

RAMON ARCILLA, JIMMY SALAZAR AND REYNALDO PERALTA, PETITIONERS, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 135270. December 30, 2003

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for review on certiorari of the Decision of the Court of Appeals (CA) in CA-G.R. CR No. 20802 affirming with modification the Decision of the Regional Trial Court of Manila, Branch 54, in Criminal Cases Nos. 96-148018 to 96-148019 and 96-148021 for violation of Section 2(e)(f)(m)(q), Article 1 in relation to Section 21 of Republic Act No. 6425, as amended.

The Antecedents

The petitioners Jimmy Salazar, Reynaldo Peralta and Napolinario Villa were charged of violation of Rep. Act No. 6425, as amended, under three Informations docketed as Criminal Cases Nos. 96-148018, 96-148019 and 96-148021. The accusatory portion of each of the Informations and the corresponding docket numbers thereof are as follows:

CRIMINAL CASE NO. 96-148018 (People of the Philippines vs. Ramon Arcilla and Jimmy Salazar)

That on or about March 1, 1996 in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each other, not having been authorized by law to sell, dispose, deliver, transport and distribute any regulated drug, did then and there wilfully, and unlawfully sell or offer for sale one (1) small transparent plastic sachet containing fifty three (53 mg.) or 0.053 g. of white crystalline granules substance known as "shabu" containing metamphetamine hydrochloride.

Contrary to law.

CRIMINAL CASE NO. 96-148019 (People of the Philippines vs. Ramon Arcilla and Jimmy Salazar)

That on or about March 1, 1996 in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each other, not being authorized by law to possess, sell, deliver, give away to another or distribute any prohibited drug, did then and there wilfully and unlawfully possess for sale one (1) brick/block of compressed dried plant of marijuana weighing two hundred seventy five grams (275 grams) or 0.275 kilograms wrapped with newspaper, which are prohibited drugs.

Contrary to law.

CRIMINAL CASE NO. 96-148021 (People of the Philippines vs. Reynaldo Peralta)

That on or about March 1, 1996 in the City of Manila, Philippines, the said accused not being authorized by law to possess or use any prohibited drug, did then and there wilfully and knowingly have in their possession and their custody and control one (1) small transparent plastic sachet containing 50 mg. or 0.050 g. of white

crystalline substance, one (1) improvised tooter/water pipe and two (2) pieces of aluminum foil with specks of white crystalline substance containing methamphetamine hydrochloride (sic), a regulated drug, without the corresponding license or prescription thereof.

Contrary to law.[1]

On arraignment, the petitioners, assisted by counsel, pleaded not guilty to all the charges against them.

As synthesized by the CA, the case for the prosecution based on its evidence is as follows:

Testifying as principal witness for the prosecution, SPO1 Rodolfo Samoranos of the Western Police District (WPD), City Hall Detachment (CHD) gave the following version of the incident:

On the basis of a report on February 22, 1996 of the Barangay Chairman of Barangay 899, Zone 100 and Barangay 900, Zone 100 of Punta, Sta. Ana, Manila, he and SPO1 Bernardo O. were dispatched by their superior police officer on the same day to conduct surveillance on the illegal drug activities of two (2) persons by the name of Ramon Arcilla and Jimmy Salazar (TSN, pp. 3-4, October 15, 1996). After almost one (1) week of surveillance, they found out that the report was true and so on March 1, 1996, they conducted a buy-bust operation which was planned by Senior Inspector Abad Osit (TSN, pp. 4-5, October 15, 1996). With several police companions and himself (witness) as the poseur-buyer they went to the place of Arcilla at 1880 Mayon Street, Punta, Sta. Ana, Manila, at around 8:00 o'clock in the evening of March 1, 1996 (TSN, p. 5, October 15, 1996). When he and the confidential informant arrived in Mayon Street, they met Jimmy Salazar in an alley leading to the residence of Ramon Arcilla, who whispered to them if they were buying "gamot." After replying that they wanted to buy P500.00 worth of shabu and P500.00 worth of marijuana. Jimmy Salazar accompanied them to the house of Arcilla a few steps away and introduced them to Arcilla as buyers (TSN, pp. 6-7, October 15, 1996). Witness handed to Arcilla the amount of One Thousand (P1,000.00) Pesos and the latter instructed Salazar to get the stocks upstairs. Before Salazar went up, the witness noticed accused Reynaldo Peralta sniffing shabu from an aluminum foil at a corner of Arcilla's house which was then under construction. When Salazar came back, he handed Arcilla the stuff who handed the same to the witness. It was at this instant (sic) that witness gave the pre-arranged signal to the other members of the group who were at the residence of the Barangay Chairman five (5) to six (6) meters in front of the house of Arcilla to close-in, as the buy-bust operation was consummated. As his companions closed-in, witness drew his gun tucked at the back of his pants and poked it at Arcilla (TSN, pp. 7-9, October 15, 1996). The witness apprehended Arcilla, while SPO1 Charlie Magsanoc and PO3 de Leon arrested Reynaldo Peralta. They handcuffed all three (3) suspects and witness recovered from Arcilla the two (2) P500.00 peso bills (Exhibit "A" for Cases Nos. 96-148019/20) which had the markings of CHD (City Hall Detachment) at the left upper portion and at the lower right portion previously placed by witness (TSN, pp. 10-11, October 15, 1996).

SPO1 Bernardo O. and PO3 Feliciano de Leon, both of the Drug Enforcement Unit of the City Hall Detachment, WPD, corroborated the testimony of SPO1 Samoranos.[2]

The case for the petitioners, on the other hand, was synthesized by the CA as follows:

Defendants claim that, instead of a buy-bust operation, what took place was a warrantless search, resulting in their arrest. In brief, the defense version is as follows:

On March 1, 1996 at about 8:00 o'clock in the evening, policemen from the Manila City Hall Detachment raided the house of accused-appellant Ramon Arcilla without the benefit of a search warrant. The policemen planted prohibited drugs and claimed that the same were confiscated from accused-appellants. Policemen forced accused-appellant Ramon Arcilla to admit ownership of marijuana wrapped with newspaper and when he denied ownership he was tortured.

In support of their appeal, the appellants contend that the court a quo erred, first, in admitting as evidence the things allegedly confiscated from them despite their inadmissibility, being products of an illegal search; second, in

convicting them of violation of RA 6425 despite the inadmissibility of the corpus delicti; and third, in convicting them not on the basis of the strength of the prosecution's evidence but rather on the alleged weakness of the evidence for the defense.[3]

On February 3, 1997, the trial court rendered a decision convicting the petitioners of the crimes charged. The decretal portion of the decision reads, thus:

WHEREFORE, judgment is hereby rendered against all of the accused in these four (4) cases, convicting them of the respective charges filed against them and imposes the penalty in Crim. Case No. 96-148018 sentencing the accused Ramon Arcilla and Jimmy Salazar each to serve a term of imprisonment of two (2) years, four (4) months and one (1) day as minimum to four (4) years and two (2) months as maximum of prision correccional; in Crim. Case No. 96-148019 sentencing the accused Ramon Arcilla and Jimmy Salazar each to a term of imprisonment of eight (8) years and one (1) day as minimum to ten (10) years as maximum of prision mayor; in Crim. Case No. 96-148020 sentencing accused Napolinario Villa a term of imprisonment of two (2) years, four (4) months and one (1) day as minimum to four (4) years and two (2) months as the maximum of prision correccional; in Crim. Case No. 96-148021 sentencing accused Reynaldo Peralta the same term of imprisonment as that imposed on Villa.

All the prohibited drugs subject of these cases are confiscated in favor of the government to be transferred to the Dangerous Drugs Board for proper disposal.

SO ORDERED.[4]

On appeal, the CA affirmed with modification the decision of the trial court. The dispositive portion of the Decision dated August 25, 1998 reads as follows:

WHEREFORE, the Court hereby AFFIRMS the conviction of appellants but MODIFIES the penalty imposed on each of them, as follows:

- In Criminal Case No. 96-148018, appellants RAMON ARCILLA and JIMMY SALAZAR are each sentenced to suffer an indeterminate penalty of SIX (6) MONTHS of arresto mayor as minimum to FOUR (4) YEARS and TWO (2) MONTHS of prision correccional as maximum;

- In Criminal Case No. 96-148019, appellants RAMON ARCILLA and JIMMY SALAZAR are each sentenced to suffer an indeterminate penalty of FOUR (4) YEARS and TWO (2) MONTHS of prision correccional as minimum to TEN (10) YEARS of prision mayor as maximum; and

- In Criminal Case No. 96-148021, appellant REYNALDO PERALTA is sentenced to suffer an indeterminate penalty of SIX (6) MONTHS of arresto mayor as minimum to FOUR (4) YEARS and TWO (2) MONTHS of prision correccional as maximum.

With the above modifications, the decision appealed from is AFFIRMED in all other respects.

No pronouncement as to costs.

SO ORDERED.[5]

The petitioners raise a solitary issue for the Court's resolution:

WHETHER OR NOT PUBLIC RESPONDENT COURT OF APPEALS' AFFIRMANCE OF THE JOINT DECISION IN CRIMINAL CASES NOS. 96-148018, 96-148019 AND 96-148021 IS PROPER UNDER THE CIRCUMSTANCES.[6]

Petitioner Arcilla asserts that the prosecution failed to prove that a buy-bust operation was conducted by the police officers against him. He claimed that he was tortured into admitting his ownership of a prohibited drug

wrapped in a newspaper as evidenced by the medical certificate[7] and pictures[8] showing the injuries he sustained. The object evidence adduced by the prosecution against him was "planted." The police authorities were not armed with a search warrant when they conducted a search and seizure operation in his house. Any evidence seized by the policemen from the house of the petitioner was inadmissible in evidence. The surveillance operation against the petitioners Arcilla and Salazar was triggered by the complaint of the Barangay Chairman of Barangay Nos. 899 and 900 of Punta, Sta. Ana, Manila. However, the prosecution failed to present the complainant Barangay Chairman as witness. The booking sheet and arrest report prepared and accomplished by the arresting officers were not signed by the petitioners, which is a cogent circumstance showing that the charges were fabricated by the police officers.

The Office of the Solicitor General controverts the petitioners' contention insisting that:

First. Only questions of law or legal issues may be raised in this Court under Rule 45 of the Rules of Court, as amended. Although there are exceptions to the rule, the petitioner failed to sufficiently demonstrate the application of any of the exceptional circumstances;

Second. SPO1 Rodolfo Samoranos convincingly testified that petitioner Salazar, acting as a runner or broker of petitioner Arcilla, led him and the confidential informant to the house of the latter to buy P500 worth of shabu and P500 worth of marijuana;

Third. SPO1 Samoranos testified how petitioner Peralta sniffed shabu in the house of petitioner Arcilla and how he consummated the sale of shabu and marijuana by petitioner Arcilla to the poseur-buyer;

Fourth. Petitioner Arcilla failed to adduce proof that he was forced to admit ownership of the subject drug. At any rate, the ownership of the prohibited and regulated drugs is immaterial in the prosecution of the crime of possession of drugs as defined in Rep. Act No. 6425, as amended;

Fifth. The failure of the prosecution to prove traces of burns on the aluminum foil confiscated from petitioner Peralta is inconsequential. Considering its aluminum content, it is not too remote a possibility for aluminum foil not to show markings of burns. Traces of such flickering most often would hardly result in imprints on its surface, which are easily effaced therefrom. At any rate, petitioner Peralta was charged with illegal possession of a regulated drug and related paraphernalia which were already consummated when the petitioner was found in possession of the said articles without the necessary license or prescription. What is primordial is the proof of the illegal drugs and paraphernalia recovered from the petitioner;

Sixth. The case for the prosecution was not enfeebled by the failure of the prosecution to present the complaining barangay chairman. His testimony would merely corroborate the testimony of the principal witness of the prosecution and not independently indispensable. The testimony of a single witness which is credible is sufficient to convict the accused;

Seventh. The booking sheet and arrest report prepared by the arresting officers were not the basis for the conviction of the petitioners. Whether or not the petitioners affixed their signatures on the said sheet is irrelevant to resolve the guilt or innocence of the petitioners of the crimes charged.

The petition is barren of merit.

We agree with the OSG that as ruled by this Court, no questions of facts may be raised in this Court under Rule 45 of the Rules of Court, unless there is clear and convincing proof that the judgment of the CA is based on a misapprehension of facts; or when the CA failed to notice and appreciate certain relevant facts of substance which if properly considered would justify a different conclusion; and when there is a grave abuse of discretion in the

appreciation of facts in the light of the evidence on record. Anything less will not suffice to overturn the decision of the CA affirming on appeal the decision of the trial court. It bears stressing that the findings of facts of the trial court, its calibration of the testimonial evidence of the parties and the assessment of the credibility and probative weight of the evidence of the parties and its conclusion anchored on its findings are given high respect if not conclusive effect by this Court, especially if affirmed by the CA because of the unique advantage of the trial court of observing and monitoring the demeanor, conduct and deportment of the witnesses as they regale the court with their testimonies. The exception to this rule is when the trial court ignored, overlooked, misconstrued or misappreciated cogent facts and circumstances of substance which if considered would alter the outcome of the case. We have assiduously assessed the evidence on record and we find no justification to deviate from the findings of facts of the trial court as affirmed by the CA. In this case, the trial court gave credence and full probative weight to the testimony of the principal witness of the prosecution, SPO1 Rodolfo Samoranos, fortified by the physical evidence on record.[9]

The bare claim of petitioners Arcilla and Salazar that no surveillance operations had been conducted by the police officers, and their assertion that the police operatives "planted" evidence against them cannot prevail over the positive and straightforward testimony of SPO1 Rodolfo Samoranos and the other police operatives who are presumed to have performed his duties regularly and in accordance with law. There are instances when law enforcers resort to planting evidence to extract information or even to harass civilians; however, the defense of frame-up in drug cases requires clear and convincing evidence.[10] The Court views such claim with distrust because it can easily be feigned and fabricated.[11] In this case, petitioners Arcilla and Salazar even admitted when they testified that the surveillance and buy-bust operations against them were triggered by the reports of the barangay chairman:

Q

Can you tell this Court that you are very, very familiar with your barangay chairman?

A

Yes, sir.

Q

And you testified earlier that you admit earlier that you are a drug user, is that right?

A

Yes, sir, I was able to use that before.

Q

And that fact was known to your barangay chairman because he was very familiar with you?

A

Yes, sir.

Q

Do you know that it was the chairman who approached Major Baltazar of the City Hall Detachment about the drug activities of several persons in your place and that includes you?

A

Yes, sir, I know that.

Q

So you knew that it was your barangay chairman who denounced you together with Jimmy Salazar, as the very person engaged in drug selling in your place at Punta, Sta. Ana, Manila?

A

Yes, sir.[12]

The testimony of the barangay chairman was merely corroborative of the testimony of SPO1 Rodolfo Samoranos and the physical evidence. Hence, the cases for the prosecution were not enfeebled by the failure of the prosecution to present the barangay chairman as witness.

In the matter of sale or possession of the illicit drugs and paraphernalia, the ownership of the same is inconsequential. Mere possession of the illicit drugs and paraphernalia are crimes per se and the burden of proof is upon the accused to prove that they have permits or clearance to possess the prohibited drugs and paraphernalia.[13] It is sufficient that the illicit drugs were found in the possession of the accused.[14] In this case, it is incredible that SPO1 Rodolfo Samoranos would go to the extent of maltreating petitioner Arcilla into admitting his ownership of the illicit drugs and paraphernalia when he knew all along that such an admission by the petitioner would be inconsequential.

We are not impervious of the medical certificate issued by the Ospital ng Maynila when Dr. Gray Orino examined petitioner Arcilla on March 2, 1996 that he had a 3-cm. laceration on his frontal-temporal area[15] and the picture of the petitioner showing injuries on the parietal area.[16] However, the petitioner failed to present the doctor to testify on the medical certificate and the photographer who took his picture. Besides, if as claimed by the petitioner, he was maltreated by SPO1 Rodolfo Samoranos to compel him to admit ownership of the illicit drug, he should have filed criminal and administrative charges against the policeman for his injuries. The petitioner could have filed the said charges after posting a bail bond and after he was released from jail. Petitioner Arcilla failed to do so.

The barefaced fact that the petitioners did not affix their signatures on the booking sheet and arrest reports prepared by the arresting officer is not evidence of their innocence of the crimes charged. The booking sheet and arrest reports submitted by the arresting officer are not elements of the crimes charged, nor are they indispensable to prove the said charges.

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED for lack of merit. The Decision of the Court Appeals is AFFIRMED. Costs against the petitioners.

SO ORDERED.

Puno, (Chairman), Quisumbing, Austria-Martinez, and Tinga, JJ., concur.

[1] Rollo, p. 9.

[2] Id. at 104-105.

[3] Id. at 105-106.

[4] Id. at 50-51.

[5] Id. at 109-110.

[6] Id. at 12.

[7] Exhibit "3."

[8] Exhibit "4."

[9] Exhibits "B," "C," "C-1," Criminal Cases Nos. 148018 and 148021. Exhibits "A," "C," Criminal Case No. 148019.

[10] *People v. Uy*, 327 SCRA 335 (2000).

[11] *People v. Ganenas*, 364 SCRA 582 (2001).

[12] TSN, 4 November 1996, p. 41.

[13] *People v. Johnson*, 348 SCRA 526 (2000); *People v. Beriarmente*, 365 SCRA 747 (2001).

[14] *People v. Montano*, 337 SCRA 608 (2000).

[15] Exhibit "3."

[16] Exhibit "4."

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