

ADZHAR JAMAANI Y ISMON, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 147395. November 12, 2002

Ponente: VITUG, J.

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VITUG, J.:

In a decision, dated 28 April 1998, petitioner Adzhar Jamaani y Ismon was convicted by the Regional Trial Court, Branch 13, of Zamboanga City, in Criminal Case No. 3131(13086) for violation of Article III, Section 4, of Republic Act No. 6425, otherwise also known as the “Dangerous Drugs Act of 1972.” Petitioner was sentenced to suffer the penalty of reclusion perpetua.

On 22 January 1998, petitioner Jamaani, through his then counsel Atty. Rolando E. De la Cruz, filed a notice of appeal to the Court of Appeals to assail his conviction by the trial court. On 30 September 1998, the appellate court directed Atty. De la Cruz to file the brief for the accused-appellant, herein petitioner, within thirty days from receipt of notice. Failing to file the brief, Atty. De la Cruz was required by the appellate court to show cause why the appeal should not be dismissed. In the meantime, petitioner wrote the Court of Appeals seeking its assistance because, he said, his counsel had “abandoned” the case. Acting on the letter-request, the Court of Appeals issued a resolution, dated 6 September 1999, appointing the Special and Appealed Cases Division of the Public Attorney’s Office (PAO) to be the counsel-de-oficio. Seeing that the trial court had imposed the penalty of reclusion perpetua, a judgment reviewable, not by the Court of Appeals, but only by the Supreme Court, PAO’s handling counsel filed a manifestation and motion before the Court of Appeals urging that the latter’s Division Clerk be directed to transmit the entire records of the case to the Supreme Court for further proceedings.

In its resolution of 13 March 2000, the Court of Appeals dismissed the appeal of petitioner in keeping with paragraph 4(d) of Supreme Court Circular No. 2-90, dated 09 March 1990, to the effect that “no transfer of appeals erroneously taken to the Supreme Court or to the Court of Appeals to whichever of these tribunals has appropriate appellate jurisdiction will be allowed.” Counsel for petitioner filed a motion for reconsideration. The Court of Appeals denied the motion.

The instant petition asseverates that, in the interest of justice, the appellate court should have forwarded the appeal to the Supreme Court instead of outrightly dismissing it.

This Court grants the petition.

At the outset, it should be mentioned that the Court of Appeals cannot be faulted for its action. It has merely complied with a mandate of the rules of procedure. Nevertheless, this Court can, when the greater interest of substantial justice demands, relax the otherwise stringent rules and make them yield to a compelling need.[1] Petitioner has been meted the penalty of reclusion perpetua, a severe punishment and forfeiture of liberty that could well last him a lifetime. In order to ensure that the pronouncement of guilt by the trial court meets the test of moral certainty, the rules allow him to seek a review of his conviction and an opportunity to be heard on appeal. It would be difficult for this Court to deny him that right just because of what appears to be a patent error and lack

of concern on the part of his counsel.[2]

WHEREFORE, the petition is GRANTED. The assailed resolutions of the Court of Appeals of 13 March 2000 and 10 October 2000 are SET ASIDE, and it is directed to TRANSMIT the entire records of the case to the Supreme Court for further proceedings. No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] See Basco vs. Court of Appeals, 337 SCRA 472.

[2] See Aguilar vs. Court of Appeals, 250 SCRA 371.

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