

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BETTY CUBA Y LUBON A.K.A. “BETTY,” CESAR SANTOS Y LUCIA A.K.A. “CESAR,” SALVACION CAPARAS Y DE CASTRO A.K.A. “CION,” ACCUSED. ...

G.R. No. 133568. July 24, 2000

Ponente: DAVIDE JR., C.J.

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DAVIDE JR., C.J.:

Accused-appellant Salvacion Caparas y De Castro a.k.a. "Cion" (hereafter CAPARAS) seeks the reversal of the 23 March 1998 decision[1] of the Regional Trial Court (RTC) of Quezon City, Branch 95, in Criminal Case No. Q-97-70944, finding her guilty of the crime of illegally transporting and selling marijuana under Section 4, Art. II of R.A. No. 6425, otherwise known as The Dangerous Drugs Act of 1972, as amended. The other accused, Betty Cuba y Lubon a.k.a. "Betty" (hereafter BETTY) and Cesar Santos y Lucio a.k.a. "Cesar" (hereafter CESAR) were acquitted.

CAPARAS, BETTY and CESAR were indicted under an information[2] filed on 2 May 1997, with the violation of Section 4, Art. II of R.A. 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended. The accusatory portion of the information reads:

That on or about the 29[th] day of April 1997 in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping one another not having been authorized by law to sell, dispense, deliver, transport and distribute any prohibited drug, did then and there wilfully and feloniously transport, deliver, and offer for sale 39, 735.00 grams of marijuana fruiting tops, a prohibited drug to poseur-buyer SPOIII VENUSTO T. JAMISOLAMIN, in violation of said law.

CONTRARY TO LAW.

At their arraignment on 14 May 1997,[3] each of the accused entered a plea of not guilty.

The prosecution presented police officers Venusto Jamisolamin and Joselito Dominguez. By virtue of the agreement and admissions during the pre-trial, the testimony of Forensic Chemist Alexis Guinanao was dispensed with.

The evidence for the defense consisted of the testimonies of the accused BETTY, CAPARAS, and CESAR.

The narration of facts and evidence presented by both the prosecution and defense as summarized by the trial court in its decision is hereby quoted verbatim:

EVIDENCE FOR THE PROSECUTION

On June 2, 1997, the prosecution and the accused stipulated on the subject matter of the testimony of the forensic analyst, Alexis Guinanao, to the effect that on April 30, 1997, he received a letter-request (Exh. "A") from a certain Supt. Pedro Ongsotto Alcantara addressed to the PNP Crime Laboratory Services stating therein

the request for the examination of specimens marked as Exhs. "A", "B", & "C" which were duly received by the said laboratory. The parties further stipulated that the forensic analyst, upon receipt of the said specimens, conducted an examination and the result of which were stated down in his Initial Laboratory Report dated April 30, 1997 (Exhs. "B" to "B-4"). He likewise prepared his Physical Science Report No. D- 277-97 (Exh. "C" to "C-3") indicating his findings that the submitted specimens, namely: one (1) blue plastic bag labeled "DUTY FREE PHILIPPINES" containing fourteen (14) bricks of marijuana, which had a total weight of 15, 445.00 grams (Exhs. "D" to "D-14"); one (1) box labeled "LUCKY ME PANCIT CANTON" containing twelve (12) bricks of marijuana, with a total weight of 11, 880.00 grams (Exhs. "E" to "E-12"); and one (1) box labeled "MAGGI RICH MAMI" containing thirteen (13) bricks of marijuana, with a total weight of 12, 420.00 grams (Exhs. "F" to "F-12") were all found positive to the test for marijuana, a prohibited drug; that the specimens examined in the Initial Laboratory Report were the same specimens and results/findings in the Physical Science Report. Finally, the parties stipulated that the specimens submitted by the Chemist were each wrapped in newsprint and further placed inside big boxes labeled as MAGGI RICH MAMI and LUCKY ME PANCIT CANTON and a blue shopping bag labeled as DUTY-FREE PHILIPPINES.

Aside from the above stipulations, the prosecution presented SPO3 Venusto Jamisolamin and P/Insp. Joselito Dominguez, both from the Narcotics Group Command, Central Narcotics District at EDSA, Kamuning, Quezon City, whose testimonies may be summed up as follows:

After receiving and verifying the information from their civilian informant that a certain female supplier/courier is capable of delivering big bulks of marijuana in Metro Manila, P/Supt. Pedro Alcantara instructed Team Leader Bravo, P/Insp. Joselito Dominguez, to conduct a possible test-buying operation and surveillance which designated SPO3 Venusto Jamisolamin as the poseur-buyer. Thus, on April 18, 1997, P/Insp. Dominguez availed of a room at West Avenue Hotel in West Avenue, Quezon City, as evidenced by the Official Receipt dated April 18, 1997 (Exh. "H") in preparation to the initial meeting between the female supplier/courier accompanied by the civilian informant and Jamisolamin, the poseur-buyer. The following day at around 8:30 in the morning, the civilian informant and a certain woman by the name of Cion arrived and she was introduced to Jamisolamin. After the negotiation, Jamisolamin and Cion reached an agreement wherein Cion would deliver 30 to 50 kilos of dried marijuana fruiting tops within 10 days at P1,000.00 per kilogram. On April 27, 1997, sometime in the afternoon, the civilian informant called up P/Insp. Dominguez and informed him that Cion and a certain female supplier/owner will only be bringing around 41 kilos of marijuana stuff and that they will be coming from Baguio City. Since they were scared of commuting by bus, P/Insp. Dominguez instructed the informant to use his white Nissan Sentra car for their transportation. Thus, P/Insp. Dominguez proceeded to Baguio City together with SPO3 Jamisolamin and PO3 Rolando Duazo using a red car. While in Baguio City, P/Insp. Dominguez was in constant communication with the civilian informant pertaining to the loading of the marijuana inside the white car. When informed that the car was already loaded with the stuff, P/Insp. Dominguez, in company with the other two police officers, started tailing the white car. From Baguio City to Quezon City, the team tailed the white car and with the woman, Cion, the supplier of drugs named Betty Cuba, her four-year old son, and the courier Cesar Santos as passengers. The white car arrived at the West Avenue Hotel at around 4:30 in the afternoon and they were met by SPO3 Jamisolamin. Cion alighted from the car and a short conversation took place between SPO3 Jamisolamin and Cion. Not long after, Cion opened the trunk of the car and showed the marijuana stuff to SPO3 Jamisolamin. Upon seeing and confirming that indeed there was marijuana stuff inside the trunk of the car placed in a shopping bag of Duty Free Philippines that contained 14 bricks of marijuana leaves (Exhs. "D" to "D-14") and in a big box labeled "Lucky Me Pancit Canton" that contained 12 bricks of marijuana leaves (Exhs. "E" to "E-12") and a second box labeled "Maggi Rich Mami" that contained 13 bricks of marijuana leaves (Exhs. "F" to "F-13"), SPO3 Jamisolamin immediately gave a pre-arranged signal to his team by lighting a cigarette. Heeding the signal, P/Insp. Dominguez and a certain PO3 Duazo approached the car and introduced themselves as NARCOM agents. After which, they effected an arrest on the persons of Salvacion Caparas alias "Cion", Betty Cuba and Cesar Santos for illegal possession of a prohibited drug. On the other hand, the little boy believed to be the child of Betty Cuba was freed for humanitarian reason. Thereafter, the police officers executed their affidavit

of arrest (Exhs. "G" to "G-2").

EVIDENCE FOR THE ACCUSED

The defense presented accused Betty Cuba, the alleged supplier, accused Salvacion Caparas, the alleged middleman; and accused Cesar Santos, the alleged courier; to rebut the allegations thrown against them, and their testimonies may be summarized as follows:

On April 28, 1997, Cesar Santos met a neighbor named Soso at the market and the latter asked if he knew somebody who can sell cheap vegetables to him. Since Santos knew Salvacion Caparas or Aling Cion for short, Santos accompanied Soso to her. After the introduction and negotiation, they closed a deal. The following day at around 7:00 in the morning, Aling Cion visited the house of Betty Cuba, a vegetable and tocino vendor, to see the latter's sister Melba since they were intending to go to the Trading Post. However, since her sister Melba was not around Beta Cuba agreed to go with her since they would be passing by Tarlac. Thus, Betty and her son accompanied Salvacion. They boarded in a waiting car with three males who were unknown to Betty. The three male passengers were later identified as Cesar Santos, Soso and a certain Jessie. As they proceeded to Tarlac, an old maroon car suddenly crossed their path. Two unidentified men alighted from the old car and approached them. After a few conversations, Soso and Jessie stepped out of the car, took a tricycle and went away. On the other hand, the two unidentified men boarded the white vehicle and proceeded to Manila while the old maroon car was tailing them. However, they stopped at McArthur Highway at Tarlac, Tarlac and the men went behind and opened the trunk of the car. After 30 minutes, they boarded the car again and proceeded straight to NARCOM Office at Kamuning, Quezon City for investigation. After 30 minutes, they were called in the office again and were compelled to admit ownership over the seized marijuana stuff which were placed on the table. When they refused ownership, they were whisked into the detention cell and were charged with the instant case.[4]

The trial court found sufficient evidence that CAPARAS committed the crime charged and is guilty thereof. Per testimony of poseur-buyer Jamisolamin, CAPARAS agreed to sell marijuana for a price of P1,000.00 per kilo and to deliver the contraband at the designated time and place. Their agreement was consummated on 29 April 1997 when, on such date, CAPARAS arrived at West Avenue Hotel, Quezon City, and showed to Jamisolamin the stack of marijuana loaded at the trunk of her car.[5]

The trial court struck down CAPARAS' defense of denial because of the positive and forthright assertions of the witnesses for the prosecution who, being peace officers, were presumed to have performed their duties in a regular manner.[6]

However, the trial court was unconvinced of the criminal culpability of BETTY and CESAR as there was no competent evidence to show that the former was the supplier and that the latter participated in the loading and selling of the forbidden merchandise. The trial court did not give credence to the prosecution's theory that the accused conspired in the commission of the illicit activity as it considered the character of evidence against them purely speculative.

Thus, in the decision of 23 March 1998, the trial court decreed as follows:

WHEREFORE, judgment is hereby rendered finding the accused, Salvacion Caparas y De Castro a.k.a. "Cion," GUILTY beyond reasonable doubt of the offense of Violation of Sec.4, Republic Act 6425, as amended, and, there being no mitigating nor aggravating circumstances, is hereby sentenced to suffer the penalty of reclusion perpetua and to pay the fine of P500, 000.00.

The period within which the accused Salvacion Caparas y De Castro a.k.a. "Cion" was detained at the City Jail shall be credited to her in full as long as she agrees in writing to abide by and follow strictly the rules and regulations of the said institution.

The other two accused, Betty Cuba y Lubon a.k.a. "Betty" and Cesar Santos y Lucia a.k.a. "Cesar" for failure of the prosecution to prove their guilt beyond reasonable doubt, are hereby ACQUITTED. The said two accused are hereby ordered released from detention unless they are being detained for another charge or lawful cause.

The bricks of marijuana (Exhs. "D" to "D-14"," Exhs. "E" to "E-12" and Exhs. "F" to "F-13") are hereby forfeited in favor of the government. The Branch Clerk of Court is hereby ordered to safely deliver or cause the safe delivery of the said marijuana to the Dangerous Drugs Board for safekeeping until the final disposition of this case.

The accused Salvacion Caparas y De Castro is hereby ordered to pay the costs.

IT IS SO ORDERED.[7]

CAPARAS filed a notice of appeal on 7 April 1998.[8] We accepted the appeal.

In her Appellant's Brief, CAPARAS assails the trial court's judgment of conviction because there was no showing that a sale of prohibited drug took place. In support thereof, she argues that the prosecution has failed to establish that money or specifically "marked money" was paid or exchanged hands between her and the supposed poseur-buyer. She theorizes that in a contract of sale the payment of the contract price is essential to consummate the transaction. In this case, considering that there was no payment made, the contract of sale was not consummated and inevitably the accused-appellant can not be convicted for the illegal sale of prohibited drug.

The prosecution prays that the conviction of CAPARAS be affirmed. It asserts that the undisputed facts on record sufficiently established that on 29 April 1997 CAPARAS transported and delivered the marijuana to poseur-buyer Jamisolamin. Her argument that the non-payment of the purchase price precludes the consummation of the transaction which thereby justifies her acquittal is untenable. Under Section 4, Article II of R.A. No. 6425, as amended by R.A. No. 7659, the law punishes the sale, transportation and delivery of prohibited drugs. It is inconsequential that no payment of money was made to the seller, CAPARAS, by the poseur-buyer, Jamisolamin. Stated differently, it is not a requisite to be convicted under the aforementioned law that the drug trafficker's act of selling is coupled with the actual payment in money of the agreed consideration since the act of offering to sell a prohibited drug is per se punishable by law. At any rate, it cannot be disputed that a completed sales transaction transpired between CAPARAS and the poseur-buyer Jamisolamin since there was an agreement for the former to sell and deliver 39 kilos of marijuana for a cost of P1,000.00 per kilogram and the latter to buy the marijuana at the agreed price. There was, therefore, a concurrence on the minds of the parties on the object and cause which thereby perfected the contract of sale.

The appeal is without merit.

CAPARAS was charged with and convicted of the offense of transporting, delivering and selling prohibited drug defined and penalized under Section 4, Art. II of R.A. 6425, otherwise known as The Dangerous Drugs Act of 1972, as amended. The section reads:

SEC. 4. Sale, Administration, Delivery, Distribution and Transportation of Prohibited Drugs. -- The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, administer, deliver, give away to another, distribute, dispatch in transit or transport any prohibited drug, or shall act as a broker in any of such transactions.

Under this Section the act of selling or acting as broker in a sale of marijuana and other prohibited drugs consummates the crime.[9] More specifically, it punishes the mere act of delivery of prohibited drugs after the

offer to buy by the entrapping officer has been accepted by the seller.[10] It has been consistently ruled that the absence of marked money does not create a hiatus in the evidence for the prosecution as long as the sale of the dangerous drugs is adequately proven and the drug subject of the transaction is presented before the court. In every prosecution for the illegal sale of dangerous drugs, what is material and indispensable is the submission of proof that the sale of illicit drug took place between the seller and the poseur-buyer.[11] Thus, contrary to the theory of CAPARAS, proof of actual payment of money is not an indispensable requisite to support a conviction for sale of prohibited drug. What is material in the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti as evidence.[12]

In the case at bar, the prosecution was able to prove the fact of sale. The poseur-buyer Jamisolamin declared that on 19 April 1997 CAPARAS agreed to sell and deliver bricks of marijuana at P1,000 per kilo. On 29 April 1997, CAPARAS, pursuant to said agreement, transported marijuana from Baguio City and delivered the same to Jamisolamin in Quezon City.[13] The articles seized from CAPARAS per results of the forensic examination were found positive for marijuana.[14]

The conviction of CAPARAS is therefore unassailable. He was caught red-handed or flagrante delicto of the prohibited articles. The incriminatory evidence on record adequately established her guilt beyond moral certainty for the sale, transport and delivery of marijuana.

It is apropos to mention that CAPARAS had not at anytime put in issue the validity of her arrest and the seizure of the contraband from her possession. Neither did CAPARAS raise as an issue the identity of the prohibited articles proffered as incriminatory evidence against her. CAPARAS relied heavily on her defense of denial in that she had not at anytime agreed to deliver or cause the delivery of the marijuana to police officer Jamisolamin. She denied her meetings with him in spite of the positive and forthright testimony of the latter on this point. Moreover, the insinuation that she was allegedly framed-up for the purpose of extorting a large sum of money is unsubstantiated and cannot overcome the overwhelming evidence of her criminal complicity.

At the bottom then of CAPARAS' assignment of error is the issue of credibility of witnesses. On this point, prudence and practical considerations dictate that we, in the absence of a compelling reason showing that the trial court overlooked certain significant facts which if considered would suffice to alter the result of the case, hesitate to lightly set-aside its evaluation and assessment on the credibility of witnesses inasmuch as such undertaking is well within the province of the trial court.[15] Finally, we find no cogent reason to be wary about the truthfulness of the testimonies of the prosecution witnesses who are police officers and thus have in their favor the presumption that they have performed their duties in a regular manner.[16]

WHEREFORE, the assailed judgment of 23 March 1998 of Branch 95, Regional Trial Court of Quezon City, in Criminal Case No. Q-97-70944 convicting SALVACION CAPARAS y CASTRO is hereby AFFIRMED.

Costs against accused-appellant.

SO ORDERED.

Puno, Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

[1] Original Record (OR), 138-146; Rollo, 22-30. Per Judge Diosdado Madarang Peralta.

[2] Rollo, 1-2.

[3] Id., 14-15.

[4] Rollo, 23-25.

[5] Rollo, 25-28, citing TSN, 13 June 1997, 6-7, 10-12.

[6] Id., 29, citing *People v. Ortaleza*, 258 SCRA 201; *Garcia v. Court of Appeals*, 254 SCRA 686; *People v. Jain*, 254 SCRA 686.

[7] OR, 145-146; Rollo, 29-30.

[8] Id., 152; Id., 31.

[9] See *People v. Madarang*, 147 SCRA 123, 132 [1987].

[10] *People v. Fabian*, 204 SCRA 730 [1991]; *People v. Lucero*, 229 SCRA 1 [1994]; *People v. Fabro*, G.R. No. 114261, 10 February 2000.

[11] See *People v. Doria*, G.R. No. 125299, 22 January 1999; *People v. Khor*, G.R. No. 126391, 19 May 1999; *People v. Fabro*, Ibid.

[12] *People v. Boco, et al.*, G.R. No. 129676, 23 June 1999.

[13] TSN, 13 June 1997, 6-18; Folder of TSN, 14-26.

[14] Exhibits "C" to "C-3"; folder of Exhibits for the Prosecution, 3.

[15] *People v. Albarico*, 238 SCRA 203, 212-213 [1994]; *People v. Padilla*, 242 SCRA 629, 639-640 [1995]; *People v. Gomez, et al.*, 251 SCRA 455, 465 [1995]; *People v. Hubilla, Jr.*, 252 SCRA 471, 478 [1996].

[16] Section 3(m), Rule 131, Rules of Court.

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