

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JAMIL MALA Y RAJID AND RUSTY BALA, APPELLANTS.*G.R. NO. 152351. September 18, 2003*

Ponente: DAVIDE JR., C.J.

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In an Information filed with the Regional Trial Court of Malabon City on 24 April 2001, docketed as Criminal Case No. 24514-MN and assigned to Branch 72 thereof, appellants Jamil Mala and Rusty Bala were charged with the offense of selling and delivering regulated drugs (shabu) as defined and penalized under Section 15, Article III, Republic Act No. 6425, as amended by R.A. No. 7659. The accusatory portion of the Information[1] reads:

That on or about the 4[th] day of April 2001, in the Municipality of Malabon, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping with one another, being private persons and without authority of law, did then and there, willfully, unlawfully and feloniously sell and deliver in consideration of undetermined pieces of money (boodle money) to poseur-buyer, two (2) pieces of transparent plastic bags each containing yellowish crystalline substance with the following net weights:

A - (ABI-RI 4-4-01) = 105.89 grams

B - (ABI-R2) 4-4-01) = 105.71 grams

which substance when subjected to chemistry examination gave positive results for METHYLAMPHETAMINE HYDROCHLORIDE otherwise known as "shabu" which is a regulated drug.

Upon arraignment, both accused pleaded not guilty to the offense charged.

At the trial of the case on its merits, the prosecution presented as witnesses PO1 Joel Fernandez, the poseur-buyer; SPO2 Armando Isidto, a member of the buy-bust team; and Police Inspector Sandra Decena-Go, the Forensic Chemist of the PNP Crime Laboratory who examined the shabu obtained during the buy-bust operation. Their testimonies established the following facts:

On 4 April 2001, at around 5:30 p.m., a confidential informant came to the office of the Drug Enforcement Group, Malabon Police Station. He reported that a transaction with two Muslims for the sale of 200 grams of shabu in the amount of P130,000 would take place between 9:00 and 10:00 p.m. in his house at C-4 Road, Barangay Tañong, Malabon, Metro Manila. Acting on this information, Police Inspector Virgilio Olalia forthwith formed a buy-bust team composed of PO1 Joel Fernandez as poseur-buyer, SPO2 Armando Isidto, SPO2 Manolito Manalo, and other policemen. PO1 Fernandez was then given "boodle money" consisting of fake P1,000 bills on both ends of the bundle and cut newspaper prints in the middle, which were wrapped in a plastic bag. At about 8:30 p.m. the team proceeded to the place of operation. They then waited along C-4 Road.[2]

An hour later, the appellants arrived on board a taxicab. Fernandez and the confidential informant immediately entered the latter's house. After a short while, there was a knocking at the door. The confidential informant opened the door and let appellants Jamil Mala and Rusty Bala enter his house. He then talked with the appellants and

introduced Fernandez to the two as the buyer of shabu. When Mala asked for the money, Fernandez showed to him the boodle money contained in a plastic bag. The former then gave to the latter the suspected shabu wrapped with a yellow transparent plastic bag. As Mala was counting the money, he noticed it to be fake or merely boodle money. The appellants then talked with each other in Muslim and instantly grabbed the suspected shabu from Fernandez.[3]

Meanwhile, the confidential informer went out of the house and gave the pre-arranged signal to the other policemen[4] by scratching his head. Isidto and Manalo immediately entered the house just as Fernandez was drawing his gun. Isidto confiscated the suspected shabu from Mala, and the boodle money from Bala. The shabu was sent to the PNP Crime Laboratory for examination, which yielded positive result for methylamphetamine hydrochloride.[5]

For his part, appellant Jamil Mala denied the accusation against him and his co-appellant. He claimed that he was engaged in the selling of VCDs in the Muslim area in Greenhills, as well as in Caloocan City. He was also selling at the Caloocan City market ready-made pants on installment basis. One time, he met a certain Manny in Czar Bar near the Wise Hotel in Monumento, Caloocan City; and later Manny borrowed P18,000 from him.[6] On 4 April 2001, he went to the house of Manny to collect the P18,000 he loaned to him (Manny). He arrived at 7:00 p.m. only to be told by Manny's daughter that Manny was not around. While Mala was saying that he would leave and would just return later, Manny's wife told him to wait, as she would ask her daughter to fetch Manny.[7]

Fifteen minutes thereafter, four persons in civilian clothes arrived. They frisked him and told him to undress. They then handcuffed him along with his companion Rusty Bala. Two of the armed men went out of the house and later returned with two plastic bags. Mala and Bala were thereupon taken to the Pagamutang Bayan ng Malabon and then to a detention cell.[8] When appellant Mala subsequently learned of the charges against him and Bala, he asked his wife to file charges against the arresting officers. But his wife instead returned home to their home province.[9]

Appellant Rusty Bala was no longer called to testify because his lawyer allegedly "had a hard time communicating with him"; and besides, he (Bala) appeared somewhat mentally deficient and would only corroborate Mala's testimony.

The defense intended to present a certain Abukakar Donato as another witness, but his testimony was dispensed with after the prosecution and the defense made a stipulation in open court that said witness would merely corroborate Mala's testimony that he (Mala) was engaged in the business of selling VCDs and that he (Donato) knew, though not based on first-hand information, that Manny borrowed money from Mala.[10] The testimony of another intended defense witness, PO2 Ronaldo Arsolon, a member of the buy-bust team, was likewise dispensed with after it was stipulated upon by the prosecution and defense that his testimony would only be to the effect that from the house where the two appellants were arrested, the street leading to the alley where the said house was located could not be seen.[11]

The trial court gave credence to the testimonies of the prosecution witnesses. Accordingly, two weeks after the last hearing, or on 28 August 2001, it rendered a decision[12] finding the two appellants guilty beyond reasonable doubt of the crime charged and sentencing each of them to suffer the penalty of reclusion perpetua and to pay P1 million as fine and to pay the costs.

Unsatisfied with the verdict, the appellants seasonably filed their notice of appeal. In their Accused-Appellants' Brief, filed by the Public Attorney's Office, the appellants raise this lone assignment of error:

THE COURT A QUO ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT OF VIOLATION OF SECTION 15 OF REPUBLIC ACT NO. 6425, AS

AMENDED BY REPUBLIC ACT NO. 7659, CONSIDERING THE PALPABLE DISCREPANCIES AND INCONSISTENCIES IN THE TESTIMONIES OF THE PROSECUTION WITNESSES.

The appellants submit that the following discrepancies and inconsistencies in the testimonies of PO1 Fernandez and SPO2 Isidto are material and detract from the veracity and weight of the prosecution's evidence:

- Fernandez testified that he, Isidto, and Manalo were wearing civilian clothes during the buy-bust operation; while Isidto testified that he was wearing his uniform at that time.
- Fernandez testified that Isidto and Manalo drew their guns when they entered the house to effect the arrest. Isidto, on the other hand, testified that it was only Fernandez who drew a gun.
- Fernandez declared that he did not know where Isidto, Manalo, and their companions positioned themselves in the vicinity; but Isidto claimed that he saw Fernandez eye to eye when the appellants arrived in the target area.
- Fernandez stated that the boodle money was removed from the plastic bag and was even counted by the appellants; while Isidto declared that when he seized the boodle money from one of the appellants, it was still in a sealed yellow plastic bag.

In its Appellant's Brief, the Office of the Solicitor General seeks the affirmance of the decision, arguing that the alleged inconsistencies are minor and inconsequential and do not belie the occurrence of the buy-bust operation and the involvement of the appellants therein. Instead of destroying the credibility of the witnesses, such inconsistencies constitute badges of truth that strengthen their credibility.

The credibility of the witnesses is the issue at hand. It is an oft-repeated rule that this Court will not interfere with the trial court's assessment of the credibility of witnesses except when there appears on record some fact or circumstance of weight and influence which the trial court has overlooked, misapprehended, or misinterpreted. The reason for this rule is that the trial court is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial.[13]

In questioning the credibility of the prosecution witnesses, the appellants harp on the alleged inconsistencies and discrepancies in their testimonies. This Court, however, finds such inconsistencies and discrepancies to be too trivial and inconsequential to merit a reversal of the judgment of conviction of Jamil Mala for the following reasons:

- Whether Isidto was in uniform or in civilian clothes during the buy-bust operation is of no significance. It does not negate the fact that a buy-bust operation was conducted and that he took part in it by acting as a back-up and by effecting the arrest of the two appellants soon after the consummation of the sale of shabu to the poseur-buyer, PO1 Fernandez.
- Whether or not Isidto and Manalo drew their guns when they entered the confidential informant's house where the buy-bust operation took place does not detract from the fact that the two appellants were caught red-handed. Upon entering the house, Isidto seized the shabu and boodle money from the appellants.
- Whether or not Fernandez knew the location of Isidto and Manalo is of no moment. The fact remains that when it was time for them to enter the scene, Isidto and Manalo arrived to assist in the apprehension of the appellants.
- As regards the boodle money, whether its plastic wrapper was opened or remained sealed has no bearing on the fact that there was indeed boodle money used for the buy-bust operation.

Well-settled is the rule that inconsistencies in minor details and collateral matters do not affect the credibility of the witnesses or the veracity or weight of their testimonies. Minor inconsistencies may even serve to strengthen

the witnesses' credibility, as they negate any suspicion that the testimonies have been rehearsed.[14]

Moreover, much weight is to be given to the testimony of police officers, who are presumed to have performed their duties in a regular manner. It is significant to note that the appellants have not imputed any improper motive on the part of the arresting officers nor filed a case against the latter. Neither have they shown that said police officers were not performing their duty properly when the buy-bust operation was conducted. The presumption in favor of the prosecution witnesses, who are all police officers, should therefore stand.

In a prosecution for illegal sale of regulated or prohibited drugs, conviction can be had if the following elements are present: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti. The delivery of the contraband to the poseur-buyer and the receipt of the marked money consummate the buy-bust transaction between the entrapping officers and the accused.[15]

All the foregoing elements were established in this case by the following testimony of PO1 Fernandez, who acted as the poseur-buyer:

Q

And after they entered the house, referring to the 2 accused, what happened next?

A

The 2 accused and the confidential informan[t] talked to each other.

Q

You were present when they talked?

A

Yes, sir.

Q

And after the confidential informant and the 2 accused talked to each other, what happened next?

A

Our confidential informant introduced me, sir.

Q

As what?

A

As the buyer of the shabu, sir.

Q

And after you were introduced by the confidential informant to the 2 accused as the buyer, what happened next?

A

They demanded the money.

Q

The 2 of them?

A

Jamil, sir.

Q

Only Jamil?

A

Yes, sir.

Q

And what did you do when Jamil Mala asked for the money?

A

I showed the boodle money, sir, wrapped with yellow plastic bag.

Q

Then what happened?

A

I asked for the shabu, sir.

Q

From whom?

A

From Jamil, sir.

Q

And what did Jamil do?

A

He gave to me the shabu, sir. What happened was like this: Jamil Mala was asked by the other to count the money and while doing so, Mala noticed the money to be fake so the 2 accused talked in Muslim after which Jamil Mala tried to grab from me the shabu and was able to do so. But before that, the confidential informant went out of his house and gave the signal to the others.[16]

The shabu subject of the buy-bust operation and the boodle money were presented in court and marked in evidence as Exhibits "E-1" and "E-2" and Exhibit "A," respectively. Police Inspector Sandra Decena Go, the forensic chemist of the Philippine National Police Crime Laboratory who examined the shabu obtained during the buy-bust operation, confirmed in her Physical Sciences Report No. D-423-01[17] and in her testimony[18] in court that the specimen indeed contains methyldamphetamine hydrochloride. Her finding was even admitted by the defense counsel.[19]

Thus, it is clear that the prosecution has sufficiently proved the guilt of appellant Jamil Mala beyond reasonable doubt.

To rebut the overwhelming evidence for the prosecution, appellant Jamil Mala simply raised the defense of denial. But other than his self-serving assertions, no evidence was presented to support it; hence, it deserves scant consideration. We have time and again ruled that a mere denial, just like alibi, is a self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters. As between a categorical testimony that rings of truth on one hand, and a bare denial on the other, the former is generally held to prevail.[20]

Moreover, Jamil Mala's testimony that he was framed up by a certain Manny just because the latter owed him P18,000 is simply incredible. So is his claim that the house where he was arrested was the house of Manny and that he went there to collect the latter's P18,000 debt.[21] Surprisingly, he granted the loan without requiring Manny to execute a promissory note or any written acknowledgment of the debt despite the fact that the amount involved was quite big.[22] And he did not even know the family name of Manny.[23]

In the assessment of the testimonies of witnesses, this Court is guided by the rule that for evidence to be believed, it must not only proceed from the mouth of a credible witness, but must be credible in itself such as the common experience of mankind can approve as probable under the circumstances. We have no test of the truth of human testimony except its conformity to our knowledge, observation, and experience. Whatever is repugnant to these belongs to the miraculous, and is outside of juridical cognizance.[24]

Appellant Mala having failed to rebut the prosecution evidence proving him guilty of selling shabu, the judgment finding him guilty as charged is affirmed.

However, insofar as appellant Rusty Bala is concerned, we remand the case to the trial court for further proceedings. We note the manifestation in open court of the counsel de oficio for the two appellants, Atty. Ramon delas Alas, made after the re-direct examination of appellant Mala:

ATTY. DELAS ALAS:

Your Honor, for the record, we will no longer be presenting accused Rusty Bala as defense witness because I had a hard time communicating with him, and according to accused Jamil Mala this Rusty Bala is somewhat deficient mentally.

COURT:

And on the ground that he will just corroborate in whole or in part the testimony of Jamil Mala, then let us just make the Fiscal to manifest about the case.

FISCAL FLORES:

Yes, your Honor, with that qualification[], the same cross and direct as Jamil Mala, your Honor.[25]

From the foregoing, it is obvious that appellant Rusty Bala was not well-represented by counsel before the trial court. It appears that his counsel de oficio, Atty. Delas Alas, did not exert efforts to get the side of Rusty Bala when he (Atty. Delas Alas) found it difficult to communicate with him (Bala). Moreover, despite having been told by appellant Jamil Mala that Rusty Bala was mentally deficient, it does not appear on record that he took the necessary steps to ascertain the veracity of the said information. Neither did the trial court lift a finger to have Bala examined by a physician or to ensure that his defense was properly undertaken.

Section 11, Rule 116 of the Revised Rules of Criminal Procedure provides for the suspension of the arraignment of an accused who appears to be suffering from an unsound mental condition. It also imposes a duty upon the court to order his mental examination and, if called for, his confinement for such purpose. The said Section pertinently reads:

SEC. 11. Suspension of arraignment. – Upon motion by the proper party, the arraignment shall be suspended in the following cases:

(a) The accused appears to be suffering from an unsound mental condition which effectively renders him unable to fully understand the charge against him and to plead intelligently thereto. In such case, the court shall order his mental examination and, if necessary, his confinement for such purpose....

This provision reinforces Article 12, paragraph 1, of the Revised Penal Code, which mandates the trial court to order the confinement of an accused who is mentally unsound at the time of the trial in one of the hospitals or asylums established for persons thus afflicted.

Drug trafficking is a menace to our society, and our law enforcement officers need all the support to prosecute drug traffickers. But this does not excuse a counsel de oficio to do a half-hearted defense of a person accused of engaging in the illegal sale of prohibited drugs. Neither are courts discharged from their duty of ensuring that the rights of the accused are protected.

The case insofar as Rusty Bala is concerned must, therefore, be remanded to the trial court for the reception of evidence on his behalf or for his mental examination.

WHEREFORE, the assailed decision of 28 August 2001 of the Regional Trial Court of Malabon City, Branch 72, in Criminal Case No. 24514-MN is hereby **AFFIRMED** insofar as **JAMIL MALA y RAJID** is found guilty beyond reasonable doubt of the crime charged as penalized under Section 15, Article III, R.A. No. 6425, as amended by R.A. No. 7659, and sentenced to suffer the penalty of reclusion perpetua and to pay a fine in the amount of P1 MILLION and the costs. However, insofar as appellant Rusty Bala is concerned, the decision is **SET ASIDE** and this case is hereby remanded to the trial court below for the reception of evidence for Rusty Bala, unless it is determined that he is not mentally fit to face trial, in which case the trial court should take the appropriate steps provided by law.

Costs de oficio.

SO ORDERED.

Vitug, Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

- [1] Original Record (OR),1; Rollo, 6.
- [2] TSN, 9 July 2001, 2-4; TSN, 2 July 2001, 2-4.
- [3] TSN, 9 July 2001, 4-6.
- [4] Id., 6; TSN, 2 July 2001, 4.
- [5] TSN, 9 July 2001, 6-7; TSN, 2 July 2001, 4-5.
- [6] TSN, 3 August 2001, 7-8.
- [7] TSN, 3 August 2001, 3-4.
- [8] Id., 5-7.
- [9] TSN, 6 August 2001, 5.
- [10] Id., 8.

[11] OR, 73.

- [12] Id., 75-81; Rollo, 17-23. Per Judge Benjamin M. Aquino, Jr.
- [13] *People v. Julian-Fernandez*, G.R. Nos. 143850-53, 18 December 2001, 372 SCRA 608, 622.
- [14] *People v. Paredes*, G.R. No. 136105, 23 October 2001, 368 SCRA 102, 108.
- [15] *People v. Uy*, 384 Phil. 70, 85 (2000).
- [16] TSN, 9 July 2001, 5-6.
- [17] Exhibit "E," OR, 5.
- [18] TSN, 16 July 2001, 6.
- [19] TSN, 16 July 2001, 3-4.
- [20] *People v. Ugang*, G.R. No. 144036, 7 May 2002.
- [21] TSN, 3 August 2001, 3.
- [22] TSN, 9 August 2001, 6.
- [23] TSN, 6 August 2001, 2.
- [24] *People v. Dayag*, 155 Phil. 421, 431 (1974).
- [25] TSN, 6 August 2001, 7.

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