

THE PEOPLE OF THE PHILIPPINES, appellee, vs. HAIRATUL JUBAIL y KILIH alias “SHAIRA JUBAIL y AHARUL” and RUAINA NURUDDIN y MOHAMMAD alias “RUAI NURUDDIN y HARIN” (Acquitted), acc...

G.R. No. 143718. May 19, 2004

Ponente: CARPIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-143718/>

CARPIO, J.:

The Case

This is an appeal from the Decision[1] dated 15 October 1999 of the Regional Trial Court of Zamboanga City, Branch 16 (“trial court”), in Criminal Case No. 15557. The trial court found appellant Hairatul Jubail alias Shaira Jubail (“Hairatul”) guilty of violating Section 15, Article III, in relation to Section 21(b), Article IV, of the Dangerous Drugs Act of 1972.[2] The trial court acquitted Hairatul’s co-accused, Ruaina Nuruddin alias Ruai Nuruddin (“Ruaina”), on the ground of reasonable doubt.

The Information charging Hairatul and Ruaina of selling shabu states:

That on or about November 12, 1998, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together, mutually aiding and assisting with one another, not being authorized by law to sell, deliver, transport, distribute or give away to another, did then and there willfully, unlawfully and feloniously sell and deliver to Sr. Inspector Nickson Muksan y Babul, PNP, 2nd Zamboanga City Mobile Group, poseur-buyer, one (1) heat-sealed transparent plastic pack containing white crystalline substance and positively tested for Methamphetamine Hydrochloride popularly known as “SHABU” weighing 298.2 grams, knowing same to be a regulated drug.[3]

When arraigned on 11 December 1998, Hairatul and Ruaina pleaded not guilty to the charge.[4] Trial then followed.

The Trial

The Prosecution’s Version

The prosecution presented five witnesses: (1) Chief Inspector Nickson Babul Muksan (“Chief Inspector Muksan”); (2) SPO2 Gualberto Serencio (“SPO2 Serencio”); (3) Police Inspector Mercedes Delfin Diestro (“Police Inspector Diestro”); (4) PO2 Geronimo Miñoza (“PO2 Miñoza”); and (5) PO1 Noel Falcasantos (“PO1 Falcasantos”).

Chief Inspector Muksan, a 1990 graduate of the Philippine Military Academy, was then the Group Director of the 2nd Mobile Group of the Philippine National Police (“PNP”) in Zamboanga City. Chief Inspector Muksan testified that a female civilian informant (“informant”) reported to him the activities of a certain drug pusher selling shabu in Zamboanga City. The informant, however, refused to reveal the name of the pusher.

Chief Inspector Muksan formed a team composed of PO2 Miñoza, PO1 Cuadra, PO1 Falcasantos and PO1 Valdez to conduct surveillance on the alleged pusher. The team, with the help of the informant, conducted surveillance

for more than a week. The team reported to Chief Inspector Muksan that they were far from the place where the illegal drug activities allegedly occurred so they just relied on the report of the informant. After the surveillance, the informant revealed to Chief Inspector Muksan that the first name of the pusher was “Shaira” and that she had long hair and medium built body. The informant did not give the surname of the pusher.[5]

Chief Inspector Muksan narrated that on 11 November 1998, he instructed the informant to arrange for the sale of 300 grams of shabu worth P276,000 with the pusher. The sale was to take place around 3:00 o'clock in the afternoon, 12 November 1998, on Ruste Drive, San Roque. Chief Inspector Muksan prepared the marked money and newspaper cut outs in the size of peso bills. He placed genuine P500 and P100 bills on top of the stack of newspaper cutouts. He then put them inside an open carton wrapped with newspaper. The carton appeared full of bundles of genuine money.[6]

On 12 November 1998, before 5:00 o'clock in the morning, Chief Inspector Muksan briefed PO2 Miñoza, PO1 Cuadra, PO1 Falcasantos and PO1 Valdez on the plan for the buy-bust operation. Chief Inspector Muksan would act as poseur-buyer while his operatives would assist him during the operation. The group members, in civilian clothes, left their headquarters around 5:00 o'clock in the morning and proceeded to San Roque. When they arrived in San Roque, Chief Inspector Muksan, PO2 Miñoza, PO1 Cuadra and the informant hid in an abandoned house about forty meters from the road. PO1 Falcasantos and PO1 Valdez hid some fifty meters away where they could see Chief Inspector Muksan.[7]

Around 3:00 o'clock in the afternoon, the informant signaled to Chief Inspector Muksan that the pushers were coming. The informant and the pushers contacted each other by cellular phone. Chief Inspector Muksan went out of the house and followed the informant. PO2 Miñoza and PO1 Cuadra stayed inside the house. When Chief Inspector Muksan reached the road, he saw two motorized tricycles. One tricycle had two women on board while the other tricycle had on board two women and a young boy 8 or 9 years old.

When Chief Inspector Muksan reached the road, he saw the informant talking to the four women and the boy. The informant introduced Chief Inspector Muksan in the Tausog dialect as the person who would buy the shabu. The informant introduced two of the women as Shaira (“Hairatul”) and Ruai (“Ruaina”). According to Chief Inspector Muksan, he handed the buy-bust money to the informant who gave it to Hairatul. Ruaina took the money from Hairatul and placed it inside her shoulder bag. Hairatul then handed to Chief Inspector Muksan a red Jollibee plastic bag. Chief Inspector Muksan opened the red Jollibee plastic bag and saw a transparent plastic pack containing white crystalline substance, which he presumed to be shabu. Chief Inspector Muksan then turned his face and scratched his head as a sign to his men to come out and assist him in arresting the pushers. Chief Inspector Muksan arrested Hairatul and Ruaina by holding them in the arm while waiting for his operatives. The two other women and the young boy ran away and boarded a tricycle.

PO2 Miñoza and PO1 Cuadra arrived and helped Chief Inspector Muksan in holding Hairatul and Ruaina. Chief Inspector Muksan took Hairatul's black shoulder bag that contained her passport, while PO2 Miñoza and PO1 Cuadra held Ruaina and grabbed her brown shoulder bag that contained the buy-bust money and her bankbook. When PO1 Valdez and PO1 Falcasantos arrived at the scene, Chief Inspector Muksan ordered them to arrest the two women and young boy who nevertheless escaped. Chief Inspector Muksan and his men then boarded a public utility vehicle and brought Hairatul and Ruaina to the office of the 2nd Mobile Group for investigation.[8]

SPO2 Serencio testified that he was the investigator of the case. On 12 November 1998, around 4:00 o'clock in the afternoon, Chief Inspector Muksan turned over Hairatul and Ruaina to SPO2 Serencio, along with the following items: the transparent plastic pack containing white crystalline substance, the marked money, the shoulder bags belonging to Hairatul and Ruaina, Hairatul's passport and Ruaina's bankbook. SPO2 Serencio

recorded Hairatul and Ruaina's turnover to him in Complaint Assignment Sheet No. 166-98.[9]

SPO2 Serencio then prepared the request[10] for laboratory examination addressed to the PNP Crime Laboratory to determine whether the white crystalline substance was shabu. SPO2 Serencio also prepared the (1) affidavit of Chief Inspector Muksan,[11] (2) joint affidavit of PO1 Falcasantos and PO1 Valdez,[12] (3) joint affidavit of PO2 Miñoza and PO1 Cuadra,[13] (4) Case Report,[14] and (5) Supplemental Report.[15] On cross-examination, SPO2 Serencio testified that Chief Inspector Muksan turned over to him the buy-bust money that was inside a black plastic bag. The buy-bust money was not inside the brown shoulder bag of Ruaina when Chief Inspector Muksan turned over to SPO2 Serencio Ruaina's shoulder bag.[16]

Police Inspector and Forensic Chemist Diestro of the PNP Crime Laboratory testified that on 12 November 1998, around 5:30 in the afternoon, she received a request for laboratory examination to determine the presence of prohibited or regulated drugs on a sample that Chief Inspector Muksan submitted. Police Inspector Diestro conducted the test on the white crystalline substance contained inside the transparent heat-sealed plastic bag Chief Inspector Muksan submitted. The substance weighed 298.2 grams and the tests showed that it contained Methamphetamine Hydrochloride or shabu. Police Inspector Diestro then prepared Physical Science Report No. D-310-98[17] on her findings on the tests.[18]

PO2 Miñoza testified that he was part of the team headed by Chief Inspector Muksan that conducted a buy-bust operation on 12 November 1998 on Ruste Drive in San Roque. The team arrived in San Roque around 5:00 o'clock in the morning because there was no definite time when the pushers would arrive. He and PO1 Cuadra posted themselves at a store near Ruste Drive.[19] Around 3:00 o'clock in the afternoon, he saw Chief Inspector Muksan stepping back and putting his hands on his head, which was the signal for them to arrest the pushers. Before Chief Inspector Muksan gave the signal, PO2 Miñoza did not see what was happening between Chief Inspector Muksan and the pushers because he and PO1 Cuadra hid themselves. After the signal, PO2 Miñoza and PO1 Cuadra assisted Chief Inspector Muksan in arresting Hairatul and Ruaina. PO2 Miñoza handcuffed Ruaina. The two other women escaped on board a tricycle.[20]

PO1 Falcasantos testified that on 12 November 1998, he was at the 2nd Mobile Force Station in Zamboanga City. Before 5:00 o'clock in the morning, Chief Inspector Muksan informed them that they would proceed to San Roque and conduct a buy-bust operation that day. Chief Inspector Muksan was the group director while the members were PO2 Miñoza, PO1 Cuadra, PO1 Valdez and PO1 Falcasantos. PO2 Miñoza and PO1 Cuadra would stay near Chief Inspector Muksan while PO1 Falcasantos and PO1 Valdez would act as back-up for the group.

After the briefing, PO1 Falcasantos and PO1 Valdez rode a passenger jeepney to San Roque. When they arrived in San Roque, PO1 Falcasantos and PO1 Valdez stationed themselves at the back of a house. They were there from 5:00 o'clock in the morning until 3:00 o'clock in the afternoon. During that time, they did not communicate or see Chief Inspector Muksan and the other members of the group.

PO1 Falcasantos testified that around 3:00 o'clock in the afternoon, he saw Chief Inspector Muksan, PO2 Miñoza, PO1 Cuadra and the suspected pushers standing by the road near an abandoned house. PO1 Falcasantos and PO1 Valdez then approached Chief Inspector Muksan who told them to arrest the two other women and a boy. However, PO1 Falcasantos and PO1 Valdez failed to arrest the two women and the boy who quickly boarded a tricycle. They rejoined their group and they proceeded to their station.[21]

The Defense's Version

The defense presented five witnesses: (1) appellant Hairatul; (2) Hairatul's co-accused, Ruaina; (3) Hairatul's father, Bakun Jubail; (4) Putli Mohammad; and (5) Merhana Hadil.

At the time she testified, Hairatul was 24 years old and a resident of Kagay, Talipao, Sulu. She graduated from the

Notre Dame of Jolo College in 1992 with a degree in midwifery. Hairatul took the midwifery licensure examination in 1993 but failed. On 8 November 1998, she accompanied her father Bakun Jubail to Zamboanga City for a medical check-up. They stayed at her cousin's house in Sta. Catalina in Zamboanga City.[22]

Hairatul testified that on 12 November 1998, around 2:00 o'clock in the afternoon, she shopped at Shop-O-Rama and Shopper's Plaza in Zamboanga City with her father Bakun and her cousin Ruaina. While inside one of the department stores, Hairatul met a school friend from Jolo named Fatima, who was a former resident of Bus-bus, Jolo, Sulu. Fatima, who was already residing in Zamboanga City, invited Hairatul and Ruaina to her mother's house in San Roque. Hairatul asked permission from her father Bakun to accept Fatima's invitation. Bakun agreed but told them not to stay long.

Hairatul, Ruaina and Fatima rode a passenger jeepney to San Roque. When they arrived at the house of Fatima's mother in San Roque, Hairatul and Ruaina had drinks and snacks. Hairatul and Ruaina met Fatima's mother Rakag, and Fatima's brother who was 8 or 9 years old. Rakag's house is small with just one room. The house is about 50 meters from the main road of San Roque.

Around 3:00 o'clock in the afternoon, Hairatul and Ruaina asked permission to leave and Rakag told them that they would leave together since they were going to Campo Islam. While they were about ten meters away from the main road, a tall dark person, whom Hairatul later identified as Chief Inspector Muksan, held Fatima's hand and grabbed the red Jollibee plastic bag Fatima carried. While Fatima was struggling, the two companions of Chief Inspector Muksan held Hairatul and Ruaina and took their shoulder bags. They identified themselves as police officers. Hairatul and Ruaina cried as they struggled with the police officers, wondering why they were being arrested. After the commotion, Hairatul learned that Rakag, Fatima and the young boy escaped. The police officers who arrested Hairatul and Ruaina then brought them to the police station.[23]

At the time she testified, Ruaina was 26 years old and a resident of Bus-bus, Jolo, Sulu. She graduated from the Sulu State College in 1996 with a degree in Education. Ruaina took the licensure examination for elementary school teachers on 1 August 1998 at the Baliwasan Central School in Zamboanga City. She went back to Zamboanga City on the first week of November 1998 to follow-up the result and learned that she flunked the examination. While in Zamboanga City, Ruaina stayed at her cousin Ahajan's house in Sta. Catalina. Her cousin Hairatul and Hairatul's father Bakun also stayed in that house while in Zamboanga City.[24]

Ruaina testified that on 12 November 1998, around 2:00 o'clock in the afternoon, she shopped with Hairatul and Bakun at the Shop-O-Rama and Shopper's Plaza. Ruaina wanted to buy something before going home to Jolo that evening. While shopping, they met Fatima who used to be Ruaina's neighbor in Bus-bus, Jolo but who was already residing in Zamboanga City. Fatima invited Hairatul and Ruaina to her house in San Roque. Fatima was insistent that Hairatul and Ruaina go with her. Ruaina and Hairatul accepted Fatima's invitation and they rode a passenger utility jeepney to San Roque.

After alighting from the jeepney, Ruaina, Hairatul and Fatima proceeded to Fatima's house. Ruaina and Hairatul met Fatima's mother, Rakag and Fatima's younger brother. Rakag offered them some snacks and they talked about the situation in Jolo. Thirty minutes later, Ruaina and Hairatul asked permission to leave because they would return to Jolo that day and had to prepare their things. Rakag told Ruaina and Hairatul that they would go with them because they would visit some relatives in Campo Islam.

While they were on their way to the main road, a tall man whom Ruaina later identified as Chief Inspector Muksan rushed to Fatima and grabbed the red Jollibee plastic bag Fatima carried. There was a commotion and Ruaina became afraid. Four other men arrived, held Ruaina and Hairatul, and grabbed their shoulder bags. Ruaina and Hairatul cried and asked their captors what was happening. Some of those who held Ruaina and Hairatul left

them and ran after Fatima, Rakag and the young boy who all escaped. The men brought Ruaina and Hairatul to the police station. Only then did Ruaina learn that their captors were police officers arresting them because the red Jollibee plastic bag seized from Fatima contained shabu.[25]

Bakun Jubail (“Bakun”) testified that his daughter accompanied him to Zamboanga City on 8 November 1998 for his medical treatment. They stayed at his nephew’s house in Sta. Catalina, Zamboanga City. On 9 November 1998, Dr. Ireneo P. Cases examined Bakun.[26] On 12 November 1998, around 2:00 o’clock in the afternoon, Bakun, Hairatul and Ruaina met Fatima while they were shopping. Hairatul told Bakun that Fatima was inviting them to Fatima’s house. Bakun preferred to go home and did not join Hairatul and Ruaina who went with Fatima. Bakun learned later that day that the police had arrested Hairatul and Ruaina.[27]

Putli Mohammad (“Putli”) testified that on 12 November 1998, around 2:00 o’clock in the afternoon, she boarded a passenger jeepney on her way to San Roque. Hairatul, Ruaina and Fatima were also passengers on the jeepney. Putli knew Hairatul, Ruaina and Fatima because they all came from the same barangay. Putli, a resident of Barangay Kagay, Talipao, Sulu, was in Zamboanga City to accompany someone who was applying for a job abroad. Putli asked Hairatul and Ruaina where they were going and they replied that Fatima invited them to go to her house. After Fatima paid their fare, Putli, Fatima, Hairatul and Ruaina alighted on Ruste Drive. Putli proceeded to her nephew’s house in San Roque while the three women went the opposite direction towards Fatima’s house. About three hours later, Putli learned that the police arrested some people that afternoon.[28]

Merhana Hadil (“Merhana”) testified that she is a resident of Kagay, Talipao, Sulu. On 7 November 1998, her aunt Putli accompanied her to Zamboanga City to apply for a job abroad. On 12 November 1998, around 3:00 o’clock in the afternoon, while on her way to the market, Merhana saw Hairatul, Ruaina, Fatima, Dakag (sic) and a young boy about 20 meters in front of her. Fatima carried a red plastic bag while Hairatul and Ruaina carried shoulder bags. Suddenly a tall man approached Fatima and grabbed the red plastic bag Fatima carried. While the tall man was holding Fatima, four other men approached the four women and the boy. Fearing that a shooting might occur, Merhana hurriedly went home.[29]

The Trial Court’s Ruling

On 15 October 1999, the trial court rendered judgment, the dispositive portion of which reads:

WHEREFORE, the Court finds accused HAIRATUL JUBAIL y KILIH alias SHAIRA JUBAIL y AHARUL GUILTY BEYOND REASONABLE DOUBT of the crime of Violation of Section 15, Article III in relation to Section 21 (b), Article IV of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended, and SENTENCES said accused to suffer the penalty of RECLUSION PERPETUA and its accessory penalties, to pay the fine of FIVE HUNDRED THOUSAND (P500,000.00), and to pay the costs. In the service of her sentence she shall be credited with the full period under which she was under preventive imprisonment.

On ground of reasonable doubt, the court finds accused RUAINA NURUDDIN y MOHAMMAD alias RUAI NURUDDIN y HARIN NOT GUILTY and hereby ACQUITS her of the crime charged with costs de officio. She is ordered immediately released from custody unless there is another valid ground to keep her under further detention.

The 298.2 grams of Methamphetamine Hydrochloride or shabu (Exh. “I”) is ordered to be turned over under receipt to the Dangerous Drugs Board thru the National Bureau of Investigation (NBI) in Zamboanga City, upon finality of the decision, for disposition in accordance with law.

The buy-bust money in the amount of P1,800.00 shall be returned under receipt to the 2nd Zamboanga City Mobile Group, PNP, after the finality of the decision.

SO ORDERED.[30]

The trial court found the testimonies of Chief Inspector Muksan and the other prosecution witnesses more credible than that of the defense witnesses. The trial court relied on the presumption that there was regular performance of public duty by police officers since the accused did not adduce evidence of any improper or ill motive by the police officers to testify falsely against them.[31] The trial court found the allegations of Hairatul and Ruaina that the red Jollibee plastic bag containing the shabu was taken from Fatima as just a ploy to shift criminal responsibility to Fatima whose whereabouts is no longer known.[32] The trial court held that the testimony of Hairatul and Ruaina could not prevail over the testimony of Chief Inspector Muksan that Hairatul handed to him the red Jollibee plastic bag containing the shabu.[33] However, the trial court held that the passive act of Ruaina in receiving the buy-bust money, which was inside a carton, does not prove that she conspired with Hairatul. Thus, the trial court acquitted Ruaina.[34]

The Issues

In her Appellant's Brief, Hairatul submits that:

- The trial court seriously erred in giving credence to the uncorroborated and inconsistent testimony of Senior Inspector Nickson Muksan.
- The trial court seriously erred in concluding that there was a sale of shabu.
- The failure to call to the witness stand the informant is fatal to the cause of the prosecution.
- The trial court seriously erred in applying to the instant case the presumption of regularity in the performance of official duty.
- The trial court seriously erred in not giving credence and weight to the testimonies of the accused and her witnesses.
- The trial court seriously erred in not applying the ruling of the Supreme Court in the Melosantos and Crisostomo cases.[35]

The Court's Ruling

We find the appeal meritorious. After a thorough examination of the records of this case, we hold that the prosecution has failed to prove beyond reasonable doubt Hairatul's guilt for the offense charged.

An appeal in a criminal case opens the entire case for review. The reviewing tribunal can correct errors though unassigned in the appeal, or even reverse the trial court's decision on grounds other than those the parties raised as errors.[36]

Credibility of Chief Inspector Muksan as Lone Prosecution Eyewitness

In convicting Hairatul, the trial court relied mainly on the testimony of Chief Inspector Muksan as sole eyewitness for the prosecution. The other members of the buy-bust operation did not witness the actual exchange of shabu and buy-bust money between Chief Inspector Muksan, who acted as poseur-buyer, and the pushers. Prosecution witnesses PO2 Miñoza and PO1 Falcasantos repeatedly admitted that they did not witness what happened between Chief Inspector Muksan and the pushers before the actual arrest because they were hiding far from the scene of the crime. PO2 Miñoza testified during cross-examination:

ATTY. PAKAM:

Q:

And because Mr. Witness, you were hiding when the group director approached the lady passengers, you did not notice what transpired between your group director and the lady passenger?

WITNESS:

Pardon?

ATTY. PAKAM:

Q:

Because you were then hiding when your group director approached the lady passengers, you did not any more notice the subsequent development between your group director and the lady passengers, correct?

A: Yes.

COURT:

Q:

You mean, you did not see what was happening between your group director and the lady passengers?

A: Yes.

Q: You did not see?

A: Yes.

Q: What were you supposed to do was not to look at what was happening?

A: Because, we were hiding.

Q: Why were you hiding when you were supposed to observe the incident?

A: Yes.

Q:

If something happened to your group director you would not know what happened to him because, you did not see him? . . . So, you did not care to observe what transpired between your group director and the women who arrived?

A: Yes.

Q: You did not see?

A: I did not see.[37]

Likewise, PO1 Falcasantos testified during cross-examination:

COURT:

Q: From 5:00 o'clock up to 3:00 o'clock in the afternoon, this lady informant was there with you in San Roque?

A: Yes, sir.

Q: Your group director, what was he doing at 3:00 o'clock in the afternoon?

A: He was already holding one woman.

Q: You saw him he was already holding one woman?

A: Yes.

Q: And Miniosa (sic), was holding the other woman?

A: Yes.

Q: Before that, you did not see what happened?

A: Yes.

Q:

Why did you say in your affidavit that, your group director acted as poseur buyer, approached towards the said pusher, bringing along with him the marked money? . . . Did you not say this?

A:

Ah. . . the time Your Honor, they actually exchanged marked money Your Honor, I was not able to see the exchange of money.

Q:

Why did you say that in your affidavit? . . . you said here, “while in the process, we saw that our group director handed the money to the drug pusher, with the exchange of one (1) big pack of methamphetamine hydrochloride x x x” Why did you say here in your affidavit you “saw your group director handed the money to the pusher”?

A: Only it was the information of our group director that, he handed the marked money.

Q:

But, in your affidavit, you said you saw? . . . You did not understand what is the meaning, to “see”? . . . It means you were looking, you were seeing. That is what you stated here, you signed this affidavit and swore before Fiscal Eisma, that, this is correct. . . This is not correct? . . . What is your answer?

A: I was mistaken.

Q:

Why do you say it’s a mistake? . . . We are trying a serious case here and you are saying that, it’s a mistake in our affidavit? . . . What is happening here PO1 Falcasantos, you did not see? . . . In your affidavit, “two (2) women and one (1) child”. What is your answer? . . . Were you really there? . . . Maybe you were not there?

A: I was there.

Q: So, why are you not stating the same events that are happening here?

A: Only, I saw Your Honor, that, our group director was holding the subject Your Honor.

Q:

Why did you sign this affidavit saying that, you saw your group director giving the money to the pusher if you did not see? . . . You can be accused of perjury for this . . . Is this your signature? . . . Is this your signature above the typewritten name PO1 Noel Falcasantos?

A: Yes, Your Honor.

Q: And, you swore to the true and correctness of this affidavit before Fiscal Eisma, you raised your right hand and swore that what you have stated here are correct?

A: Yes.

Q:

But, what you have stated there is not correct. . . you said there, you saw your group director handed the marked money to the drug pusher, but you just said, you did not see? . . . What is your answer now?

A: It should be omitted Your Honor, the words.

Q: The words “saw”, should be omitted?

A: Yes, sir.[38]

Thus, the lone testimony of Chief Inspector Muksan that Hairatul was in possession of the red Jollibee plastic bag containing the plastic pack with 298.2 grams of shabu is uncorroborated. Nevertheless, the trial court, finding no reason for Chief Inspector Muksan to testify falsely against Hairatul and Ruaina, gave full faith and credit to his testimony.

Material Inconsistencies in the Testimony of Chief Inspector Muksan

The testimony of one eyewitness is sufficient to support a conviction provided it is positive, credible, clear and straightforward.[39] However, the weight of the eyewitness account should be on the fact that the witness saw the accused commit the crime and the witness could positively identify the accused.[40] A scrutiny of Chief Inspector Muksan’s testimony shows that he did not actually see who was carrying the red Jollibee plastic bag containing the shabu or to whom this red Jollibee plastic bag was handed to during the sale. Chief Inspector Muksan testified that when he approached the informant and the pushers, the informant was already holding in her right hand the red Jollibee plastic bag.[41]

The rule is that factual findings of the trial court and its evaluation of the credibility of witnesses and their testimonies are entitled to great respect and will not be disturbed on appeal.[42] However, this rule does not apply where the trial court has overlooked, misapprehended, or misapplied any fact or circumstance of weight and substance.[43]

After a thorough review of the records of this case, the Court finds material inconsistencies and substantial flaws in the testimony of Chief Inspector Muksan which the trial court overlooked and which would warrant the acquittal of Hairatul.

Chief Inspector Muksan testified during direct examination that after the informant introduced him to the pushers he handed the buy-bust money to the informant, who then gave it to Hairatul. In exchange, Hairatul handed to the informant the red Jollibee plastic bag containing the shabu. Thus, Chief Inspector Muksan testified:

FISCAL NUVAL:

Q:

After introducing these four persons to you to the two you said Hairatul Jubail and Ruaina Nuruddin and the other one you forget, then what happened?

A:

I have the money with me for the buy-bust. Then, I gave it to the civilian informant then, we are very near to each other, then I saw that Hairatul Jubail gave that Jollibee plastic bag which I opened later, it was a shabu and the one who received the money was Ruaina Nuruddin.

FISCAL NUVAL:**Q:**

You gave the money to the civilian informant and this civilian informant, what did she do with this money?

A: She gave it to Shaira (Hairatul Jubail).

Q: And then from Shaira (Hairatul Jubail)?

A: The one who gave the shabu.

Q: Who gave you the shabu?

A: Shaira Jubail.

Q: And the money was received by Ruaina?

A: Yes.[44]

However, during cross-examination, Chief Inspector Muksan gave a different version of what happened. He testified that when the informant signaled to him that the pushers had arrived, he was still 30 meters from the main road and the informant was standing by the road with the money. Chief Inspector Muksan testified:

ATTY. PAKAM:

Q: Now, these two motorized tricycle, what time did that arrive to San Roque?

A: More or less in the afternoon at 3:00 o'clock November 12.

Q: These two motorized tricycle arrived simultaneously, correct?

A: Yes.

Q: The second tricycle following the first carried three passengers: two ladies and one boy?

A: Yes.

Q: Where were you when these tricycles arrived at San Roque?

A: I was outside of the house when the civilian informant signaled me that the contact person arrived.

Q: Where specifically outside of the house, where?

A: I left the house, at around 10 meters from the house.

Q: You were about 10 meters from the house?

A: Yes.

Q: That is to say about 30 meters from the main road?

A: Yes.

Q: Were you alone?

A: Yes.

Q: What about your police companion, where was he at that time?

A: They were inside the house waiting for us.

Q: Waiting at you?

A: Yes.

Q: What about your civilian informant, where was she?

A: Already at the road of San Roque, she already had the money.

Q: She was already at the road when the tricycles arrived?

A: Yes.[45]

On further questioning during cross-examination, Chief Inspector Muksan testified that when he approached the four women, the informant was already holding in her right hand the red Jollibee plastic bag containing the shabu. Chief Inspector Muksan testified:

Q:

Now, when this four women and one boy alighted from the tricycle, you claim you did not see them, correct?

A: When they alighted from the tricycle, I did not see them.

Q:

When they alighted from the tricycle, you cannot tell us with precision as to who was really holding the Jollibee bag?

A: When they alighted, I did not see them because I did not see the arrival of the motorcycle.

COURT:

Q: Is it possible that they alighted from just one tricycle or did you really see two tricycles?

A: Because your Honor, there were two tricycles.

Q: That is what you believed but what you actually saw was?

A: Only one.

Q: It is possible that they alighted from two tricycles?

A: It is possible, your Honor.

COURT:

Proceed.

ATTY. PAKAM:

Q:

Mr. Witness, your operatives were not also around when the four women and the one boy alighted from the tricycle?

A: Yes.

Q: What about your informant, was she around?

A: Yes, she was with me.

x x x

ATTY. PAKAM:

Q:

Mr. Witness, is it not a fact that when you for the first time approached the four women and the one boy, the red plastic bag was in the possession of the elderly woman?

A: No, your Honor.

Q: And this was only transferred to the possession of one of the accused after you were already around?

A:

I did not see anybody transfer the bag but when I approached the four women, my informant have already in her right hand the bag of Shaira.

Q:

Could it be possible that this red Jollibee plastic bag was first in the possession of the elderly woman when they arrived at the place?

FISCAL NUVAL:

Objection, your Honor.

COURT:

Ground?

FISCAL NUVAL:

He will be incompetent, there was no statement that he saw the plastic Jollibee bag transferred from one woman to the other.

COURT:

Sustained. You are asking for speculation.[46]

In illegal sale of prohibited drug, the prosecution must establish the following elements: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the drug sold and its payment.[47] What is important is that the prohibited drug the accused sold and delivered be presented before the court and the accused be identified as the offender by the prosecution eyewitnesses.[48]

In this case, the prosecution failed to prove clearly who carried the red Jollibee plastic bag containing the shabu and more importantly, who sold the shabu. During direct examination, Chief Inspector Muksan stated that Hairatul handed to him the red Jollibee plastic bag containing the shabu after Ruaina received the buy-bust money. However, during cross-examination, Chief Inspector Muksan testified that when he reached the road, the informant was already holding in her right hand the red Jollibee plastic bag. Later in his testimony, Chief Inspector Muksan jumped to the conclusion that Hairatul owned the red Jollibee plastic bag.

The testimony on the actual delivery of the shabu is vital in identifying the real offender in this case. The Court cannot convict an accused based on the testimony of a lone eyewitness whose testimony poses more questions than answers. Did Chief Inspector Muksan actually see Hairatul in possession of the red Jollibee plastic bag containing the shabu? To whom was the red Jollibee plastic bag handed – Chief Inspector Muksan or the informant? Who was the real poseur-buyer – Chief Inspector Muksan or the informant? If Chief Inspector Muksan did not witness the actual delivery of the shabu but only saw the red Jollibee plastic bag containing the shabu already in the possession of the informant, how could he be certain that the shabu came from Hairatul? In the prosecution for the sale of illegal drugs, what is important is that the poseur-buyer received the drugs from the accused and the prosecution presented the same as evidence in court.[49] In this case, the prosecution failed to prove clearly that the red Jollibee plastic bag containing the shabu was in Hairatul's possession. Trial courts should always require precise and convincing testimony in cases involving buy-bust operations lest an innocent person suffer the severe penalties for drug offenses.[50]

There are other discrepancies in the statements of Chief Inspector Muksan, which weaken the probative value of the prosecution's evidence.

First, Chief Inspector Muksan failed to give a plausible explanation why his team had to be in San Roque at 5:00 o'clock in the morning on 12 November 1998 when the scheduled buy-bust operation was at 3:00 o'clock in the afternoon. Chief Inspector Muksan requested the informant on 11 November 1998 to tell the pusher that they would buy shabu at 3:00 o'clock the following day in San Roque.[51] When asked during cross-examination why they had to be in San Roque as early as 5:00 o'clock in the morning, Chief Inspector Muksan gave the following explanation, which contradicted his earlier testimony:

COURT:

Q:

And the civilian informant was also there at 3:00 o'clock in the afternoon?

A:

Yes.

Q:

Why she be there at 5:00 o'clock when the transaction was at 3:00 o'clock?

A:

So that we could also know our position/so that we will know our position because that is the place where we agreed upon.

Q:

So, from 5:00 o'clock in the morning to 3:00 o'clock in the afternoon the civilian informant was also there with you?

A:

Yes.

Q:

Why was she there when the supposed buy-bust transaction will take place at 3:00 o'clock?

A:

Waiting for the accused.

Q:

Why she do that 5:00 o'clock, 6:00 o'clock, 7:00 o'clock, 8:00 o'clock . . . ten (10) hours why she be waiting for ten hours knowing that the accused is the supposed suspect will come at 3:00 o'clock, why she be there waiting?

A: Because the accused in my own assessment the accused is not accurate in giving time it might be in the morning or anytime on the same day.

COURT:

Proceed.

ATTY. PAKAM:

Q:

Is it not a fact as early as November 11, 1998 you have already set the time agreed, the place where you met with the alleged drug poseur you have agreed at 3:00 o'clock at Ruste Drive at San Roque, why the civilian informant has to be there at 5:00 o'clock in the morning?

A:

Actually, it was agreed in the morning at 10:00 o'clock in the morning but the final transaction happened at 3:00 in the afternoon, Your Honor.[52]

Second, Chief Inspector Muksan testified that on 12 November 1998, the informant and the pusher(s) contacted one another through their cellular phones.[53] Chief Inspector Muksan testified that the informant knew when the pusher would arrive because the informant and the pusher communicated with each other through their cellular phones up to the time of the arranged meeting for the sale of shabu. However, when the police officers arrested Hairatul and Ruaina and confiscated their shoulder bags, the police officers did not find any cellular phone in their possession.[54] This casts doubt on the identity of the pusher and militates against the claim of the prosecution that Hairatul was the pusher.

Non-Presentation of the Informant

In the face of Chief Inspector Muksan's inconsistent testimony, the testimony of the informant is indispensable. More so in this case where the police engaged the informant's services for the first time in a buy-bust operation.[55] The prosecution did not present as witness the informant who apparently was the only eyewitness to the entire transaction. The testimony of a police informant in an illegal drug case is not essential to convict the accused since the testimony would be merely corroborative and cumulative.[56] However, where the informant is the only eyewitness to the illegal transaction, his testimony is essential and non-presentation of the informant is fatal to the prosecution's cause.[57] As held in *People v. Zheng Bai Hui*: [58]

Except when the appellant vehemently denies selling prohibited drugs and there are material inconsistencies in the testimonies of the arresting officers, or there are reasons to believe that the arresting officers had motives to testify falsely against the appellant, or that only the informant as the poseur-buyer who actually witnessed the

entire transaction, the testimony of the informant may be dispensed with as it will be merely corroborative of the apprehending officers' eyewitness testimonies. There is no need to present the informant in court where the sale was actually witnessed and adequately proved by prosecution witnesses.

In this case, Hairatul denied selling the shabu and testified that the red Jollibee plastic bag which contained shabu was not hers but Fatima's. Chief Inspector Muksan, the only eyewitness presented by the prosecution, did not witness the entire transaction. Chief Inspector Muksan did not witness the most crucial moment when the pusher handed over the shabu to the buyer. When Chief Inspector Muksan arrived at the scene, the red Jollibee plastic bag containing the shabu was already in the possession of the informant. Thus, the testimony of the informant is essential in this case to prove with certainty the identity of the seller of the shabu.

The presumption of regularity in the performance of official duty cannot by itself overcome the presumption of innocence.[59] An accused in a criminal case is presumed innocent until proven otherwise and the prosecution has the burden of proving his guilt beyond reasonable doubt.[60] The evidence of the prosecution must stand on its own weight and not rely on the weakness of the defense.[61] In this case, the Court finds that the prosecution has failed to overcome the constitutional presumption of innocence and to prove with moral certainty the guilt of Hairatul.

WHEREFORE, the Decision dated 15 October 1999 of the Regional Trial Court of Zamboanga City, Branch 16, in Criminal Case No. 15557 is REVERSED. Appellant Hairatul Jubail is ACQUITTED on the ground of reasonable doubt. The Director of Bureau of Prisons is ordered to release immediately appellant from confinement, unless she is detained for some other lawful cause, and to report to this Court compliance within five (5) days from receipt of this Decision.

SO ORDERED.

Panganiban, (Acting Chairman), Ynares-Santiago, and Azcuna, JJ., concur.
Davide, Jr., C.J., (Chairman), on official leave.

[1] Penned by Judge Jesus C. Carbon, Jr.

[2] Republic Act No. 6425, as amended.

[3] Rollo, p. 8.

[4] Records, p. 17.

[5] TSN, 12 April 1999, pp. 13-23.

[6] Ibid., pp. 16-19, 23-25.

[7] Ibid., pp. 25-27.

[8] TSN, 12 April 1999, pp. 28-32; TSN, 13 April 1999, pp. 2-11, 25-31.

[9] Exhibit "A."

[10] Exhibit "G."

[11] Exhibit "D."

[12] Exhibit "E."

[13] Exhibit “F.”

[14] Exhibit “B.”

[15] Exhibit “C.”

[16] TSN, 14 April 1999, pp. 19-45.

[17] Exhibit “H.”

[18] TSN, 12 April 1998, pp. 2-9.

[19] On cross-examination, PO2 Miñoza alleged that before going to the store, he and PO1 Cuadra initially stayed inside an abandoned house and only proceeded to the store when Chief Inspector Muksan joined the informant.

[20] TSN, 14 April 1999, pp. 49-63; TSN, 15 April 1999, pp. 2-19.

[21] TSN, 15 April 1999, pp. 25-40.

[22] TSN, 21 April 1999, pp. 2-10.

[23] TSN, 21 April 1999, pp. 2-26.

[24] TSN, 22 April 1999, pp. 2-12.

[25] TSN, 22 April 1999, pp. 12-35.

[26] As proof of Bakun’s medical consultation with Dr. Cases, a medical certificate signed by Dr. Cases was offered as evidence. See Exhibit “7.”

[27] TSN, 19 April 1999, pp. 2-11.

[28] Ibid., pp. 21-28.

[29] TSN, 20 April 1999, pp. 2-9.

[30] Rollo, pp. 35-36.

[31] Ibid., p. 27.

[32] Ibid., p. 32.

[33] Ibid., pp. 25-26.

[34] Ibid., p. 34.

[35] Ibid., pp. 57-58.

[36] *People v. Saludes*, G.R. No. 144157, 10 June 2003; *People v. Melendres*, G.R. No. 134940, 30 April 2003.

[37] TSN, 15 April 1999, pp. 14-15. (Emphasis supplied)

[38] Ibid., pp. 56-59. (Emphasis supplied)

[39] *People v. Camacho*, 411 Phil. 715 (2001); *People v. De Leon*, 411 Phil. 338 (2001); *People v. Rama*, G.R. No. 136304, 25 January 2001, 350 SCRA 266.

[40] *People v. Padilla*, 414 Phil. 773 (2001).

[41] TSN, 14 April 1999, p. 15.

[42] *People v. Lim*, G.R. No. 141699, 7 August 2002, 386 SCRA 581; *People v. Pacis*, G.R. No. 146309, 18 July 2002, 384 SCRA 684.

[43] *People v. Pedronan*, G.R. No. 148668, 17 June 2003.

[44] TSN, 13 April 1999, pp. 6-7. (Emphasis supplied)

[45] *Ibid.*, pp. 47-48. (Emphasis supplied)

[46] TSN, 14 April 1999, pp. 13-16. (Emphasis supplied)

[47] *People v. Adam*, G.R. No. 143842, 13 October 2003; *People v. Mala and Bala*, G.R. No. 152351, 18 September 2003; *People v. Tan*, G.R. No. 129376, 29 May 2002, 382 SCRA 419; *People v. Rodriguez*, G.R. No. 144399, 20 March 2002, 379 SCRA 607.

[48] *People v. Chua Tan Lee*, G.R. 144312, 3 September 2003; *People v. Rodriguez*, G.R. No. 144399, 20 March 2002, 379 SCRA 607.

[49] *People v. Beriarmente*, 418 Phil. 229 (2001).

[50] *People v. So*, 421 Phil. 929 (2001).

[51] TSN, 12 April 1999, p. 23.

[52] TSN, 13 April 1999, pp. 45-47. (Emphasis supplied)

[53] TSN, 12 April 1999, p. 28; TSN, 13 April 1999, pp. 44-45.

[54] TSN, 13 April 1999, p. 45.

[55] *Ibid.*, p. 33.

[56] *People v. Che Chun Ting*, 385 Phil. 305 (2000).

[57] See *People v. Lagata*, G.R. No. 135323, 25 June 2003.

[58] G.R. No. 127580, 22 August 2000, 338 SCRA 420, 475-476 citing *People v. Doria*, 361 Phil. 595, 622 (1999).

[59] *People v. So*, 421 Phil. 929 (2001); *People v. Tan*, G.R. No. 133001, 14 December 2000, 348 SCRA 116; *People v. De Los Santos*, 373 Phil. 77 (1999).

[60] *People v. Tiu*, G.R. No. 142885, 22 October 2003; *People v. Que Ming Kha*, G.R. No. 133265, 29 May 2002, 382 SCRA 480.

[61] *People v. Lim*, G.R. No. 141699, 7 August 2002, 386 SCRA 581; *People v. Tan*, G.R. No. 129376, 29 May 2002, 382 SCRA 419.

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.