

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROGELIO PIJO MILADO, APPELLANT.

G.R. No. 147677. December 01, 2003

Ponente: AZCUNA, J.

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AZCUNA, J.:

This is an appeal from the decision of the Regional Trial Court of Bontoc, Mountain Province,[1] in Criminal Case No. 1278, convicting appellant Rogelio Pijo Milado for violation of Section 4, Article III of Republic Act 6425, as amended by Republic Act 7659, otherwise known as the Dangerous Drugs Act of 1972. Appellant was sentenced to suffer the penalty of reclusion perpetua and to pay a fine of P500,000.[2]

The information against appellant reads, as follows:

That on or about March 10, 1999, at Poblacion, Bontoc, Mountain Province, in the morning thereof, and within the jurisdiction of this Honorable Court, the above-named accused without being authorized by law, did then and there willfully, unlawfully and feloniously transport five and one fourth (5 ¼) kilos of indian hemp or marijuana leaves, buds and stems in brick form/shape which was placed/contained in a black traveling bag by then and there carrying and bringing said marijuana from Talubin, Bontoc, Mountain Province, to Poblacion, Bontoc, Mountain Province, knowing fully well that said marijuana is a prohibited drug.

Assisted by counsel de parte, appellant pleaded not guilty to the information. Trial then ensued and the court a quo rendered the assailed decision.

A perusal of the evidence[3] adduced by the prosecution, reveals that in the morning of March 10, 1999, Police Officers Dominic Faclangen and Glen Apangchan were on duty at the Bontoc Police Station when they received information from their asset that a man, coming from Talubin, was transporting marijuana onboard a passenger jeepney. The asset described the man as sporting a pony tail, wearing a white jacket and carrying a bag.

Acting on the information given, Faclangen and Apangchan proceeded to the edge of Samoki Bridge at the Chico River, which separates Samoki and Bontoc, to set up a checkpoint. Accompanying them was another police officer, Angel Komowang, whom they picked up along the way. The policemen flagged down about four or five vehicles before coming across a jeepney that had on board appellant, who fitted the description given by the asset including the fact that he was carrying a black bag. Certain that appellant was the man earlier described by their asset as the person transporting marijuana, the policemen boarded the jeepney and invited appellant and the driver to the police station.

Upon arriving at the police station, but while still inside the vehicle, the policemen told appellant to open the black bag. Appellant opened his bag and the policemen found what looked like 6 bricks individually wrapped in newspapers. After a laboratory analysis, the bricks were confirmed to be marijuana, totaling 5,209.2 grams.[4]

Appellant, for his part, admitted that he took a passenger jeepney bound for Bontoc in the morning of March 10, 1999. Onboard with him were some high school students, a woman and a 14-year-old child. Along the way, the

jeepney picked up a certain Derick Masilian, whom appellant knew was a policeman. Upon reaching Bontoc, the high school students and the woman alighted. The child also tried to alight but Masilian stopped him and told the driver to proceed to the police station. Along the way, three other policemen boarded the jeepney. Appellant tried to ask the policemen why he was being taken to the station, but he was told to do his explaining there.

At the station, the child was allowed to go but appellant was taken inside. Appellant was then confronted with a black bag that was found inside the jeepney. The policemen asked him how many kilos of marijuana were contained inside the bag. Appellant answered that he did not know anything about it. He explained that the bag did not belong to him as he carried with him only a shoulder bag containing scissors and a manicure set. He denied transporting marijuana and claimed to be only a beautician by profession.

Only one assignment of error was raised by appellant: The trial court erred in not considering the fact that the evidence allegedly seized from the accused was the product of an illegal search and seizure and, hence, inadmissible under the Rules of Evidence and Article II, Section 3(2) of the Constitution.

The aforecited argument is without merit.

The general rule is that a search may be conducted by law enforcers only on the strength of a valid search warrant. Nevertheless, the Constitutional proscription against warrantless searches and seizures admits of certain exceptions, such as: 1) warrantless searches incidental to a lawful arrest; 2) seizures of evidence in plain view; 3) searches of a moving vehicle; 4) consented warrantless searches; 5) customs searches; 6) stop and frisk searches; and 7) searches under exigent and emergency circumstances.[5]

The Court finds that the evidence seized from appellant was the product of a search incidental to a lawful arrest.

In *Sanchez v. Demetriou*,[6] the Court discussed the nature of an arrest:

"Arrest" is defined under Section 1, Rule 113 of the Rules of Court as the taking of a person into custody that he may be bound to answer for the commission of an offense. Under Section 2, of the same Rule, an arrest is effected by an actual restraint of the person to be arrested or by his voluntary submission to the custody of the person making the arrest.

Application of actual force, manual touching of the body, physical restraint or a formal declaration of arrest is not required. It is enough that there be an intention on the part of one of the parties to arrest the other and the intent of the other to submit, under the belief and impression that submission is necessary.

Going back to this case, it cannot be denied that when the policemen saw appellant, and that he matched the description given to them by the asset, they were certain that he was the person they were looking for. It was based on this conclusion that appellant was brought to the police station. Although no "formal arrest" had yet been made, it is clear that appellant had already been deprived of his liberty and taken into custody after the policemen told him to stay inside the jeepney and instructed the driver to drive them to the police station. The term "invited" may have been used by the police, but it was obviously a command coming from three law enforcers who appellant could hardly be expected to defy.

Thus, as a consequence of appellant's arrest, the policemen were authorized to look at the contents of the black bag, on the ground that a contemporaneous search of a person arrested may be effected and may extend to areas that are within his custody and immediate control.[7]

Appellant tries to make a case, however, that there was no valid arrest to begin with, as he was not committing any crime in full view of the arresting policemen. It is too late for appellant to raise this object to the manner of his arrest, by filing a motion to quash the information prior to his arraignment, is deemed a waiver of his right to

question the legality of the conduct of his arrest.[8]

Furthermore, the Court has reviewed the evidence on record and is convinced beyond reasonable doubt that the crime charged was committed and that appellant is guilty thereof.

Appellant's bare denials cannot prevail over the positive testimonies of the police officers who apprehended him while he was on board a moving vehicle transporting five kilos of marijuana.[9]

As noted by the Office of the Solicitor General:

Appellant was caught in the actual commission of a crime. He was, at that time, transporting marijuana, an illegal substance under RA 6425, as amended, or the Dangerous Drugs Law. Considering this and the fact that the prohibited article was found on board a moving vehicle, it is the duty of the police officers to immediately seize the same even in the absence of a warrant x x x.[10]

Neither was this the first time appellant was arrested for this type of offense. Appellant admitted in his testimony that in 1982 he was arrested for possession of marijuana in Dantay, Mountain Province. Appellant said he pleaded guilty and was sentenced to six years imprisonment and that he applied for probation.[11]

All told, appellant has been proven guilty beyond reasonable doubt under the evidence on record.

WHEREFORE, the appealed Decision is AFFIRMED. Costs de officio.

SO ORDERED.

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

[1] Branch 35.

[2] Rollo, p. 60.

[3] TSN, July 29, 1999; TSN, August 12, 1999; TSN, August 25, 1999.

[4] TSN, August 12, 1999, pp. 6-7; 1, 24; Exhibit "E," Records, p. 81.

[5] *People v. Valdez*, 304 SCRA 140 (1999).

[6] 227 SCRA 627 (1993).

[7] *Padilla v. Court of Appeals*, 269 SCRA 402 (1997); *People v. Chua Ho San*, 308 SCRA 432 (1999).

[8] *People v. Lopez*, 245 SCRA 95 (1995).

[9] TSN, August 12, 1999, pp. 6-7, 19, 24; August 25, 1999, pp. 4-5, 10-11.

[10] Appellee's brief, pp.8-9.

[11] TSN, March 22, 2000, pp. 12, 15, 17.

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