When Ricky returned you said Labrador was already outside of the car, now what(interrupted by the Court)

COURT

Q How about the driver, how about Labrador?

WITNESS

A He was just seated at the driver's seat sir.

COURT

Q How about the accused?

WITNESS

A He was inside (sic), Your Honor.

COURT

Q So it was Labrador who stepped out of the car?

WITNESS

A Yes, Your Honor.

FISCAL VIBANDOR

Q Alright, when Labrador alighted from the car what else did you observed (sic)?

WITNESS

A I saw there was an exchange of something sir.

WITNESS

A Well, I guess something inside a bag "Supot" sir, and marked money.

ATTY. GATPATAN

The witness said “pera siguro na marked money.”

FISCAL VIBANDOR

Q And after this exchanges (sic) what happened next?

WITNESS

A Labrador made a signal by scratching his head.

FISCAL VIBANDOR

Q Will you tell us the significance of the sign by scratching his head?

WITNESS

Q Because before we left the office it was agreed if he makes a signal by scratching his head the transaction has been consumated (sic).

FISCAL VIBANDOR

Q And when the transaction is consumated (sic) what will happen Mr. Witness?

WITNESS

A We can already arrest the person, sir.

FISCAL VIBANDOR

Q Alright, when Labrador made that pre-arranged signal by scratching his head what did you do?

WITNESS

A I run towards the area sir.

FISCAL VIBANDOR

Q And what about Lumba what did he do if any thing?

WITNESS

A Lumba alighted from the car while I guarded Lino.

FISCAL VIBANDOR

Q And how did you guard Lino?

WITNESS

A I went inside the car and it was then that I handcuffed Lino sir.

FISCAL VIBANDOR

Q While you were rushing to the place where Ricky Uy and Labrador was (sic) what did you observe insofar as Ricky Uy is concerned?

WITNESS

A Well, he might have learned of the operations so he attempted to run towards his house.

FISCAL VIBANDOR

Q Was he able to get inside his house?

WITNESS

A No, sir.

FISCAL VIBANDOR

Q Why?

WITNESS

A Labrador was able to grab him sir.

FISCAL VIBANDOR

Q And after Labrador grabbed him Mr. Witness, what happened next Mr. Witness?

WITNESS

A We boarded him inside the car and brought him to the headquarters.[40]

There is no evidence of any ill-motive on the part of the prosecution witnesses, PO3 Bitadora included, which would affect the credibility of their testimony. Hence, the law enforcers involved in the buy bust operation on accused-appellant are presumed to have regularly performed their duty.[41] The testimony of PO3 Bitadora shows that Ricky Uy was caught in flagrante delicto selling shabu. This testimony was corroborated in its material points by the testimonies of PO3 Emmanuel Lopez, SPO1 Juanito Lazaro and PO3 Wilfredo Lumba. This too is supported by the presentation of the 250.36 grams of shabu which the accused-appellant sold to the poseur-buyer.

In contrast, we find that accused-appellant failed to establish his defense of frame-up. The trial court in its decision has clearly pointed out the inconsistencies and improbabilities in the testimonies of the defense.[42]

The witnesses accused-appellant presented are both his relatives, namely, his wife and the latter's cousin. As regards his wife's testimony, the same is incredible. The trial court took notice of her testimony that she refused to go with her husband to the police headquarters after his arrest. Were it true that her husband was wrongly imputed a crime, in the natural and ordinary course of life, the wife would have even insist to go under the circumstances, even if the arresting officer did not want to. The wife testified that the arresting law officers unlawfully took several valuable items in their house such as cash and jewelry. However, the trial court pointed out that there was no earnest efforts on the part of the wife to recover these items. The long delay and lack of earnest efforts to recover them cast doubt on the truthfulness of the assertion. The testimony of Eddie Baybago is neither of any help since he testified that he was outside the house at the time the alleged buy-bust or frame up took place. His testimony, therefore, with respect to what transpired in the house is hearsay. Accused-appellant failed to present any independent corroborative evidence and such failure is fatal to the defense of frame-up and justifies the finding that there is no necessity of overturning the evidence for the prosecution.[43] We quote with approval the trial court's ratiocination on why the accused-appellant's defense of frame-up must fail:

[N]o arresting officer would plant such huge quantity of shabu mentioned in the information if only incriminate an individual who was not shown to be of good financial standing and business importance.

If only to show and serve that purpose, a small quantity of shabu would be more than sufficient enough and the victim goes to jail just the same. In this case the approximate street value of the shabu confiscated is more or less Two Hundred Thousand (P200,000.00) Pesos. The possibility of the arresting officer to raise-up that much

amount if only to frame-up is quite a remote probability, lest the difficulty and enormous risk of obtaining such kind and quantity of a regulated drug. Furthermore, there was no showing that the arresting officers attempted to extort money or anything of value.[44]

As borne in the records, there is no showing of ill-motive on the part of the police officers who conducted the buy-bust operation. The accused-appellant is not shown to be of good financial standing and business importance.

In short, the trial court found the testimonies of the witnesses for the prosecution to be credible and those of the defense witnesses unworthy of belief. Time and again, this Court has ruled that the findings of the trial court which had the opportunity to observe the witnesses during their testimony is accorded with great respect.[45] After a careful review of the testimonies of both the prosecution and defense, we see no cogent reason to depart from this doctrine.

In sum, we reiterate that once the presumption of innocence is overcome, it is the burden of the accused-appellant to show his non-complicity of the charge against him especially if his defense is that of frame-up or alibi since under existing jurisdiction, he must substantiate such defense with clear and convincing evidence. In the case at bar, the guilt of the accused has been established by proof beyond reasonable doubt that Ricky Uy knowingly carried with him 250.36 grams of shabu without legal authority at the time he was caught during the buy-bust operation. The amount of shabu sold being more than 200 grams, the trial court correctly imposed the penalty of reclusion perpetua and a fine of P500,000.00[46]

WHEREFORE, the decision dated 24 April 1997 of the Regional Trial Court, Branch 110 of Pasay City in Criminal Case No. 96-8899 finding herein appellant Ricky Uy y Cruz guilty beyond reasonable doubt of unlawfully selling/delivering/transporting methamphetamine hydrochloride or “shabu” in violation of Section 15, Art. III of R.A. No. 6425, as amended, is hereby AFFIRMED in toto.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Pardo, and Ynares-Santiago, JJ., concur.

[1] Penned by Judge Porfirio G. Macaraeg, Records, pp. 272-284.

[2] Records, pp. 1-2.

[3] RTC Decision, p. 1; Id., at 272.

[4] Records, p. 284.

[5] Rollo, pp. 131-132.

[6] Id., at 24-25.

[7] Brief for the accused-appellant, Rollo, pp. 50-53.

[8] CONST. Art. III, sec. 14, par. (2); RULES OF COURT, Rule 115, Sec. 1, par. (a), as amended; *Rusita vs. Ramos*, 48 Phil. 292, 297 (1925-26); *People vs. Bato*, 284 SCRA 223, 238 (1998); *People vs. Hilario*, 284 SCRA 344, 356 (1989); *People vs. Medel*, 286 SCRA 567, 584 (1998).

[9] *People vs. Eslaban*, 218 SCRA 534, 544 (1993); *People v. Quetua*, 222 SCRA 357, 364 (1993).

[10] *People vs. Jorge*, 231 SCRA 693, 700 (1994).

[11] *U.S. vs. Lasada*, 18 Phil. 90, 96 (1910-1911).

- [12] *People v. Cueno*, 298 SCRA 621, 629-630 (1998); *People v. De Vera*, 275 SCRA 87, 92 (1997).
- [13] TSN, September 2, 1996, p. 24.
- [14] *Id.*, at 23.
- [15] *Id.*, at 24-25.
- [16] *Id.*, at 24-26.
- [17] RTC Decision, p. 4; Rollo, p. 275.
- [18] TSN, September 2, 1996; p. 29-31.
- [19] *People vs. Malakas*, 228 SCRA 310, 319-320 (1993) citing *People vs. Polizon*, 214 SCRA 56 (1992). This exception enunciated in *People vs. Ramos*, 186 SCRA 184 (1990); *People vs. Tantiado* and *People vs. Olaes*, 188 SCRA 91 (1990), applies when the sale occurred within the house of the accused and not within the view of the other police officers and, hence, only witnessed by the poseur-buyer.
- [20] *Id.*, at 2 per manifestation of Fiscal Vibandor.
- [21] TSN, Sept. 4, 1996, pp. 10-12.
- [22] TSN, Nov. 11, 1996, p. 22.
- [23] *People vs. Magno*, 296 SCRA 443, 450 (1998).
- [24] *People v. Sy Bing Yok*, 309 SCRA 28 (1999).
- [25] *Ibid.*
- [26] *Id.*
- [27] Appellants's Brief, p. 22-24.
- [28] *People v. Salazar*, 266 SCRA 607 (1997).
- [29] *People v. De Vera*, 275 SCRA 87 (1997).
- [30] *People v. Pagaura*, 267 SCRA 17, 24 (1992).
- [31] *People v. Lacbanes*, 270 SCRA 193, 261 (1997), *Espano v. Court of Appeals*, 288 SCRA 558, 569 (1998); *People v. Alegro*, 275 SCRA 216, 220 (1997); *People v. Lising*, 275 SCRA 804, 811 (1987).
- [32] *People vs. Agapito*, 154 SCRA 695, 699-700 (1987).
- [33] *People v. Sy Bing Yok*, *supra*.
- [34] TSN, Sept. 2, 1996, p. 7.
- [35] *Id.*, at 8-9.
- [36] *Id.*, at 9.
- [37] *Id.*, at 10-11.
- [38] *Id.*, at 17.
- [39] *Id.*, at 21-22.

[40] *Id.*, at 23-27.

[41] *People v. Sy Bing Yok*, *supra*.

[42] RTC Decision, pp. 7-13; Records, pp. 278-284.

[43] See *People vs. Bolasa*, 209 SCRA 476, 481-483 (1992) which enunciates a parallel reasoning regarding the necessity of presenting an independent corroborative evidence in case of a defense of extortion. The principle in this case is applicable by analogy to the case at bar. In this case, we declared that:

The defense of extortion must be rejected since it was unsubstantiated by any evidence other than the self-serving testimonies of appellant Samuel Salamanes and his brother Cesar Salamanes. The defense of extortion, and the claim that the arresting officers had deliberately and falsely charged appellant Salamanes of a crime as serious as selling prohibited drugs, must be clearly and convincingly shown if only because of the presumption of the regularity of performance of official functions that such defense and claim must overturn. This the accused-appellant failed to do. The testimonies of police officers given in court cannot be readily discredited by mere allegations. Moreover, if accused-appellant was indeed arrested arbitrarily, as he would suggest, he could have presented independent witnesses, for instance, spectators at the basketball game along Daza Street, to testify on his behalf. The failure of Salamanes to offer independent corroborating evidence suggests that his defense of extortion was either a fabrication or an afterthought. The Court thus finds no reason for overturning the credence and weight given by the trial court to the evidence of the prosecution. (Emphasis ours.)

[44] Rollo, pp. 112-113.

[45] *People vs. Gomes*, 230 SCRA 270, 275 (1994); *People vs. Gumahin*, 21 SCRA 729, 736 (1967); *People vs. Garcia*, 89 SCRA 440, 450 (1979).

[46] Sec. 20, RA No. 6425 as amended.

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