

RUFINO LAPUZ Y MENDOZA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 150050. June 17, 2004

Ponente: AZCUNA, J.

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AZCUNA, J.:

Petitioner Rufino Lapuz y Mendoza was convicted by the Regional Trial Court of Valenzuela City,[1] for violation of Section 15, Article III of Republic Act 6425, as amended by Republic Act 7659, otherwise known as the Dangerous Drugs Act of 1972 and sentenced to suffer an indeterminate penalty of six (6) months of arresto mayor, as minimum, to four (4) years of prision correccional, as maximum, and to pay a fine of P6,000 with the corresponding subsidiary imprisonment in case of insolvency plus the costs, under the following information:[2]

That on or about May 29, 1996, in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there wilfully, unlawfully and feloniously sell and deliver to PO3 CESAR J. PINEDA, who posed as buyer of METHAMPHETAMINE HYDROCHLORIDE (0.0233) grams and 0.0457 gram, knowing the same to be a regulated drug.

Contrary to law.

Petitioner assailed his conviction by appealing to the Court of Appeals.[3] The appellate court, however, dismissed the appeal and affirmed the decision of the trial court in its entirety. The matter is now before the Court, via petition for review on certiorari.

Extracted from the decision of the Court of Appeals, the facts of the case are as follows:[4]

On May 29, 1996, at around three o'clock in the afternoon, the Drug Enforcement Group of the Northern Police District Command, Valenzuela Police Station, received an information that a certain "Erning" was selling prohibited drugs at Barangay Pinalagad, Malinta, Valenzuela City. Chief Inspector Benedicto R. Gorospe immediately formed a team to conduct a "buy-bust" operation and assigned PO3 Cesar J. Pineda to act as the "poseur buyer" who was given two (2) P100.00 bills, the serial numbers of which were recorded in their logbook. Accompanied by their civilian informant who is a barangay kagawad, the police officers led by Chief Inspector Gorospe boarded two (2) owner-type jeeps and proceeded to the area following a sketch drawn by said informant, together with a physical description of the suspect.

Upon reaching the place, the police officers positioned themselves in strategic places while the informant pointed to PO3 Pineda the accused who was standing at the alley at the corner of Mayumi and Pinalagad Streets. PO3 Pineda approached the accused and told him he is going to buy P200.00 worth of "shabu". He gave the accused the two (2) P100.00 bills and the latter handed to him two (2) plastic sachets containing white crystalline substance which the accused took from the right pocket of his pants. Suddenly realizing that his buyer is a police officer, accused ran towards his house but was blocked by the other police officers. Accused tried to resist arrest but was overpowered by the police officers who handcuffed him and boarded him into their jeep. Accused was brought to the police station for investigation. Accused's sister Amelia Lapuz Esguerra, later brought and turned over to the police officers drug paraphernalia belonging to the accused.

In seeking is acquittal, petitioner asks the Court to resolve four questions of law:

- WHETHER OR NOT, IN PROSECUTIONS FOR SALE OF ILLEGAL DRUGS, THE BARE TESTIMONY OF A POLICE POSEUR-BUYER THAT THE PESO BILLS PRESENTED AS EVIDENCE IN COURT WERE THE PESO BILLS PAID AND RECOVERED FROM THE “DRUG-PUSHER” HAS SUFFICIENT PROBATIVE VALUE TO ESTABLISH THAT FACT;
- WHETHER OR NOT, IN PROSECUTIONS FOR SALE OF ILLEGAL DRUGS, IT IS SUFFICIENT TO ESTABLISH THAT ILLEGAL DRUGS WAS RECEIVED BY THE POSEUR-BUYER FROM THE “DRUG-PUSHER” AND THE SAME WAS PRESENTED IN COURT TO WARRANT A CONVICTION OF THE ACCUSED;
- WHETHER OR NOT THE ACCUSED, IN PROSECUTIONS FOR SALE OF ILLEGAL DRUGS, HAS THE BURDEN OF PROOF TO SHOW THAT THE POLICE OFFICERS WHO TESTIFIED AGAINST HIM WERE ACTUATED BY IMPROPER MOTIVES; AND
- WHETHER OR NOT, IN PROSECUTIONS FOR SALE OF ILLEGAL DRUGS, THE NON-PRESENTATION OF THE ONLY DOCUMENTARY PROOF THAT THE MONEY RECEIVED BY AND RECOVERED FROM THE ACCUSED WAS MARKED MONEY, DESPITE THE ISSUANCE OF A SUBPOENA DUCES TECUM [AND] AD TESTIFICANDUM THEREFOR, CONSTITUTE WILLFUL SUPPRESSION OF MATERIAL EVIDENCE.

The petition is without merit.

Petitioner’s conviction will not be set aside just because the only testimonial evidence presented by the prosecution was that of the poseur-buyer, PO3 Pineda. The Court has declared on numerous occasions that it is possible to convict an accused on the testimony of single witness as long as it is positive and credible.[5] This especially holds true where the witness, as in this case, is a police officer who enjoys the presumption of regularity in the performance of his duties.[6]

To sustain a conviction under a single prosecution witness, such testimony needs only to establish sufficiently: 1) the identity of the buyer, seller, object and consideration; and 2) the delivery of the thing sold and the payment thereof.[7] Indeed, as correctly ruled by the Court of Appeals, what is material is proof that the transaction or sale actually took place, coupled with the presentation in court of the substance seized as evidence.[8] In this case, PO3 Pineda, being the poseur-buyer, was the most competent person to testify on the fact of sale and he did so to the satisfaction of both the trial court and the appellate court.

The testimony of PO3 Pineda deserves full faith and credit, given that police officers involved in buy-bust operations are presumed to have performed their duties regularly. This presumption can only be overcome through clear and convincing evidence that show either of two things: 1) that they were not properly performing their duty, or 2) that they were inspired by any improper motive.[9]

Petitioner failed to show either of these two conditions. He merely complained that PO3 Pineda is not a credible witness because he could not remember the serial numbers of the two 100.00 peso bills that were used as the marked money. The Court finds, however, that PO3 Pineda’s failure to recall the serial numbers does not discredit him as a witness. It would simply be too unreasonable to expect a witness to recall, right off on the witness box, the serial numbers of two monetary bills, considering that they consist of a complex combination of numerous random characters. Quite the opposite, PO3 Pineda’s inability to recall the serial numbers contributes to his credibility as a witness, for one who is telling the truth is not always expected to give a perfectly precise testimony, considering the lapse of time and the frailty of human memory. Honest inconsistencies on minor and trivial matters serve to strengthen, rather than destroy, the credibility of a witness.[10]

Petitioner also argues that because of PO3 Pineda's failure to recall the serial numbers it cannot be stated for certain that the money identified in court was the same buy-bust money paid to and taken from petitioner. Hence, it was necessary for the prosecution at least to present the logbook where the serial numbers were recorded prior to the buy-bust operation to prove this fact.

The marked money itself was offered in evidence after it was identified by PO3 Pineda as the same ones he paid to petitioner.[11] While PO3 Pineda could not remember the exact serial numbers of the bills, his identification of the bills is sufficient and the logbook would only serve to corroborate his testimony. Besides, it was not even essential for the prosecution to present the marked money as its absence does not create a hiatus in the evidence provided that the prosecution adequately proves the sale.[12]

Granted that a subpoena was issued for the production of said logbook, the failure of PO3 Pineda to bring it to court does not constitute willful suppression of material evidence. As previously discussed, the logbook would merely corroborate the testimony of PO3 Pineda and it is a settled rule in evidence that presumption of suppression does not apply to corroborative evidence.[13]

In fine, the Court sees no reason to disturb the findings of the trial court, affirmed by the appellate court. The findings of trial courts on the issue of credibility of witnesses are generally not to be disturbed unless certain facts of substance were overlooked, which if considered, might alter the result of the case.[14] None has been found in this case. The evidence presented by the prosecution proves to a moral certainty petitioner's guilt of the crime of selling illegal drugs.

WHEREFORE, the petition for review is DENIED. The decision of the Court of Appeals is hereby AFFIRMED. Costs de oficio.

SO ORDERED.

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

[1] Branch 171.

[2] Rollo, pp. 17-18.

[3] C.A. G.R. No. 24013.

[4] Rollo, pp. 17-18.

[5] *People v. Tiu*, G.R. No. 142885, October 22, 2003.

[6] *People v. Quetua*, 222 SCRA 357 (1993).

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

[8] *People v. So*, 370 SCRA 252 (2001).

[9] *People v. Padasin*, 397 SCRA 417 (2003).

[10] *People v. Saladino* 353 SCRA 819 (2001).

[11] Exhibit "F."

[12] *People v. Saludes, et al.*, G.R. No. 144157, June 10, 2003; *People v. Gireng*, 241 SCRA 11 (1995); *People v.*

Hoble, 211 SCRA 675 (1992); People v. Pascual, 208 SCRA 393 (1992).

[13] People v. Gapasan, 243 SCRA 53 (1995).

[14] People v. Paco, 170 SCRA 681 (1989).

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