

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANILO JOCSON Y BAUTISTA, ACCUSED-APPELLANT.*G.R. No. 169875. December 18, 2007*

Ponente: PUNO, CJ.

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On appeal are the Decision[1] dated April 29, 2005 and the Resolution[2] dated September 13, 2005 of the Court of Appeals, in CA-G.R. CR-H.C. No. 00245. The Court of Appeals affirmed the decision of the Regional Trial Court of Caloocan City in Criminal Case No. C-66034, convicting accused-appellant Danilo Jocson of violation of Sections 5 and 11, Art. II of R.A. No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

On the evening of August 7, 2002, an informant reported to the office of the Station Drug Enforcement Unit, Caloocan City, a person referred to by the alias "Manong," who was allegedly selling shabu at the vicinity of B.M.B.A., 2[nd] Ave., East Caloocan City. With this information, Police Chief Senior Inspector Jose Valencia formed a team to conduct a buy-bust operation, in which SPO1 Joseph delos Santos was designated as the poseur-buyer. That same night, the team proceeded to the reported area. The informant, upon seeing "Manong," approached the latter and introduced Delos Santos as a customer. Delos Santos then told "Manong," "Pare, pabili ng piso," and handed him the marked 100-peso bill with serial number UM856594. Upon receipt of the marked money, "Manong" took out from his pocket and handed Delos Santos a plastic sachet containing white crystalline granules. Delos Santos then scratched his left ear, signaling a positive bust. SPO3 Rodrigo Antonio responded to the signal and came to the aid of Delos Santos. They frisked "Manong" and found four more plastic sachets of white crystalline granules on his body. They also recovered the marked money from "Manong." They then brought "Manong" to the police station for investigation. It was only then that the police learned that "Manong" is Danilo Jocson, herein accused-appellant. SPO1 Delos Santos and SPO3 Antonio also turned over to Police Investigator Ferdinand Moran the plastic sachets and the marked money recovered from "Manong" upon arriving at the police station. Moran, in turn, marked the pieces of evidence. Then, the marked pieces of evidence were turned over to the Northern Police District (NPD) crime laboratory for chemical analysis. Police Inspector Juanita Sioson, a Forensic Chemical Engineer, found the white crystalline granules, contained in five heat-sealed transparent plastic sachets, to be positive for methylamphetamine hydrochloride, a dangerous drug. Further, four of the five sachets weighed 0.05 gram each, and one sachet weighed 0.04 gram.

Accused-appellant Jocson was charged with violations of Sections 5 and 11, Art. II of R.A. No. 9165, or the Comprehensive Dangerous Drugs Act of 2002, in two separate Informations:

CRIMINAL CASE NO. 66034

That on or about the 7[th] day of August 2002 in Caloocan City, M.M. and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully and feloniously sell and deliver to one PO1 JOSEPH DELOS SANTOS, who posed as buyer, 0.05 gram of Methylamphetamine Hydrochloride (Shabu), for One Hundred Pesos with SN UM856594 knowing the same to be a dangerous drug.

CONTRARY TO LAW.

CRIMINAL CASE NO. 66035

That on or about the 7[th] day of August 2002 in Caloocan City, M.M. and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control four (4) pcs. of heat-sealed transparent plastic sachet containing Methylamphetamine Hydrochloride (Shabu) with a total weight [of] 0.19 gram, knowing the same to be a dangerous drug.

CONTRARY TO LAW.[3]

The two criminal cases against accused-appellant were consolidated, and trial ensued.

Accused-appellant Jocson denied the accusations against him. He testified that on the night of his arrest, he was at his residence at No. 192 2[nd] Avenue, Grace Park, Caloocan City. While watching a late-night television show with his mother and his 11-year old niece, SPO3 Antonio entered his house, and upon seeing him, shouted "Positive!" Thereafter, five other policemen entered the house, forced accused-appellant out of his bed and handcuffed him. The police officers then brought him to the police station without informing him of the charges. In his testimony, accused-appellant denied selling shabu to the police poseur-buyer or possessing more quantities of shabu. He alleged that the charges against him were fabricated.

Eleven-year old April Jane Buenaobra, niece of accused-appellant, corroborated the latter's testimony. Buenaobra testified that on August 7, 2002, at around eleven o'clock in the evening, while watching television, her grandmother answered a knock on the door. Suddenly, policemen barged into the house, grabbed her uncle and forcibly took him away.

On April 8, 2003, the Regional Trial Court of Caloocan City convicted the accused-appellant. The dispositive portion of the decision reads:

THEREFORE, premises considered and the prosecution having established to a moral certainty the guilt of Accused DANILO JOCSON y BAUTISTA of the crimes charged, this Court hereby renders judgment as follows:

- In Crim. Case No. 66034 for Violation of Sec. 5, Art. 11 of RA 9165, this Court in the absence of any aggravating circumstance hereby sentences the aforementioned Accused to LIFE IMPRISONMENT; and to pay the fine of P500,000.00 without any subsidiary imprisonment in case of insolvency;
- In Crim. Case No. 66035 for Violation of Sec. 11, Art. 11 of same Act, this Court in the absence of any modifying circumstance hereby sentences common Accused to a prison term of twelve (12) years and one (1) day to fourteen (14) years and eight (8) months and to pay the fine of three hundred thousand pesos (P300,000.00), without any subsidiary imprisonment in case of insolvency.

Subject drug in both cases are hereby declared confiscated and forfeited in favor of the government to be dealt with in accordance with law.

x x x x x

SO ORDERED.[4]

Accused-appellant Jocson appealed to this Court, with the following assignment of errors:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE

SELF-SERVING TESTIMONIES OF POLICE OFFICERS RODRIGO ANTONIO AND JOSEPH DE LOS SANTOS.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[5]

This Court, however, referred the case to the Court of Appeals in conformity with the ruling in *People v. Mateo*.^[6]

The Court of Appeals affirmed the decision of the Regional Trial Court. It also denied accused-appellant's motion for reconsideration.

We affirm the decision of the Court of Appeals.

The testimony of SPO1 Delos Santos was spontaneous, straightforward and categorical. Further, SPO3 Antonio, back-up security of SPO1 Delos Santos, corroborated the latter's testimony on its material points. On the other hand, we find no reason to believe the denials and self-serving allegation of accused-appellant that his arrest was concocted out of thin air by the police officers. No evidence was presented to show any antagonism between him and the police officers to explain why the police officers allegedly picked on him. Settled is the rule that in cases involving violations of the Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary suggesting ill motive on the part of the police officers or deviation from the regular performance of their duties.^[7] None was presented in the instant case.

Neither will the testimony of his 11-year old niece exculpate accused-appellant from the crimes charged against him. On cross-examination, April Jane admitted that her grandmother impressed on her that her uncle was arrested by the police even when he had done nothing wrong. As observed by the trial court, April Jane appeared to be a rehearsed witness. Further, being a close kin of accused-appellant, her credibility is highly suspect. A portion of her testimony is as follows:

CROSS-EXAMINATION

Q

Are you saying now Madam Witness that you [were] also discussing this case to (sic) your mother?

A

Yes, sir.

Q

When you discussed this case, Madam Witness, do I get you right that they were talking to you with respect [to] how your uncle was arrested?

A

Yes, sir.

Q

And, they [were] also discussing to (sic)you that your uncle has not committed any wrong?

A

Yes, sir.

Q

And, they were also discussing with you Madam Witness, that what was done by the policeman is also wrong?

A

Yes, sir.[8]

The findings and conclusion of the trial court on the credibility of witnesses are entitled to great respect because the trial courts have the advantage of observing the demeanor of witnesses as they testify. In the process of converting into written form the statements of living human beings, not only fine nuances but a world of meaning apparent to the judge present, watching and listening, may escape the reader of the translated words.[9]

In the instant case, the police arrested accused-appellant in a buy-bust operation. A buy-bust operation is one form of entrapment employed by peace officers as an effective way of apprehending a criminal in the act of the commission of an offense.[10] Entrapment has received judicial sanction when undertaken with due regard for constitutional and legal safeguards.[11] Where the criminal intent originates in the mind of the accused and the criminal offense is completed, the fact that a person, acting as a decoy for the state, or that public officials furnished the accused an opportunity for commission of the offense, or that the accused is aided in the commission of the crime in order to secure the evidence necessary to prosecute him, there is permissible entrapment and the accused must be convicted.[12] What the law forbids is the inducing of another to violate the law, the "seduction" of an otherwise innocent person into a criminal career.[13] Where the criminal intent originates in the mind of the state decoy, such as an undercover agent, and the accused is lured into the commission of the offense charged in order to prosecute him, there is instigation, as we call it in our jurisprudence, and no conviction may be had.[14] In instigation, the instigator practically induces the would-be accused into the commission of the offense and himself becomes a co-principal. In entrapment, the peace officer resorts to ways and means to trap and capture the lawbreaker in the execution of the latter's criminal plan. Instigation is illegal and contrary to public policy. Entrapment is not.[15]

In the case at bar, the details of the transaction were clearly and adequately shown, viz.: (a) the initial contact between the poseur-buyer and the pusher; (b) the offer to buy; (c) the promise or payment of the consideration; and (d) the delivery of the illegal drug subject of the sale. The initial contact was made through an informant. On the day of the operation, the informant approached accused-appellant Jocson, a.k.a. "Manong," and introduced him to SPO1 Delos Santos, the poseur-buyer. Delos Santos then offered to buy when he told "Manong," "Pare, pabili ng piso." The sale was consummated after payment and delivery when SPO1 Delos Santos handed "Manong" the marked 100-peso bill, and "Manong" took out from his pocket and handed SPO1 Delos Santos a plastic sachet containing shabu. From the moment SPO1 Delos Santos received the prohibited drug from "Manong," the illegal sale of the dangerous drug was consummated.[16] "Manong" was at once apprehended, and four more sachets of shabu were found in his possession.

Having established that the illegal sale took place between the poseur-buyer and the seller, the prosecution likewise presented the dangerous drug, i.e., the corpus delicti, as evidence in court. The illegal substance sold,

including the four other sachets recovered from the pocket of accused-appellant, was offered as evidence during the trial and properly identified by the prosecution witnesses. The prosecution also accounted for the chain of custody of the subject substances. From accused-appellant's possession, police officers Delos Santos and Antonio seized the sachets of shabu and turned them over to Police Investigator Moran who marked the pieces of evidence. Then, Moran turned them over to the NPD crime laboratory for chemical analysis, where Police Inspector Juanita Sioson, a Forensic Chemical Engineer, found the white crystalline granules contained in five heat-sealed transparent plastic sachets to be positive for methylamphetamine hydrochloride, a dangerous drug.

IN VIEW WHEREOF, the petition is DENIED and the Decision and Resolution of the Court of Appeals in CA-G.R. CR-H.C. No. 00245, dated April 29, 2005 and September 13, 2005, respectively, are AFFIRMED.

SO ORDERED.

Sandoval-Gutierrez, Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Rollo, pp. 3-13.

[2] CA rollo, p. 129.

[3] Id. at 7-8.

[4] Rollo, p. 30.

[5] Id. at 46.

[6] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[7] People v. Dulay, G.R. No. 150624, February 24, 2004, 423 SCRA 652.

[8] CA rollo, pp. 28-29.

[9] People v. Gamiao, G.R. No. 91492, January 19, 1995, 240 SCRA 254.

[10] People v. Doria, G.R. No. 125299, January 22, 1999, 301 SCRA 668, citing People v. Basilgo, 235 SCRA 191 (1994); People v. Yap, G.R. Nos. 98262-63, January 10, 1994, 229 SCRA 787; People v. Macasa, G.R. No. 105283, January 21, 1994, 229 SCRA 422.

[11] Supra, citing People v. Herrera, 247 SCRA 433 (1995); People v. Tadeba, G.R. No. 100354, May 26, 1995, 244 SCRA 339; People v. Basilgo, G.R. No. 107327, August 5, 1994, 235 SCRA 191.

[12] Supra, citing Hoy v. State, 53 Ariz 440, 90 P2d 623, 628-629 (1939)--bribery; see 21 Am Jur 2d, supra, Sec. 202.

[13] Supra, citing People v. Outten, 147 NE 2d 284, 286, 13 Ill 2d 21 (1958).

[14] Supra, citing Sorrells v. United States, 287 U.S. 435, 442, 451-452 (1932).

[15] People v. Tiu Ua, 96 Phil. 738, 741 (1955).

[16] People v. Simon, G.R. No. 93028, July 29, 1994, 234 SCRA 555.

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