

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MICHAEL SY ALIAS MICHAEL/DANIEL, APPELLANT.

G.R. No. 147348. September 24, 2002

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In prosecutions for violation of the Dangerous Drugs Law, frame-up is a common if not trite defense. At bottom, the case becomes a contest of credibility of the witnesses and their testimonies. In such a situation, this Court generally relies upon the assessment of the trial court, which had the distinct advantage of observing the conduct or demeanor of the witnesses while they were testifying.

The Case

For review before this Court is the Decision[1] dated January 30, 2001, issued by the Regional Trial Court (RTC) of Caloocan City (Branch 127) in Criminal Case No. C-60283, finding Michael Sy alias Daniel, alias Shi Tian Sheng guilty of violating Section 16, Article III, RA 6425 (the Dangerous Drugs Act), and sentencing him to reclusion perpetua.

The Information[2] dated July 21, 2000, reads as follows:

“That on or about the 20th day of July 2000, in Caloocan City and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there wilfully, unlawfully and feloniously have in his/her possession, custody and control METHYLAMPHETAMINE HYDROCHLORIDE (SHABU) weighing 246.29 grams, a regulated drug, under the provisions of the above-cited law.”[3]

During his arraignment on August 31, 2000, appellant[4] pled not guilty.[5] After trial in due course, the lower court rendered its Decision, the dispositive portion of which reads:

“WHEREFORE[,] premises considered and the prosecution having proved beyond an iota of doubt the guilt of Accused MICHAEL SY a.k.a. SHI TIAN SHENG of Violation of Sec. 16, Art. III of RA 6425 as amended by RA 7659 this Court, in the absence of any modifying circumstance, hereby sentences the said Accused to suffer the lesser penalty of Reclusion Perpetua, and to pay the fine of P5,000,000.00 Philippine Currency and to pay the costs.

“The preventive imprisonment suffered by the Accused shall be credited in full in the service of his sentence in accordance with Art. 29 of the Revised Penal Code.

“The Accused being an alien, his deportation without further proceedings is hereby ordered after the service of his sentence pursuant to Sec. 22, Art. IV of R.A. 6425, as amended.

“Subject drug consisting of 246.29 grams of methylamphetamine hydrochloride [is] hereby declared confiscated and forfeited in favor of the government. In this connection and per Section 20, Article IV of same Act, the Deputy Sheriff of this sala is hereby directed to turn over the same to the Dangerous Drugs Board to be dealt with in accordance with the law.”[6]

The Facts

Prosecution's Version

In its Brief,[7] the Office of the Solicitor General (OSG) presents the prosecution's version of the facts as follows:

"Acting on the information given by a confidential informant that the spouses Reynaldo and Maritess Santos were peddling shabu, the Valenzuela Police Station - Drug Enforcement Unit (VPS-DEU) conducted a surveillance on the residence of the said spouses at 2355 M. delos Reyes St., Gen. T. De Leon, Valenzuela City. After confirming the veracity of the information provided by the confidential informant, police operatives belonging to the VPS-DEU conducted on July 19, 2000, at around 7:30 p.m., a 'buy-bust' operation against the Santos spouses wherein the designated poseur-buyer, Police Officer 3 Nolasco Dabu, with the assistance of the confidential informant and other police officers, was able to entrap the said spouses while in the act of selling to him shabu contained in a plastic bag.

"The Santos spouses were apprehended by police operatives and brought to the [Valenzuela] Police Station where they were informed of their constitutional rights under custodial investigation. In the course of the investigation, Maritess Santos volunteered to cooperate with police investigators in apprehending her supplier of shabu. To enable her to contract her supplier, one of the police operatives lent his cell phone to Maritess. Maritess then called up somebody, who turned out to be the herein appellant, Michael Sy, and informed him that she would like to remit the proceeds of the sale of shabu she earlier sold because she would be going to the province and she disliked having to bring the money with her. Michael Sy declined Maritess Santos' request because it was already late. He suggested instead that they meet the following day in front of the Our Lady of Grace Church at 11th Avenue, Grace Park, Caloocan City.

"The following day, July 20, 2000, around 8:30 a.m., a police team led by P/Insp. Gordon brought the Santos spouses to the Valenzuela City Mayor's Office to inform Mayor Carlos about the arrest of the said spouses for violation of the Dangerous Drugs Law. While at the said office, Maritess reiterated her willingness to cooperate with the police in apprehending Michael Sy, her supplier of illegal drugs. Upon the suggestion of P/Insp. Gordon, the police formed a plan to entrap Michael Sy. Under the plan, Maritess would contact Michael Sy and persuade him to meet her and her male companion at a certain place for the purpose of remitting money representing the proceeds of the shabu she earlier sold. After remitting the money, which would be provided by the police, Maritess would ask Michael Sy for a new supply of shabu. Thus, at around 9:00 a.m., Maritess contacted again Michael Sy by a cell phone to confirm their meeting at the Our Lady of Grace Church. Police Officer 2 Exequiel Sangco, who was standing near Maritess, heard her tell Michael Sy that she and a male companion will arrive at the designated meeting place aboard a maroon Lancer car. Michael Sy replied in broken Tagalog. 'Sige, kita tayo'.

"In accordance with the plan to entrap Michael Sy, a police team composed of P/Insp. Gordon, SPO1 Manuelito Isip, PO3 Nolasco Dabu and PO2 Exequiel Sangco went to the place where Maritess and Michael Sy agreed to meet. Police Officer 2 Sangco accompanied Maritess aboard a maroon Lancer provided by the Chief of Police, while the other members of the police team went to the designated place in separate vehicles. Maritess and PO2 Sangco arrived at the Our Lady of Grace Church at around 10:30 a.m. and parked their vehicle in front of the said church. The rest of the police team posted themselves in strategic positions within the vicinity of the church. For their part, P/Insp. Gordon, P/Supt. Neron and Valenzuela City Mayor Carlos stayed at the church's rear side, approximately 100 meters away from PO2 Sangco and Maritess.

"At around 1:30 p.m., Michael Sy arrived by his lonesome, driving a black Honda Civic car. He blew his car's horn and parked his car in front of the maroon Lancer. Upon seeing the car, Maritess uttered to PO2 Sangco, 'Siya Na. Heto na iyong Michael'. Maritess and PO2 Sangco then alighted from their car and approached Michael Sy who, in haltered Tagalog, asked, 'Sino yan?', referring to PO2 Sangco. Maritess replied, 'Wala

yan.' Maritess then opened the car of Michael Sy and with PO2 Sangco, boarded the same. Once inside, Michael Sy asked Maritess, 'Nasan?'. In response, Maritess tapped the right pocket of her maong pants, showed a portion of the bundle of 'show money' to Michael Sy, and asked the latter in turn, 'Nasaan?'. Satisfied, Michael Sy opened the car's glove compartment and took out a plastic bag purportedly containing shabu. Forthwith, PO2 Sangco opened the car's door, which was not closed tightly, by kicking the same as a prearranged signal to his colleagues that the illegal transaction had been accomplished. Police Officer 2 Sangco then grabbed the car keys, introduced himself as police officer to Michael Sy, and seized the plastic bag from the glove compartment of the car. After informing Michael Sy of his constitutional rights, PO2 Sangco handcuffed him and presented him, as well as the confiscated shabu to P/Insp. Gordon who arrived at the scene of the crime.

"Thereafter, the police operatives returned to the Valenzuela Police Station together with Michael Sy, the confiscated shabu and the black Honda Civic. At the police station, police operatives turned over Michael Sy and the seized evidence to SPO3 Dexter Perez for investigation. SPO3 Perez likewise reduced the joint statement of the arresting officers into writing and prepared the 'Request For Laboratory Examination' dated 20 July 2000 to the NPD Crime Laboratory Office, Samson Road, Caloocan City for examination of the subject substance seized from appellant. The seized substance was received from PO3 Norman Pestejo by the assigned Forensic Chemist, P/Insp. Victor Calub Drapete. In P/Insp. Drapete's 'Physical Sciences Report No D-730-00; the following entries appear:

'SPECIMEN SUBMITTED:

'Four (4) heat-sealed transparent plastic bags, each containing white crystalline substance with the following markings and recorded net weights:

A - (ES-1) = 61.83 grams

B - (ES-2) = 60.29 grams

C - (ES-3) = 61.93 grams

D - (ES-4) = 62.24 grams

'PURPOSE OF LABORATORY EXAMINATION:

'To determine the presence of prohibited and/or regulated drug.

'FINDINGS:

"Qualitative examination conducted on the above-stated specimen gave POSITIVE result to the tests for Methylamphetamine hydrochloride, a regulated drug.

"CONCLUSION:

"Specimen A through D contain Methylamphetamine hydrochloride, a regulated drug.'

"Based on the above findings and joint affidavit of PO3 Nolasco Dabu, PO2 Exequiel Sangco and PO1 Manuelito Isip as well as the seized physical evidence, the case against Michael Sy was referred for inquest to the Office of the City Prosecutor, Caloocan City per 'Referral Slip' dated 21 July 2000 which resulted in the filing of an Information against Michael Sy for violation of Section 16, Article III of RA 6425, as amended."[8] (Citations omitted)

Defense's Version

Appellant, on the other hand, posits a different version of the facts, as follows:

“[O]n the morning of 20 July 2000, Accused MICHAEL SY (Accused for short) went to Allied Bank, Asuncion Branch, Manila to withdraw P20,000.00 from his Savings Account No. 1610-01047-3 to pay his creditor. Returning to his car, he received a cellphone call from his boss, JOSE SY from whom he used to do some errands like delivering RTW items consisting of blouses, t-shirts and dresses to customers, asking him to proceed to the church (referring to Our Lady of Grace Park, Caloocan City to get the money in the amount of P200,000.00 to be given by his (JOSE SY’s) mistress MARITESS SANTOS, who he (Accused) had seen several times getting some merchandise at the store of his boss in Tutuban Center. Being familiar to 11th Avenue, Grace Park, Caloocan City since he used to pass there on his way to Valenzuela City to buy fruits for his relatives, he complied with the instruction of JOSE SY. Arriving thereat at around 11:00 a.m. and nearing Our Lady of Grace Church, he drove slowly due to the thick crowd when he saw the smiling MARITESS in the company of two (2) men. Suddenly several men in civilian clothes blocked his car, three of them at his left side and another three at his right and pointed their handguns at him and simultaneously beckoned him to come out. Terrified, he acceded thereto but no sooner had he alighted from the car than when he was handcuffed by the men, later identified as policemen from Valenzuela City Police Station. Thence he was made to board the car of the operatives. While inside the car the police officer at his side frisked him and got his newly withdrawn money of P20,000.00 including his other cash in the amount of around P15,000.00, two (2) rings valued at P30,000.00 and his belt as well as his passbook containing P3 million deposit. At the same time he was beaten by his captors to which he asked ‘BAKIT, BAKIT’. His car was also taken by the group and brought to the Valenzuela City Police Station. While he was being accosted by the police, Accused saw MARITESS just standing and laughing at a distance of around 2-meters away from him. At the Valenzuela City Police Station, he was never informed by the police of the charge against him much less was he advised of his right to counsel nor provided with any Chinese interpreter. Thus, he was not able to understand what the policemen were talking about.

“Accused further stated that he first arrived in the Philippines in 1998 as a tourist but later he was issued a Special Return Certificate No. 113877 by the Bureau of Immigration which entitled him to a multiple exit and re-entry permit into the Philippines. However, he only went out of the country once when he visited [C]hina for 20 days in January 1999. It was his relative SHI CHING CHUAN who met him at the Manila [I]nternational [A]irport when he first arrived in Manila in 1998 and brought him in their house in Divisoria where he stayed for several months. Since SHI CHING CHUAN was engaged in the buy-and-sell of RTW garments, the latter initially accompanied the Accused in going to Baclaran and introduced him to his regular customers thereat until such time when the Accused learned his way in Baclaran. After 5 to 6 months accused was able to familiarize himself with the ins and outs of the garment business, thus, he went on his own, earning an average of P30,000.00 to P40,000.00 each month, which was subsequently increased upon the arrival of new and cheaper products from their factory in China. Being a licensed driver he was allowed to use his relatives’ delivery van which he drove in connection with his business.

“As to his driven Honda Civic car with plate No. WJE-166, this car was just lent to him by his friend named CHERRY CHONG who before leaving for China allowed him to use it with option to purchase as soon as its installments shall have been fully paid.

“The Accused additionally testified that although his passbook contained P3 million deposit as of 20 July 2000 however while incarcerated he issued checks as payments for his creditors hence, the deposit was already withdrawn. Accused also explained that he brought-in 500.00 Chinese money or the equivalent of around P2,000,000.00 to P3,000,000.00 Philippine currency when he entered the Philippines in 1998.

“The Defense presented MILO DISCAYA y LACSA bookkeeper of Allied Banking Corporation Asuncion Branch, Manila, the employee responsible for all cash transactions affecting savings, and current accounts, who corroborated Accused testimony [regarding] his withdrawal of P20,000.00 from his Saving Account No. 1610-01047-3 on 20 July 2000 per cash withdrawal slip dated 20 July 2000 of one MICHAEL SY under his aforesaid Savings Account and bank’s Daily Transaction Journal bearing Transaction Code No. 0550 which

likewise disclosed two (2) deposits on that date of 20 July 2000, as follows:

1. Check deposit of P540,000.00 at 11:30 a.m. and
2. Cash deposit of P205,000.00 at 4:45 p.m.

“On 29 November 2000, Accused was recalled by the Defense Counsel to the witness stand when he explained, among others that the deposits, supra, appearing in the ABC’s Daily Transaction Journal refers to the Check he deposited in his account whereas the cash deposit must have been made by one of his customers.”[9] (Citations omitted)

Ruling of the Trial Court

After a careful study and judicious assessment of the evidence submitted by both parties, the trial court accepted and believed the testimony of Police Officer (PO)2 Exequiel Sangco. He was the lone eyewitness to what the RTC described as a candid, categorical and straightforward conversation between appellant and Maritess Santos.[10]

Further, the RTC rejected the defense of frame-up proffered by appellant, as well as his allegation of being divested of cash and valuables after he was apprehended.[11] It likewise upheld the validity of his arrest and the seizure of the prohibited drugs.[12]

Hence, this appeal.[13]

The Issue

Appellant assigns the following errors for the Court’s consideration:

“I

“The lower court erred in not finding that the guilt of accused-appellant has not been proven beyond reasonable doubt.

“II

“The lower court erred in not acquitting accused-appellant.”[14]

In the main, appellant argues that the prosecution failed to overcome the constitutional presumption of innocence in his favor.

The Court’s Ruling

The appeal has no merit.

Main Issue:

Sufficiency of the Prosecution Evidence

Appellant contends that the prosecution failed to prove his guilt beyond reasonable doubt. He adds that, in view of the buy-bust operation, he should have been charged only with illegal sale -- not illegal possession -- of drugs.[15]

At the outset, it should be pointed out that the state’s right to prosecute vests the prosecutor with a wide range of discretion on whether, what and whom to charge, the exercise of which depends on a number of factors that are best appreciated by the government officials concerned.[16] It should be noted that the Dangerous Drugs Law punishes the mere act of possessing prohibited drugs.[17] Present in the instant case are all the elements of illegal

possession of drugs: (1) the accused is in possession of an item or object which is identified to be a prohibited drug, (2) such possession is not authorized by law, and (3) the accused freely and consciously possesses the said drug.[18] Thus, appellant was properly charged in the Information for possession, not sale, of shabu.[19]

Further, well-settled is the rule that prosecutions involving illegal drugs depend largely on the credibility of the police officers who conducted the "buy-bust" operation. This Court has access only to the cold and impersonal records of the proceedings.[20] Thus, it relies heavily on the rule that the weighing of evidence, particularly when there are conflicts in the testimonies of witnesses, is best left to the trial court, which had the unique opportunity to observe their demeanor, conduct and manner while testifying.[21] Hence, its factual findings are accorded respect, even finality, absent any showing that certain facts of weight and substance bearing on the elements of the crime have been overlooked, misapprehended or misapplied.[22]

We find no reason to overturn the findings of the trial court in the case before us.[23] The positive identification made by the police officers and the laboratory report, not to mention the incredulous defense of frame-up to which appellant resorts, sufficiently prove beyond reasonable doubt that he committed the crime charged.[24] Indeed, the testimony of PO2 Exequiel Sangco of the Valenzuela Police Station was candid and categorical. He narrated the circumstances leading to the arrest as follows:

“Q. On July 20, 2000 were you on duty as police officer of Valenzuela City?

A. Yes, Sir.

Q. Where were you on duty on that date?

A. I am with my companion in the Valenzuela police station office at Drugs Enforcement Unit, Sir, and then we proceed[ed] to the Mayor’s office, Sir.

x x x x x x x x

PROSECUTOR LOMADILLA TO WITNESS:

Q. Who were your companions in going to the office of the mayor of Valenzuela City?

A. The chief of police, the Chief of DEU Inspector Francis Gordon, SPO4 Paguntalan, SPO3 Tapar, myself, PO2 Milia, PO2 Pestejo and Mrs. and Mrs. Reynaldo Santos.

Q. What is the name of this Mrs. Santos?

A. Marites Santos.

Q. So, what transpired in the office of Valenzuela City Mayor when you went there?

COURT:

Q. What time did you go there?

A. Around 8:30 a.m.

Q. Of?

A. July 20 po.

PROSECUTOR LOMADILLA TO WITNESS:

Q. So, what transpired in the office of the City Mayor of Valenzuela?

A. We present previously arrested Reynaldo Santos and Marites Santos to the City Mayor of Valenzuela and

they were arrested for violation of 6425 presented them to the City Mayor and then Marites admit to the City Mayor that they are willing to cooperate by means of pointing to the source of the illegal drugs or shabu.

Q. So, what happen when she manifested her desire to cooperate with you then?

A. Marites use[d] her cellphone in calling someone.

Q. To whom did she make that call?

A. To a certain Michael.

Q. Was her conversation with that certain Michael heard by you?

A. Yes Sir. We were very close to the cellphone.

Q. Then what happen?

A. Marites told that certain Michael that she will remit money as payment for the drug which she previously took and that they will meet at 11th Avenue, Grace Park, Caloocan City.

Q. What else happen?

A. Marites told Michael that she will have a male companion and they will be riding in a maroon Lancer and the reason why she wanted to remit the money because she might go home to the province.

Q. And who was supposed to be that man, male person accompanying Marites?

A. Myself.

Q. And what was the reaction if any of that certain Michael?

A. Noong sinabi nga po, kasi po putol-putol din po iyong salita ni Michael na Tagalog, sabi, Sige kita tayo.

COURT:

Q. In Tagalog?

A. Opo, putol-putol.

Q. How was it said?

A. Noong sine-set niya na po iyong usapan so ang nadinig po namin, kasi po nakadikit nga po kami doon sa Sige, kita tayo.

ATTY. MALLARES:

The answer is not responsive. The question only is very clear, how?

PROSECUTOR LOMADILLA TO WITNESS:

Q. Then what happen after that?

A. We were dispatch[ed] to proceed to 11th Avenue.

Q. What did you take in going to Grace Park, Caloocan City?

A. Marites and I took the maroon Lancer provided by our Chief while the rest were riding in an owner-type jeep.

Q. Where in Caloocan City did you proceed?

A. 11th Avenue, Grace Park infront of Our Lady of Grace church.

Q. What time were you able to arrive in the vicinity of Our Lady of Grace church in Caloocan City?

A. 10:30 a.m. to quarter to eleven.

COURT:

Q. What date was that?

A. 20 of July.

PROSECUTOR LOMADILLA TO WITNESS:

Q. What did you and Marites do after that?

A. Marites and I park[ed] the car right infront of the Our Lady of Grace church while the rest assume[d] their strategic position.

Q. And then what happen[ed] after that?

A. We waited. Around 12:30 a Black Civic Honda car arrived and passed infront of us and the driver lower[ed] the right side window and then Marites said, 'Siya na.'

ATTY. MALLARES:

We suggest that the answer be given briefly. That's only a narration, your Honor.

COURT:

Okey, question and answer form.

PROSECUTOR LOMADILLA TO WITNESS:

Q. When the driver of that Honda car lowered the right side window of his car what happen?

A. He blew his horn and then park[ed] infront of us.

Q. What was the reaction of Marites, if any?

A. Sinabi niya nga po, 'Heto na iyong si Michael' bumaba na po kami ng kotse tapos lumapit na po kami sa kotseng kulay itim.

Q. When you and Marites alighted what did you do?

A. Then we approach[ed] the car and the driver ask[ed]

x x x sino iyan? And Marites answered 'Wala iyan.'

x x x x x x x x

Q. What was the reaction of Michael upon[ed] receiving wala iyan?

A. Normal reaction and then Marites open[ed] the car door and went in.

COURT:

Q. Whose car?

A. Michael.

x x x x x x x x

PROSECUTOR LOMADILLA TO WITNESS:

Q. What happen[ed] after you and Marites enter[ed] the car of Michael?

A. Upon boarding the car of Michael, Michael ask[ed] Marites, nasaan and then Marites said the show money is in her right pocket.

COURT INTERPRETER:

(At this moment, your Honor, witness is tapping his right front pocket).

COURT:

Q. Pointed to the right pocket?

A. Hindi po, Ma'am. Medyo pinakita po niya iyong show money, nilabas po niya.

Q. Where was it hidden?

A. From the right pocket.

Q. What was she wearing at that time?

A. Maong pants po.

PROSECUTOR LOMADILLA TO WITNESS:

Q. Then what happen after that?

A. Marites also ask Michael nasaan and then he open[ed] the car compartment infront and took-out a plastic bag with what I know is containing shabu.

COURT:

Q. So, it was hidden at the back?

A. No, Ma'am. Doon po sa harapan.

PROSECUTOR LOMADILLA TO WITNESS:

Q. What happen after that?

A. Knowing fully well that it was shabu since I did not close the door tight, I kicked the door open so as to alert or give the pre-arrange signal and then grab the car keys.

Q. And then what happen after that?

A. Simultaneously after grabbing the car keys I introduce[d] myself as police officer.”[25]

Moreover, Sangco's testimony was corroborated by the back-up force: PO3 Nolasco Dabu, P/Insp. Francis Gordon and P/Supt. Nemesio Meron.[26]

Appellant, while alleging that the buy-bust operation was concocted, does not advance any reason why the RTC should not have given credence to the testimony of Sangco.[27] On the contrary, the testimonies of the latter and of the other members of the team were clear, straightforward and consistent. Concurrent on material points, these were replete with relevant details that sufficiently supported the trial court's conclusions.[28]

Further, the collective testimonies of the prosecution witnesses are corroborated by the physical evidence on

record, which is Laboratory Report No. D-730-00.[29] Upon a laboratory examination, the white crystalline substance found in appellant's possession was positively identified as methylamphetamine hydrochloride or "shabu," a regulated drug.[30] Absent any persuasive evidence showing why these officers would testify falsely, the logical conclusion is that no improper motive exists, and that their testimonies are worthy of full faith and credit.[31]

No Frame-Up

Appellant alleges that this is a case of frame-up, and that the buy-bust operation was merely concocted by the police officers. We are not convinced.

The defense of frame-up, like denial and alibi, has invariably been viewed by the courts with disfavor, for it can easily be concocted.[32] It is a common and standard ploy employed by the accused in prosecutions for violation of the Dangerous Drugs Act.[33] Being factual in nature, the tenability of this defense depends largely on the trial court's assessment of the credibility of the testimonial evidence of the accused.[34]

True, in some instances law enforcers resort to the practice of planting evidence to extract information or even to harass civilians.[35] However, we also 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 policemen's allegedly rotten reputation -- accept in every instance this form of defense which can be so easily fabricated.[36] Hence, for such defense to prosper, the evidence must be clear and convincing.[37] Unfortunately for the accused, this is not the case here.[38]

Verily, the defense has failed to convince us that the trial court's Decision should be disbelieved or modified, much less reversed.[39] First, incredible is the story of appellant that upon his arrival at Our Lady of Grace Church, men in civilian clothes blocked his way and effected the arrest while pointing their handguns at him.[40] He offered no evidence that they had been improperly or maliciously motivated.[41] Neither did he give any satisfactory explanation why the Drug Enforcement Unit agents would single out his car from among the many vehicles that passed 11th Avenue in Caloocan City on that particular day, just to frame him up and extort money from him.[42]

The records show that there was no prior surveillance of appellant conducted prior to his arrest. For the purpose of showing that the agents had meant to extort a huge sum of money from him, he did not present any evidence showing that they had known him prior to the arrest.[43] On the contrary, PO2 Exequiel Sangco became aware of appellant's illegal trade only after the buy-bust operation involving Maritess Santos, who then volunteered the information on the source of the shabu seized from her.[44]

Second, in the absence of proof of motive for falsely imputing such a serious crime, the presumption of regularity in the performance of official duty, as well as the findings of the trial court on the credibility of witnesses, shall prevail over the self-serving and uncorroborated claim of frame-up.[45] With nothing to substantiate such malicious accusation, credence shall be given to the narration of the incident by the prosecution witnesses because, being police officers, they are presumed to have performed their duties in a regular manner.[46] Certainly, the presumption of regularity must prevail over appellants' unfounded allegations.[47]

Verily, this Court has held in numerous cases that entrapment is sanctioned by law as a legitimate method of apprehending criminal elements engaged in the sale and distribution of illegal drugs.[48]

Third, appellant's charge of frame-up is a pure concoction, as shown by the fact that he has not filed a single complaint against the police officers who allegedly extorted money from him.[49] We agree with the observation of the trial court that his inaction runs counter to the normal human conduct and behavior of one who feels truly

aggrieved by the act complained of.[50]

On such evaluation and analysis, we hold that the RTC committed no error in according greater weight to the forthright declarations of the prosecution witnesses.[51] Bare denials and the frail defense of frame-up cannot prevail over the categorical and unshaken testimonies of the apprehending officers who nabbed him red-handed[52] and positively identified him as the person they had caught in possession of the methamphetamine hydrochloride.[53]

Buy-Bust Money

Appellant further claims that the money allegedly confiscated from him was never presented in court.[54] We hold, however, that the prosecution's failure to present the marked money does not dent the government's case.[55] In other words, the presentation of the buy-bust money is not indispensable to the conviction of the accused.[56]

What is material and indispensable is that the possession of the illegal drugs by appellant was adequately established,[57] and that he was clearly identified as the culprit.[58]

Pursuant to *People v. Simon*[59] and many similar cases, the possession of regulated drugs without proper authority is penalized, under Section 16 of Article III of RA No. 7659, with reclusion perpetua to death and a fine ranging from P500,000 to P10,000,000. [60] Hence, in conformance to Article 63[61] of the Revised Penal Code, the lesser penalty of reclusion perpetua should be imposed, since no mitigating or aggravating circumstances attended appellants' violation of the law.[62]

WHEREFORE, the appeal is DENIED and the assailed Decision AFFIRMED. Costs against appellant.

SO ORDERED.

Puno, (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Rollo, pp. 21-35; records, pp. 117-131; penned by Judge Myrna Dimaranan Vidal.

[2] Signed by Assistant City Prosecutor Mary June P. Orquieza.

[3] Rollo, p. 6; records, p. 2.

[4] Assisted by Atty. Narzal B. Mallares.

[5] See Order; records, p. 36.

[6] Assailed Decision, pp. 14-15; rollo, pp. 34-35.

[7] The Brief was signed by Asst. Sol. Gen. Carlos N. Ortega, Asst. Sol. Gen. Azucena R. Balanon-Corpuz and Solicitor Raymund I. Rigodon.

[8] Appellee's Brief, pp. 4-14; rollo, pp. 96-106.

[9] Appellant's Brief, pp. 9-13; rollo, pp. 54-58. The Brief was signed by Atty. Romeo C. Manalo.

[10] Assailed Decision, p. 11; rollo, p. 31.

[11] *Id.*, pp. 12 & 32.

[12] *Id.*, pp. 14 & 34.

[13] This case was deemed submitted for resolution on April 18, 2002, when the Court received appellee's Brief. Appellant's Brief was filed on November 23, 2001.

[14] Appellant's Brief, p. 13; rollo, p. 58. Original in upper case.

[15] Appellant's Brief, p. 22; rollo, p. 67.

[16] Guingona Jr. v. Court of Appeals, 292 SCRA 402, July 10, 1998; citing Webb v. De Leon, 247 SCRA 652, August 23, 1995.

[17] "SEC. 16. Possession or Use of Regulated Drugs. - The penalty of reclusion perpetua to death and fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who shall possess or use any regulated drug without the corresponding license or prescription, subject to the provisions of Section 20 hereof."

[18] Manalili v. Court of Appeals, 280 SCRA 400, 418, October 9, 1997.

[19] People v. Lucero, 229 SCRA 1, January 4 1994; People v. Fabian, 204 SCRA 730, December 10, 1991.

[20] People v. Taño, 331 SCRA 449, May 5, 2000.

[21] People v. Chen Tiz Chang, 325 SCRA 776, February 17, 2000.

[22] People v. Chen Tiz Chang, *supra*, p. 778.

[23] People v. Yatco, GR No. 138388, March 19, 2002.

[24] Assailed Decision, p. 8; rollo, p. 28.

[25] TSN, October 10, 2000, pp. 4-11.

[26] Assailed Decision, p. 11; rollo, p. 31.

[27] People v. Medina, 292 SCRA 439, July 10, 1998.

[28] People v. Cheng Ho Chua, 305 SCRA 28, March 18, 1999.

[29] Annex "D"; exhibits, p. 5.

[30] *Ibid*.

[31] People v. Bernal, 254 SCRA 659, March 13, 1996.

[32] People v. Dela Piedra, 350 SCRA 163, January 24, 2001; People v. Johnson, 348 SCRA 526, December 18, 2000; People v. Tan, 348 SCRA 116, December 14, 2000; People v. Ricky Uy, 338 SCRA 232, August 16, 2000; People v. Ramon Chua Uy, *supra*; People v. Barita, 325 SCRA 22, February 8, 2000; People v. Sy Bing Yok, 309 SCRA 28, June 23, 1999; Espano v. Court of Appeals, 288 SCRA 558, April 1, 1998.

[33] People v. Lacbanes, 270 SCRA 193, March 20, 1997.

[34] People v. Chen Tiz Chang; *supra*, p. 778.

[35] People v. Pagaura, 267 SCRA 17, January 28, 1997.

[36] People v. Ricky Uy, *supra*, p. 246.

[37] People v. Zheng Bai Hui, 338 SCRA 420, August 22, 2000; Asuncion v. Court of Appeals, 302 SCRA 490, February 1, 1999.

- [38] People v. Velasco, 252 SCRA 135, January 23, 1996.
- [39] People v. Chen Tiz Chang, *supra*.
- [40] People v. Bongalon, GR No. 125025, January 23, 2002.
- [41] People v. Julian-Fernandez, GR Nos. 143850-53, December 18, 2001.
- [42] People v. Bongalon, *supra*.
- [43] *Ibid*.
- [44] TSN, October 9, 2000, p. 13.
- [45] People v. Cuba, 336 SCRA 389, July 24, 2000.
- [46] People v. Julian-Fernandez, *supra*.
- [47] People v. Concepcion, *supra*.
- [48] People v. Pacis, GR No. 146309, July 18, 2002, p. 10, citing People v. Lapatha, 167 SCRA 159, November 9, 1988; People v. Rualo, 152 SCRA 635, July 31, 1987; People v. Natipravat, 145 SCRA 483, November 13, 1986.
- [49] People v. Alegro, 275 SCRA 216, July 8, 1997.
- [50] Assailed Decision, p. 12; rollo, p. 32.
- [51] People v. Medina, *supra*.
- [52] People v. Pacis, *supra*; People v. Medina, *supra*.
- [53] People v. Sy Bing Yok, 309 SCRA 28, June 23, 1999.
- [54] Appellant's Brief, p. 21; rollo, p. 66.
- [55] People v. Fabro, 325 SCRA 285, February 10, 2000.
- [56] People v. Pascual, 208 SCRA 393, May 6, 1992.
- [57] People v. Castro, 274 SCRA 115, June 19, 1997
- [58] People v. Ganguso, 250 SCRA 268, November 23, 1995; People v. Hoble, 211 SCRA 675, July 22, 1992.
- [59] 234 SCRA 555, July 29, 1994.

[60] This article provides:

“SEC. 20. Application of Penalties, Confiscation and Forfeiture of the Proceeds or instruments of the Crime. - The penalties for offenses under Sections 3, 4, 7, 8 and 9 of Article II and Sections 14, 14-A, 15 and 16 of Article III of this Act shall be applied if the dangerous drugs involved is in any of the following quantities:

1. 40 grams or more of opium;
2. 40 grams or more of morphine;
3. 200 grams or more of shabu or methylamphetamine hydrochloride;

x x x x x x x x.”

[61] This article provides:

“ART. 63. Rules for the application of indivisible penalties.- In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

1. When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.
2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

x x x x x x x x.”

[62] People v. Chua, GR No. 133789, August 23, 2001; People v. Chen Chun Ting, 328 SCRA 592, March 21, 2000.

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