

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. SITTI DOMADO, APPELLANT.

G.R. No. 172971. June 16, 2010

Ponente: BRION, J.

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BRION, J.:

We resolve in this appeal the challenge to the February 28, 2006 decision[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00432. The CA affirmed the July 28, 2004 decision[2] of the Regional Trial Court (RTC), Branch 31, Agoo, La Union, finding appellant Sitti Domado y Sarangani (appellant) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (RA) No. 9165 (the Comprehensive Dangerous Drugs Act of 2002), imposing on her the penalty of life imprisonment.

ANTECEDENT FACTS

The prosecution charged the appellant and Jehan Sarangani y Calaw (Jehan) before the RTC with violation of Section 5, Article II of R.A. No. 9165 under an Information that states:

That on or about the 31[st] day of December 2003, in the Municipality of Santo Tomas, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding each other, did then and there willfully, unlawfully and knowingly deliver or transport twelve (12) grams of methamphetamine hydrochloride (shabu), more or less, without any lawful authority or permission to deliver or transport the same.

CONTRARY TO LAW.[3]

The appellant and Jehan pleaded not guilty to the charge.[4] The prosecution presented Police Senior Inspector Reynaldo L. Lizardo (PSI Lizardo) and Police Inspector Valeriano P. Laya II (PI Laya) at the trial. The appellant and Jehan took the witness stand for the defense.

PSI Lizardo testified that at around 2:30 p.m. of December 31, 2003, a group from the Second Ranger Company based in Tagudin, Ilocos Sur came to his office at Camp Diego Silang, San Fernando, La Union, and referred to Augustus D'Vince Castro (Augustus) for the filing of a case; Augustus was arrested earlier that day at a checkpoint in Tagudin for violation of R.A. No. 9165.[5]

In the course of the investigation that followed, Augustus disclosed that he could order shabu from his source in Dagupan City. PSI Lizardo responded by asking him to contact his source. Augustus obliged and contacted his source by cell phone. He reported to PSI Lizardo that his source agreed to meet him at Damortis, Sto. Tomas, La Union, for the delivery of shabu. On the basis of this information, PSI Lizardo conducted a briefing and ordered his officers to undertake an entrapment operation.[6]

The entrapment team went to Damortis in two vehicles. PSI Lizardo and Augustus were on board a Besta van, while the back-up team (composed of the Second Ranger Company members) used a Toyota Revo. The team

reached Damortis at 7:30 p.m. of December 31, 2003. PSI Lizardo and Augustus parked the van at a Petron station, while the back-up vehicle strategically parked nearby.[7] Augustus received word by cell phone from his source that they were already at Damortis. Augustus relayed this information to PSI Lizardo and that three (3) persons would deliver the shabu. At a little past 8:00 p.m., three women alighted from a mini-bus, and went to the parked van. Augustus waived at the three women and bidden them to board the van, which they did; the appellant sat in front, while Jehan and Violeta Fernandez (Violeta) occupied the row immediately behind.[8]

Augustus asked the women if they brought the shabu he had ordered.[9] The appellant (who was seated in front beside Augustus) ordered one of the two women seated behind them to show the "items." One of the women (later identified as Jehan) responded by showing and handing over an envelope containing three plastic sachets to Augustus.[10] Augustus, in turn, gave these items to PSI Lizardo who was seated at the van's third row and who locked the van's door after confirming that the plastic sachets contained shabu.[11] PSI Lizardo then announced that he was a PDEA agent and that he was placing them under arrest for delivery of dangerous drugs, and apprised them of their constitutional rights. PSI Lizardo then directed their return, together with the back-up team, to Camp Diego Silang.[12] They arrived at the camp approximately 9:00 p.m.[13]

At the police station, PSI Lizardo conducted an investigation and prepared an affidavit of arrest (Exhibit "C"),[14] marked each plastic sachet with his initial "RLL," and made the corresponding marking sheet report.[15] He likewise conducted an inventory of the seized items and made a certificate of inventory signed by a barangay kagawad and by two media representatives (Exhibit "G").[16] PSI Lizardo also prepared a written request for laboratory examination (Exhibit "F") [17] and a request for the medical and physical examination of the three accused (Exhibit "E").[18] The seized items were turned over the next day to the PNP Crime Laboratory in Camp Florendo, San Fernando, La Union.[19] The request for laboratory examination and turn over were documented through Exhibit "F" [20] dated December 31, 2003, Control NR 001-04, signed by Reynaldo L. Lizardo, under a stamped proof of delivery dated "01 0050H 04" which he initialed, and received and initialed for the laboratory by PO1 Avelino.[21]

During all this time, the accused were all at the police station, under custody, as they had claimed, with the assistance of counsel, their right to a preliminary investigation and voluntarily waived their right under the provisions of Article 125 of the Revised Penal Code.[22] Their continued custody after their arrest was shown by Exhibit "H," dated January 1, 2004, addressed to the Provincial Prosecutor and signed by Reynaldo L. Lizardo which noted that "Suspects are under arrest." [23]

On cross-examination, PSI Lizardo stated that the plastic sachets were in an envelope when they were handed to Augustus.[24] He confirmed that it was Jehan who handed the shabu to Augustus,[25] and explained that Violeta had been excluded from the complaint on the recommendation of the regional state prosecutor.[26]

PI Laya, Forensic Chemist of the PNP Crime Laboratory in Camp Florendo, La Union, testified that on January 1, 2004, he conducted a chemical and confirmatory test on the three heat-sealed plastic sachets submitted to him for examination. He found the seized items positive for shabu, and reflected his findings in Chemistry Report No. D-001-2004.[27] On cross-examination, PI Laya stated that PO1 Avelino received the items at the PNP Crime Laboratory; he did not know where these items came from.[28]

The defense presented a different picture of the events. The appellant's testimony was aptly summarized by the CA as follows:

SITTI, nineteen (19) years old, admitted having brought an envelope to Augustus De Castro in their meeting place at Damortis, Dagupan City but denied knowing its contents. She testified that on 26 December 2003, she was at home playing at the billiard store owned by her sister when Augustus alias "Guts", her former husband's

friend and whom she did not know very well, arrived to attend the fiesta of Dagupan. Augustus slept in their house for the first time and went home the following day, 27 December 2003, to Ilocos Sur [TSN, July 12, 2004, pp. 2-5]. She saw a scotch tape-sealed long brown mailing envelope left on the place where Augustus slept, and hid the same without informing him about it. On 31 December 2003, Augustus, who called her up through the cellular phone, requested her to bring to him the envelope which he left. They were to meet at Damortis, Dagupan City. She was in the company of her sister JEHAN and Violeta [TSN, July 12, 2004, pp. 6-7]. As they approached a van, she saw Augustus alight therefrom. Augustus opened the door and instructed them to board the same [TSN, July 12, 2004, pp. 8-9]. Later, Augustus asked for the envelope and immediately after Violeta handed the same to him, he raised it up. After which, a man came out from the back where her sister, JEHAN, was seated and shouted "Freeze, do not move. This is PDEA" [TSN, July 12, 2004, pp. 10-11].^[29]

Jehan narrated that she was at her home in Fernandez Street, Dagupan City on the evening of December 31, 2003 when the appellant came and asked to be accompanied to Damortis to deliver an envelope.^[30] Jehan and Violeta (her neighbor) accompanied the appellant to Damortis. They rode a mini-bus and immediately proceeded towards a parked van when they arrived.^[31] They all boarded the van at Augustus' bidding; Augustus asked about the envelope as soon as they were inside the van. A conflict of claims exists on who had the envelope and who handed it to Augustus,^[32] but it is not disputed that it was the appellant who gave the instruction to hand the envelope over to Augustus. Immediately after, PSI Lizardo appeared from the back of the van and arrested them.^[33]

On cross-examination, Jehan maintained that it was Violeta who gave the envelope to Augustus. She likewise denied having executed a sworn statement where she allegedly stated that she handed the envelope to Augustus.^[34]

The RTC, in its decision of July 28, 2004, convicted the appellant of "transporting shabu (12 grams)"^[35] and sentenced her "to suffer the penalty of life imprisonment and to pay a fine in the amount of Five Hundred Thousand Pesos (P500,000.00)."^[36]

The appellant appealed to the CA,^[37] which affirmed the RTC decision in toto in its decision of February 28, 2006.^[38]

The CA found no reason to depart from the doctrine that the findings of fact of the trial court, its calibration of the testimonies of the witnesses, and its assessment of their probative weight, as well as the conclusions based on these findings, are accorded high respect, if not conclusive effect.

The CA ruled that the alleged failure of the apprehending officers to comply with the requirements under R.A. No. 9165 "is a matter strictly between the PDEA and the arresting officers and is totally irrelevant to the prosecution of the criminal case."^[39] The CA reasoned out that the commission of the crime of illegal transport or delivery of a prohibited drug is considered consummated once proof of transport or delivery is established.

The CA further added that there appears no reason why the police officers should not be accorded the presumption of regularity in the performance of their duty.

In her brief on appeal, the appellant contends that the trial court gravely erred in convicting her of the crime charged despite the prosecution's failure to establish the identity of the prohibited drugs. The appellant alleges that PSI Lizardo did not place his initials immediately after seizure. Moreover, there is no showing that the police inventoried the seized items in the presence of the appellant and her counsel, a representative from the media and the Department of Justice, and any elected official. She further adds that it was not clear who received the seized items at the police station.^[40]

For the State, the Office of the Solicitor General (OSG) counters with the argument that there was no showing of any irregularity in the handling of the seized items. The OSG argues that R.A. No. 9165 allows the inventory of the confiscated drugs to be conducted at the nearest police station. It further adds that the inventory of the seized items was witnessed by representatives from the barangay and the media.[41]

THE COURT'S RULING

After due consideration, we agree with the conclusions and the penalty imposed by the appealed CA decision, and resolve to deny the appeal for lack of merit.

The Prosecution's Case and the Objections

The appellant in the present case is charged with selling, trading, delivering, giving away, dispatching in transit, and transporting dangerous drugs under Section 5, Article II of R.A. No. 9165. This section punishes not only the sale but also the mere act of delivering or distributing prohibited drugs.[42] In prosecutions for illegal sale or delivery of drugs, what is material is proof that the transaction actually took place, coupled with the presentation in court of the corpus delicti as evidence. In the present case, we confirm the lower court findings that the prosecution clearly showed that the delivery of the illicit drugs (shabu) actually took place; and that the authorities seized the shabu which thereafter passed through the proper investigatory/custodial chain until it was identified and submitted to the court as evidence.

We note that the appellant does not deny the delivery of an envelope to Augustus at a van in a Petron station in Damortis, but alleges that she was not aware of the contents of the envelope delivered. The prosecution, however, adduced ample evidence of the events that led to the entrapment and the actual transaction; of how arrest of the suspects and seizure of the shabu were made in an entrapment operation; and of the chain of custody, i.e., how the shabu was seized, marked, delivered for examination, examined, and subsequently brought to court. Significantly, the present appeal questions only the identity of the shabu offered as evidence in court. The appellant alleges breaches in this chain of custody, specifically, the failure to mark the evidence upon arrest, the failure to identify who received the seized shabu at the police station, and the failure to inventory the shabu in the presence of the accused and her counsel.

We find the appellant's objections totally without merit.

A notable feature of this case is the careful handling the authorities undertook in ensuring that the rights of the accused were protected, from the moment of their warrantless arrest after they were caught in flagrante delicto in an entrapment operation, all the way up to the handling of the evidence at the trial level. This is evident from the exhibits that were all properly marked and offered as evidence without any objection from the accused.

We point out the defense's failure to contest the admissibility of the seized items as evidence during trial as this was the initial point in objecting to illegally seized evidence. At the trial, the seized shabu was duly marked, made the subject of examination and cross-examination, and eventually offered as evidence, yet at no instance did the appellant manifest or even hint that there were lapses in the safekeeping of seized items that affected their admissibility, integrity and evidentiary value. In *People v. Hernandez*,[43] we held that objection to the admissibility of evidence cannot be raised for the first time on appeal; when a party desires the court to reject the evidence offered, he must so state in the form of objection. Without such objection, he cannot raise the question for the first time on appeal.

Beyond the question of admissibility are the issues of the integrity and evidentiary value of the drugs seized. To ensure these qualities in the evidence seized, R.A. No. 9165 outlines the procedure to be followed in the custody and handling of seized dangerous drugs under its Section 21, paragraph 1, Article II. This is implemented by

Section 21(a), Article II of the Implementing Rules and Regulations of R.A. No. 9165, which reads:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items. [Emphasis ours.]

and stresses that the overriding concern in the rules on the chain of custody of seized and confiscated drugs is the maintenance of their integrity and evidentiary value. In other words, mere lapses in procedures need not invalidate a seizure if the integrity and evidentiary value of the seized items can be shown to have been preserved.[44]

In the present case, after PSI Lizardo confirmed that the three plastic sachets given by either Jehan or Violeta to Augustus contained shabu, he immediately locked the van's door; introduced himself as a member of the PDEA; arrested the appellant and her two companions; and then brought them (and the seized items) to the police station. At the police station, he marked each plastic sachet with his initials "RLL," and made the corresponding marking sheet report. He also conducted an inventory of the seized items; the corresponding certificate of inventory was signed by PSI Lizardo, Barangay Kagawad Luis Ordoña, Jr., and two representatives from the media. Afterwards, he prepared a written request for laboratory examination, and a request for the medical and physical examination of the three accused. During all this time, the accused were all at the police station, under custody, as they had waived their right under the provisions of Article 125 of the Revised Penal Code. Thus, while not specifically mentioned in the testimonies, evidence shows that the accused were all at the very same place where the markings and inventory of the seized items took place.

The records further clearly bear out that confiscated items were forwarded to the PNP Crime Laboratory where they were received by PO1 Avelino. The turnover of the confiscated item was documented through the request for laboratory examination, Exhibit "F," dated December 31, 2003, with date of receipt by PO1 Avelino on "01 0050H 04," or on January 1, 2004 at 12:50 a.m. PSI Lizardo made the delivery, as shown by his initials on the portion of the Exhibit indicating receipt by the PNP Crime Laboratory.[45]

PO1 Avelino, in turn, gave these items to PI Laya for examination to determine the presence of dangerous drugs. PI Laya testified to this turnover.[46] After the qualitative examination was conducted on the submitted specimens, PI Laya concluded that Exhibits "A-1," "A-2," and "A-3" tested positive for the presence of methamphetamine hydrochloride. When the prosecution presented these marked specimens in court, PSI Lizardo positively identified them to be the same items he seized from the appellant and which he later marked at the police station, from where the seized items were turned over to the laboratory for examination based on a duly prepared request. We quote the pertinent portions of the records:

APP TADE:

Q:

Earlier[,] you mentioned that you recovered three (3) plastic sachets from the possession of the persons that was subject of the Police operation and you likewise mentioned that you would be able to identify these items if again shown to you. I'm now showing to you three (3) plastic sachets earlier marked for the Prosecution as

EXHIBIT "A", will you go over the same and tell the Honorable Court what relation[,] if any[,] does [these] plastic sachets have with the ones that you recovered from the accused?

PSI LIZARDO:

A:

These three (3) plastic sachets were the ones which we recovered from the three suspects.

x x x x

Q:

And why do you say that these were the very same items that were handed to you?

A:

I put markings on the three (3) plastic sachet[s].

Q:

Will you please point to the Court that markings that you identifying mark [sic] on the items that you recovered?

A:

The markings are my initials[,] RLL means Reynaldo L. Lizardo.

Q:

That is on one of the sachets, how about the other sachets?

A:

The same markings with the RLL means Reynaldo L. Lizardo.[47]

PI Laya identified the three plastic sachets offered in evidence as the very same items he examined at the PNP Crime Laboratory, thus:

Q:

When you received that request[,] what else was turned over to you?

A:

Three (3) heat-sealed sachet containing white crystalline substance.

Q:

Where are these three sachets that were handed to you for examination?

A:

(Witness bringing out certain items.)

APP TADE:

Witness handing over to this representation PDEA marking plastic bag containing three plastic sachet with yellow piece of paper containing white crystalline substance.

Q:

And upon receipt of these items and the request for laboratory examination as an officer, what did you do next?

A:

I conducted my laboratory examination.

x x x x

Q:

And the three (3) tests that you conducted in this case[,] what was the result of your examination?

A:

Positive for the presence of methamphetamine hydrochloride.

Q:

And do you have any document to that effect?

A:

Yes, sir.

x x x x

Q:

Who prepared this Laboratory Examination Report?

A:

I prepared the report.

Q:

Personally?

A:

Yes, sir.

Q:

You handed over to this representation three (3) plastic sachets containing white crystalline substances which you claim to be the same items that were examined by you, why do you say that these are the same items that were examined by you?

A:

I have my markings placed in the items.

Q:

Again, will you point to the Court the items which you identifying markings [sic] which you said you placed in the three plastic sachets?

A:

(Witness pointing to the yellow paper attached to the plastic as A2=D-001-04, A1=D-001-04 and the other plastic A3=D-001-04.)[48]

Clearly apparent from all these is that the whole operation, all the way up to the submission of the seized shabu to the laboratory for testing, were overseen and under the immediate charge of PSI Lizardo who himself was brought to court to testify. The prosecution thus duly established the crucial links in the chain of custody of the seized items from the time they were confiscated until they were brought for examination. The totality of the testimonial, documentary, and object evidence adequately supports not only the findings that a delivery of the illicit drugs took place but accounted for an unbroken chain of custody of the seized evidence as well.

We note in this regard that at no time during the trial did the defense question the integrity of the evidence, by questioning either the chain of custody or the evidence of bad faith or ill will on the part of the police and the prosecution in the handling of evidence, or by proof that the evidence had been tampered with. Under the circumstances, the presumption of regularity in the handling of the exhibits by the public officers concerned and the presumption that they properly discharged their duties should already apply.[49] As the foregoing discussion shows, the integrity of the adduced evidence has never been tainted, so that it should retain its full evidentiary value.

An obvious flaw in the prosecution's case was the failure of the apprehending team to photograph the seized items. Nevertheless, PSI Lizardo immediately conducted an inventory of the items at the police station where the accused were then held in custody. Even without considering the presence of the accused at the inventory, however, we find it undisputed that a barangay kagawad and two representatives from the media witnessed the inventory and signed the corresponding certificate of inventory. To our mind, the presence of an elected official and two media representatives sufficiently safeguarded the seized evidence from possible alteration, substitution or tampering. The presence of these third parties (as required by law) during the inventory, as well as the clear lack of any irregularity affecting the identity of the evidence, more than made up for the prosecution's failure to photograph the confiscated specimens. In other words, we hold that there has been substantial compliance by the police authorities with the required procedure on the custody and control of the confiscated drugs even without the required photographs.

The marking of the seized shabu at the police station rather than at the exact scene of the warrantless arrest of the accused and the seizure of evidence, to our mind, should be appreciated under the unique attendant circumstances of the case.

We note that the entrapment undisputably took place and the sachets of shabu were seized inside a vehicle where all the actors - the accused, the informant, and the police - were riding together. They were effectively on the road at that time and the records do not indicate that the van went to any other place after the arrest and seizure. Only PSI Lizardo also appeared to have handled the seized items while the van was on its way to the police station. Thus, there appeared no possibility for the "planting," switching, and tampering of evidence during the whole travel time from the place of seizure to the police station. In fact, the case of the defense did not even suggest these possibilities as its defense was one of avoidance, i.e., the accused did not know that what the delivered envelope contained was shabu.

All these indicators tell us that the main concern of the authorities at that time was simply to bring the accused in for investigation and appropriate proceedings. Thus, they cannot be faulted if they opted, after the warrantless arrest, to prioritize the delivery of the accused to their station and to undertake the required marking and inventory of the seized items there. With the continued presence of all the accused in the vehicle while the seized items remained unmarked, and the immediate marking and inventory of these items upon reaching the police station, the law's feared planting, tampering, and switching of evidence were substantially negated. The fact that the accused were all at the police station when the marking and inventory took place immeasurably strengthens the validity of our conclusion.

From the point of view of jurisprudence, we are not beating any new path by holding that the failure to undertake the required photography and immediate marking of seized items may be excused by the unique circumstances of a case. In *People v. Resurreccion*,^[50] we already stated that "marking upon immediate confiscation" does not exclude the possibility that marking can be at the police station or office of the apprehending team. In the cases of *People v. Rusiana*,^[51] *People v. Hernandez*,^[52] and *People v. Gum-Oyen*,^[53] the apprehending team marked the confiscated items at the police station and not at the place of seizure. Nevertheless, we sustained the conviction because the evidence showed that the integrity and evidentiary value of the items seized had been preserved. To reiterate what we have held in past cases, we are not always looking for the strict step-by-step adherence to the procedural requirements; what is important is to ensure the preservation of the integrity and the evidentiary value of the seized items, as these would determine the guilt or innocence of the accused. We succinctly explained this in *People v. Del Monte*^[54] when we held:

We would like to add that non-compliance with Section 21 of said law, particularly the making of the inventory and the photographing of the drugs confiscated and/or seized, will not render the drugs inadmissible in evidence. Under Section 3 of Rule 128 of the Rules of Court, evidence is admissible when it is relevant to the issue and is not excluded by the law or these rules. For evidence to be inadmissible, there should be a law or rule which forbids its reception. If there is no such law or rule, the evidence must be admitted subject only to the evidentiary weight that will [be] accorded it by the courts. x x x

We do not find any provision or statement in said law or in any rule that will bring about the non-admissibility of the confiscated and/or seized drugs due to non-compliance with Section 21 of Republic Act No. 9165. The issue therefore, if there is non-compliance with said section, is not of admissibility, but of weight - evidentiary merit or probative value - to be given the evidence. The weight to be given by the courts on said evidence depends on the circumstances obtaining in each case.^[55]

The Proper Penalties

The appellant was caught delivering a total of 12 grams of methamphetamine hydrochloride or shabu. The illegal delivery, dispensation, distribution and transportation of drugs are punished under Section 5, Article II of R.A. No. 9165, which provides:

Sec. 5. x x x The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

Pursuant to the enactment of RA No. 9346, entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines," only life imprisonment and fine, instead of death, shall be imposed.

Accordingly, we find the penalty imposed to be within the range provided by law and was thus correctly imposed by the RTC and affirmed by the CA.

WHEREFORE, in light of all the foregoing, we hereby AFFIRM the February 28, 2006 Decision of the Court of Appeals in CA-G.R. CR-HC No. 00432. No cost.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, [*]Del Castillo, and [**]Abad, JJ., concur.

[*] Designated additional Member of the Third Division vice Associate Justice Jose Catral Mendoza, per Special

Order No. 845, dated June 8, 2010.

[**] Designated additional Member of the Third Division, in view of the retirement of former Chief Justice Reynato S. Puno, per Special Order No. 843, dated May 17, 2010.

[1] Penned by Associate Justice Japar B. Dimaampao, and concurred in by Associate Justice Martin S. Villarama, Jr. (now a Member of this Court) and Associate Justice Edgardo F. Sundiam; rollo, pp. 2-14.

[2] Penned by Executive Judge Clifton U. Ganay; CA rollo, pp. 7-24.

[3] Id. at 6.

[4] Records, pp. 35-36.

[5] TSN, July 5, 2004, pp. 3-4.

[6] Id. at 4-5. See also Affidavit of Arrest, Exh. "C," Records, p. 3.

[7] TSN, July 5, 2004, pp. 5-7.

[8] Id. at 8-11.

[9] Id. at 11.

[10] Id. at 12; Records, p. 3.

[11] TSN, July 5, 2004, pp. 12-13; TSN, July 8, 2004, p. 21.

[12] TSN, July 5, 2004, pp. 14-15.

[13] Id. at 16.

[14] Records, p. 3.

[15] TSN, July 5, 2004, pp. 16-17.

[16] Records, p. 11.

[17] Id. at 9.

[18] Id. at 8.

[19] TSN, July 5, 2004, pp. 17-20; TSN, July 8, 2004, pp. 22-23.

[20] Records, p. 9.

[21] Id. See also TSN, July 5, 2004, p. 20; TSN, July 8, 2004, p. 8.

[22] Records, p. 1. The appellant, Jehan and Violeta were assisted by Atty. Roberto S. Ferrer.

[23] Id. at 2; TSN July 5, 2004, p. 20.

[24] TSN, July 8, 2004, pp. 16-17.

[25] Id. at 19.

[26] Ibid.

[27] Id. at 3-7; Records, p. 10.

- [28] TSN, July 8, 2004, p. 9.
- [29] CA rollo, pp. 114-115.
- [30] TSN, July 14, 2004, pp. 3-4.
- [31] Id. at 5-7.
- [32] Id. at 9-10.
- [33] Id. at 7-9.
- [34] Id. at 9-10.
- [35] CA rollo, p. 23.
- [36] Id. at 23-24.
- [37] Docketed as CA-G.R. CR-HC No. 00432.
- [38] Rollo, pp. 2-14.
- [39] Id. at 11-12.
- [40] CA rollo, pp. 42-52.
- [41] Id. at 84-106.
- [42] See *People v. Concepcion*, G.R. No. 178876, June 27, 2008, 556 SCRA 421, 442.
- [43] G.R. No. 184804, June 18, 2009.
- [44] See *People v. Naquita*, G.R. No. 180511, July 28, 2008, 560 SCRA 430; *People v. Mateo*, G.R. No. 179478, July 28, 2008, 560 SCRA 375; *People v. del Monte*, G.R. No. 179940, April 23, 2008, 552 SCRA 627; *People v. Pringas*, G.R. No. 175928, August 31, 2007, 531 SCRA 828.
- [45] Records, p. 9; TSN, July 5, 2004, p. 20; TSN, July 8, 2004, p. 22.
- [46] TSN, July 8, 2004, p. 8.
- [47] Id. at 11-13.
- [48] Id. at 3-7.
- [49] *People v. Miranda*, G.R. No. 174773, October 2, 2007, 534 SCRA, 552, 568.
- [50] G.R. No. 186380, October 12, 2009.
- [51] G.R. No. 186139, October 5, 2009.
- [52] G.R. No. 184804, June 18, 2009.
- [53] G.R. No. 182231, April 16, 2009, 585 SCRA 668.
- [54] G.R. No. 179940, April 23, 2008, 552 SCRA 627.
- [55] Id. at 637.

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