

WILLIAM CHING, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 177237. October 17, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This petition for review on certiorari under Rule 45 of the Rules of Court assails the Decision[1] of the Court of Appeals dated 27 March 2007 in CA G.R. CR HC No. 00945 which affirmed in toto the 19 January 2004 Decision[2] of the Regional Trial Court (RTC) of Manila, Branch 27, finding petitioner William Ching, alias Willy (Ching), guilty of violation of Section 15, Article III of Republic Act No. 6425, as amended, otherwise known as the Dangerous Drugs Act of 1972.

On 21 October 1999, petitioner was charged before the RTC with violating Section 15, Article III of Republic Act No. 6425 in Criminal Case No. 98-168211. The accusatory portion of the Information reads:

"That on or about October 19, 1998, at Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a foreign national from Amoy, China but married to a Filipina with two children, and not being authorized by law to do so, did, then and there, willfully, unlawfully and feloniously sell and deliver to a NARGROUP "poseur-buyer" some 3,076.28 grams of Methamphetamine Hydrochloride, a regulated drug commonly known as "SHABU," in violation of the above-cited law." [3]

When arraigned on 24 November 1998, petitioner pleaded not guilty. Thereafter, trial ensued.

The prosecution presented the following witnesses: (1) Senior Police Officer (SPO1) Alfredo F. Cadoy (SPO1 Cadoy), the designated poseur-buyer of the team; (2) SPO1 Ruben M. Bernardo (SPO1 Bernardo), a member of the team who was specifically tasked to back-up SPO1 Cadoy; (3) Marilyn D. Dequito, the forensic chemist of the Philippine National Police (PNP) Crime Laboratory Office who examined the substance allegedly confiscated from Ching.

As documentary evidence, the prosecution offered the following: Exhibit "A" - Request for Laboratory Examination dated 20 October 1998 addressed to the PNP Crime Laboratory, Camp Crame of the three heat-sealed transparent plastic bags allegedly confiscated from Ching containing white crystalline substance suspected to be "shabu" and weighing approximately one kilogram each; Exhibit "B" - Initial Laboratory Report dated 20 October 1998 of the confiscated crystalline substance; Exhibit "C" - Final Report dated 20 October 1998 of the confiscated items; Exhibit "D" - Request for Physical/Medical Examination of Ching; Exhibits "E" to "K" - The seven one thousand peso-bills used in the buy-bust operation; Exhibit "L" - Booking Sheet and Arrest Report of Ching; Exhibit "M" - Affidavit of Arrest of Ching signed by SPO1 Cadoy and SPO1 Bernardo; Exhibit "N" - Letter to the Inquest Prosecutor dated 20 October 1998; Exhibit "O" - Green Plastic Bag bearing the name Prudential Bank, where the three heat-sealed transparent plastic bags containing white crystalline substance suspected to be "shabu" were kept; Exhibits "P" to "R" - the three transparent plastic bags containing white crystalline substance; Exhibit "S" - Sketch Drawn by SPO1 Cadoy of the Location of the Buy-Bust Operation;

Exhibit "T" - Original Copy Booking Sheet and Arrest Report of Ching.

The collective evidence adduced by the prosecution shows that at around 12:00 o'clock noon on 19 October 1998, while Police Chief Leonardo Suan was in his office at Camp Crame, Quezon City, he received information from a confidential informant about a drug deal to be consummated by the latter with petitioner Ching.[4] Police Chief Suan immediately assembled a team to conduct a buy-bust operation composed of Inspector Arsenal, SPO1 Cadoy, SPO1 Bernardo, SPO1 de los Santos, PO1 Velasquez and PO2 San Jose.[5]

SPO1 Cadoy was designated as the poseur-buyer, while SPO1 Bernardo was assigned as one of the back-ups of the former.[6] Seven pieces of genuine one thousand-peso bills were prepared as marked money. The said bills were placed over the boodle money in an attaché case.[7]

After the briefing, at about 1:00 p.m., the team on board three vehicles proceeded to the vicinity of the target area, a gasoline station along San Fernando Street, Binondo, Manila. The group arrived at the target place at around 2:00 p.m., and positioned themselves in different strategic locations.[8]

The confidential informant alighted from the vehicle and walked towards San Fernando Street.[9] When the informant returned, he was accompanied by Ching who was carrying with him a green bag bearing the name Prudential Bank.[10] The confidential informant introduced SPO1 Cadoy to Ching and told the latter that the former wanted to buy shabu.[11] At once, Ching requested to see the money. SPO1 Cadoy showed the money inside the attaché case. After seeing the money, Ching handed the green bag to SPO1 Cadoy saying "Ito na ang tatlong kilo." [12] SPO1 inspected the contents of the green bag which contained three plastic packs of white crystalline substance. Convinced that the white crystalline substances were illegal drugs, SPO1 Cadoy handed the attaché case to Ching.[13] As soon as the money was in Ching's possession, SPO1 Cadoy executed the pre-arranged signal by removing his hat.[14] SPO1 Cadoy introduced himself to Ching as a NARCOM agent, while the other members of the team rushed toward them and likewise introduced themselves to Ching as policemen and then SPO1 Cadoy and his team arrested William Ching.[15] SPO1 Bernardo retrieved from Ching the marked money while SPO1 Cadoy marked the plastic packs containing white crystalline substance with "AFC," his initials. The arresting officers brought Ching to Camp Crame where he was subjected to custodial investigation. During the investigation, the arresting officers prepared the Affidavit of Arrest, Booking Sheet and Arrest Report, Request for Laboratory Examination, Request for Physical/Medical Examination and Referral to the Inquest Prosecutor.

The three heat-sealed transparent plastic bags with the initials of SPO1 Cadoy were referred to the PNP Crime Laboratory Office for examination. Upon examination by Chemical Officer Marilyn D. Dequito of the contents of the plastic bags, she found that the same weighed 3,076.26 and was tested positive for methamphetamine hydrochloride or "shabu." The findings of Chemical Officer Marilyn D. Dequito, which are embodied in Physical Sciences Report No. D 3415-98 dated 20 October 1998, read:

A-

Exh "A" One (1) heat sealed transparent plastic bag marked AFC containing 1013.16 of white crystalline substance.

B-

Exh "B" One (1) heat sealed transparent plastic bag marked AFC containing 1026.5 g of white crystalline substance.

C-

Exh "C" One (1) heat sealed transparent plastic bag marked AFC containing 1036.6 g of white crystalline substance.

PURPOSE LABORATORY EXAMINATION:

To determine the presence of prohibited and/or regulated drug.

FINDINGS:

Qualitative examination conducted on the above-stated specimen gave POSITIVE results for the presence of methamphetamine hydrochloride, a regulated drug.

CONCLUSION:

Specimens A, B and C contain methamphetamine hydrochloride, a regulated drug.[16]

The defense, on the other hand, put up the defense of denial and frame-up. To support this thesis, the defense presented petitioner and seven other witnesses, namely: (1) Li Ali (Ali), 17- year old niece of Ching; (2) Chuang Li Fun (Fun), Ching's sister and mother of witnesses Li Ali and Li Jia Wang. Fun resides in No. 488, Peñaranda Street, Binondo, Manila, where Ching was allegedly illegally arrested; (3) Li Jia Wang (Wang), the 13- year old nephew of Ching who was his companion when he was arrested by the police officers; (4) Eduardo B. Peralta, a pedicab driver plying the route of Peñaranda Street, Binondo, who allegedly saw Ching being dragged from the apartment by three men to an FX van; (5) Rafael A. Cantollas, utility boy of Ching; (6) Rosita C. Malait, a vendor whose place of business is across the apartment of Ching's sister; (7) Criselda E. Estrella, a housemaid residing in the same apartment and floor where Ching was allegedly arrested by the police officers.

From the testimonies of the defense witnesses, the defense's version of the incident is that on 19 October 1998, Ching stayed at his sister's apartment situated at No. 488, Peñaranda St., Binondo, Manila. Ching was accompanied by his nephew Wang, his niece Ali, and his sister, Fun. At around 12:00 noon of the said day, Fun and Ali left the apartment to visit a granduncle who resides in Nueva St., Ongpin, Manila. Ching and Wang were left behind. Ching was reading a book, clad only with a T-shirt and short pants while Wang was watching TV. At about 2:00 p.m., somebody knocked at the door. Ching opened the door where he saw six or seven men in civilian clothes, whom he later discovered as policemen. One of the men asked him if he is William Ching. When Ching answered that he is William Ching, two of the men grabbed him by the arm and dragged him downstairs to an FX van parked at the corner of Peñaranda and San Fernando Streets, Binondo, Manila. Ching was shoved to the back of the vehicle where he was manacled and blindfolded. A plastic bag was also placed over his head. While the vehicle was moving, his abductors demanded 10 million pesos from Ching and when he answered that he did not have such amount, he was mauled and threatened that he will be killed. After sometime, the vehicle stopped in front of a police station. He was brought to a small room where the men who seized him reiterated their demand for money. When he replied that he did not have said amount, he was again mauled and then his private part was electrocuted. When Ching could no longer bear the torture, he asked that he be allowed to call his sister. Because he insisted that he cannot grant their demand, his abductors took out three packages and told him that the same were taken from him and then he was made to sign a document.

Meanwhile three or four of the policemen remained in the apartment unit and made a warrantless search. The officers were still searching the room when Fun and Ali arrived. Fun tried to drive away the police officers who flashed their police identification cards. Later, Fun received a call from Ching, informing her that he was arrested.

After the defense had rested its case, the prosecution, on rebuttal, offered the oral testimonies of Police Inspector Ramon B. Arsenal (Inspector Arsenal), Police Chief Inspector Leonardo Suan (Police Chief Suan) and SPO1 Cadoy to rebut the claim of the defense that the team arrested Ching in his sister's apartment and that the buy-bust operation was a mere fabrication.

Inspector Arsenal, a police officer assigned at the Special Operations Division, Narcotics Group, PNP and a member of the team that conducted the purported buy-bust operation against Ching, testified that the buy-bust operation conducted at a gas station in San Fernando Street, Binondo, Manila on 19 October 1998, was pursuant to an information from a confidential informant. He stated that after the team was briefed by Police Chief Suan of the planned buy-bust operation, the team left for the target area on board four vehicles, namely: Tamaraw FX, a red Toyota Corolla, a white Toyota Corolla and a Lancer. He said that the confidential informant and the poseur-buyer boarded the Tamaraw FX. He arrived at the vicinity of the gas station at around 1:45 p.m. where he saw the confidential informant alight from the Tamaraw FX and walk towards San Fernando Street. Minutes later, the informant returned with Ching. He admitted that he did not see the actual exchange of shabu with the money; however, he saw the actual arrest of Ching. He denied that Ching was taken from the apartment unit in Peñaranda Street. Inspector Arsenal, however, clarified that after Ching was arrested at the gasoline station in San Fernando Street, the team brought him to the corner of Peñaranda and San Fernando Streets because he told them that the source of the shabu, a certain William Sy, will get the money at that place. He also denied the allegation that the team tortured and demanded P10 million from Ching.

Police Chief Suan, for his part, declared that he received information from alias "Ricky" regarding a drug deal with Ching. After receiving the information, he formed a team to conduct a buy-bust operation and the designated poseur-buyer was SPO1 Cadoy, with SPO1 Bernardo as back-up. He gave seven pieces of genuine one thousand-peso bill to be used as the marked money. It was also agreed in the briefing that the pre-arranged signal to indicate that the exchange of illegal drugs and money is consummated was for the poseur-buyer to remove his hat. After the briefing, he instructed Inspector Arsenal to lead the team to the target place near San Fernando Street, Binondo, Manila. He proceeded to the agreed place using his own car. He arrived at the vicinity and positioned himself near the Binondo Church. Since his position is far from the target area, he monitored the operation through a radio. At about 2:00 p.m., he was informed that the operation was consummated. He was told to wait for a while since the arresting team would go to the corner of Peñaranda and San Fernando Streets to wait for the source of the shabu. He was then informed that the source did not show up, so he ordered the team to proceed to Camp Crame.

SPO1 Cadoy, clarified that he failed to mention the street where the buy-bust operation took place because he was not familiar with the name of the streets in that place. He likewise contradicted the defense's version that the team took Ching from the apartment in No. 488, Peñaranda Street. He insisted that there was a buy-bust operation conducted on the day in question.

On rebuttal, the prosecution presented the following documentary evidence: (1) Exhibit "A" Rebuttal, a judgment of the RTC Quezon City, Branch 79, finding Ching guilty for selling methamphetamine hydrochloride in violation of Section 15, Article III of R.A. 6425 to prove that Ching is a recidivist; (2) Exhibit "B" Rebuttal, a Sketch drawn by Inspector Arsenal of the place of the buy-bust operation.

On 28 September 2001, the RTC rendered a decision finding Ching guilty of the crime charged. In the decision, the RTC appreciated the aggravating circumstance of recidivism. With this, the supreme penalty of death was imposed against Ching.

On 5 October 2001, Ching filed Motions for Reconsideration/Re-opening of Proceedings. A Supplement to Motions for Reconsideration/Re-opening of Proceedings dated 15 October 2001 was also filed by Ching.

The RTC denied the motion for reconsideration in an order dated 11 April 2002. However, the RTC, to avoid miscarriage of justice, granted the re-opening of the proceedings to allow Ching to adduce sur-rebuttal evidence.

On sur-rebuttal, the defense did not present any witness. It merely submitted certifications from the clerks of

courts of Bacoor and Imus, Cavite, certifying that there is no Branch 197 in the RTC of Cavite, nor was there a drug case entitled "People v. Lares" in any of the branches in any of the RTC branches in Bacoor and Imus. It must be noted that during cross-examination, SPO1 Cadoy was confused as to whether it was his team or Ching that arrived first at the target place. SPO1 Cadoy explained this confusion, saying that he just came from Cavite where he also testified in a drug case in which he was also the poseur buyer and the buy-bust operation in that case also took place near a gasoline station. These certifications were presented to destroy SPO1 Cadoy's credibility to prove that he was lying when he said that he testified in another drug case in Cavite, since no such case exists in the courts of the said place.

In a decision dated 19 January 2004, the RTC rendered a decision convicting Ching of the crime charged and sentenced him to reclusion perpetua. This time the RTC did not appreciate the presence of recidivism since the same was not alleged in the information. The dispositive portion of the decision reads:

WHEREFORE, IN VIEW OF ALL THE FOREGOING, the Court finds accused WILLIAM CHING a.k.a. "WILLY", "GUILTY", beyond reasonable doubt of the crime of Violation of Section 15, Article III, Republic Act 6425, as amended by RA 7659 and considering that neither mitigating nor aggravating circumstance is attendant in the commission thereof, hereby sentences him [to] Reclusion Perpetua and to pay a fine of Three Million (P3,000,000.00) Pesos.

The subject shabu, (Exhs. "P", "Q" and "R") are ordered turned over to the Philippine Drug Enforcement Agency for proper disposition.[17]

Dissatisfied, Ching directly elevated his conviction to this Court for review. This Court, however, referred the case to the Court of Appeals for intermediate review, conformably with the ruling in *People v. Mateo*.^[18]

The Court of Appeals, on 27 March 2007, promulgated its Decision affirming the in toto the decision of the RTC in convicting Ching of the crime charged. The dispositive part of the decision provides:

WHEREFORE, premises considered, the appealed Decision of the court a quo is hereby AFFIRMED in toto.^[19]

Hence, the instant petition.

In his Memorandum, Ching raises the following issues:

I

Whether The Arrest Of The Petitioner Was Illegal.

II

Whether The Search Conducted On the Premises Is Illegal.

III

Whether The Buy-Bust Operation Against The Petitioner Was A Sham.^[20]

Ching faults the RTC and the Court of Appeals for not giving credence to his version of what happened on the day in question. He vigorously insists that on the day he was arrested, a group of men swooped down upon him and dragged him from his sister's apartment unit and took him to a vehicle where his captors demanded a huge amount of money from him, and after his refusal to heed to their demands, he was tortured and his captors planted evidence against him. Without the said buy-bust or entrapment operation, there was no valid basis for his warrantless arrest. Hence, the operatives violated his constitutional right against warrantless arrest. He also claims that the search done in the apartment unit was illegal since such was effected following an illegal arrest.

Ching finds the buy-bust incredulous, as an illegal transaction such as sale of shabu could not have been done in a crowded place and during busy hours of the day. Thus, the charge was fabricated by the police officers.

In the main, petitioner wants this Court to evaluate the credibility of the prosecution witnesses vis-a-vis defense witnesses. It has often been said, however, that credibility of witnesses is a matter best examined by, and left to, the trial courts. [21] The time-tested doctrine is that the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge who, unlike appellate magistrates, can weigh such testimony in light of the declarant's demeanor, conduct and position to discriminate between truth and falsehood.[22] Thus, appellate courts will not disturb the credence, or lack of it, accorded by the trial court to the testimonies of witnesses. [23] This is especially true when the trial court's findings have been affirmed by the appellate court, because said findings are generally conclusive and binding upon this Court unless it be manifestly shown that the latter court had overlooked or disregarded arbitrarily the facts and circumstances of significance in the case.[24]

However, in view of the fact that at stake here is no less than the liberty of appellant, this Court thoroughly examined the entire records of this case and scrutinized the testimonies and the pieces of documentary evidence tendered by both parties and observed them at close range. Regrettably for Ching, this Court failed to identify any error committed by the RTC and the Court of Appeals both in their respective appreciation of the evidence presented before them and in the conclusion they arrived at.

In the prosecution of sale of dangerous drugs, the concurrence of all the following elements must concur: (1) the identity of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment therefor. What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of corpus delicti. [25]

In the instant case, all the elements of the crime have been sufficiently established by the prosecution. The witnesses for the prosecution were able to prove that the buy-bust operation indeed took place and the shabu subject of the sale was brought and duly identified in court. The poseur-buyer (SPO1 Cadoy) positively identified Ching as the one who sold to him the three plastic bags of shabu. SPO1 Cadoy straightforwardly narrated the circumstances leading to the consummation of the sale of illegal drugs and the arrest of Ching:

Q:

After arriving at around 2:00 p.m., at San Fernando St., Binondo, Manila, what happened, if any, Mr. Witness?

A:

When we arrived at San Fernando St., we saw alias Willy. I was introduced to him by the informant as the one who will buy shabu.

Q:

How many minutes were you there when you were introduced to this alias Willy? Before you were introduced, how many minutes were you there at the place?

A:

For a while only Sir, because when we arrived, Alias Willy was already there waiting for us, Sir.

Q:

Where were you introduced? In what specific location, at San Fernando St.?

A:

At the side of a gasoline station along San Fernando St.

xxxx

Q:

And was he carrying something or not, Mr. Witness?

A:

He was carrying a bag, Sir.

Q:

What happened after you were introduced to Alias Willy by the informant?

A:

Alias Willy was talking like "parang barok at gusto niyang Makita ang pera." That is what I understood.

Q:

Did you show the money to him?

xxxx

A:

Yes, sir. I showed him the money, genuine and the boodle money I was carrying.

COURT:

You mean to say, you showed the money to Alias Willy without even telling him the quantity of shabu you would buy?

A:

We had a previous agreement, your Honor, that three (3) kilos of shabu will be bought from him. xxx.

COURT:

Who made that previous arrangement?

A:

The informant who talked with him earlier, your Honor.

xxxx

Q:

After you had shown the buy-bust money to alias Willy, what did Alias Willy do, if any?

A:

After I had shown the buy-bust money to Alias Willy and he was convinced, then, he handed to me, stating "eto na ang tatlong (3) kilo."

xxxx

Q:

You said, he handed the bag to you. Isn't it?

xxxx

A:

He was showing to me a bag and saying, this is the three kilos and then, I asked him, that it be shown to me.

Q:

Did he comply with your request that the same be shown to you?

A:

Yes, Sir.

Q:

What was shown to you, Mr. Witness?

A:

The three (3) separate plastic pack of one kilo each pack was shown to me.

Q:

You are saying that the contents of the bag, the plastic bag, which are the three (3) kilos of shabu, in separate small bags were shown to you?

A:

Yes, sir.

Q:

xxx. You said, it was shown to you. How was it shown to you, Mr. Witness?

A:

When I told him, let me see, then, he opened the bag and showed to me the contents.

xxxx

Q:

You said, that you were shown a bag containing the three (3) kilos of shabu. If you will be able to see that bag, would you actually be able to recognize the same, Mr. Witness?

A:

I will see if I can recognize it.

Q:

I am showing you this green bag, plastic bag markings, with logo and marking, Prudential Bank, around the size of... already marked as our Exh. "O", your honor. Could you please go over the same and tell this Hon. Court, if this is the very same bag that were shown to you, Mr. Witness?

A:

This is the one, Sir.

Q:

Why did you say, that was the very same bag that was shown to you or was given to you by Alias Willy at that time?

xxxx

A: Because I placed my initial in that bag.

xxxx

Q:

xxx By the way, you said that after being shown to you these three (3) plastic bags containing this subject shabu and after inspecting them, what happened afterwards, if any, Mr. Witness?

A:

I told him the drugs is okay, so, I gave him the money and he gave me the three (3) plastic bags (nagkaliwaan kami).

Q:

Why do you say that these are the very same plastic bag containing the alleged shabu, that were sold to you by Alias Willy for P2,100,000.00?

xxxx

A:

I placed my initial, sir.

xxxx

Q:

The letter AFC, who placed this marking?

A:

My initial, Sir.

xxxx

Q:

And above the initial AFC, the bigger initial AFC appears a signature. Could you tell us who placed this marks and the signature?

A:

That is my signature, Sir.

xxxx

Q:

xxx. Now, after the transfer or the exchange of xxx after receiving this bag containing the three (3) transparent plastic bags containing in turn, the alleged shabu and after giving the money to him, what did you do afterwards, if any, Mr. Witness?

A:

I removed my hat as our pre-arranged signal.

Q:

What happened after giving your pre-arranged signal by removing your hat. What happened if any?

A:

I introduced to him that I was a NARCOM agent and my companions rushed to our place and apprehended William Ching.[26]

The testimonies of the witnesses for the prosecution clearly showed that the sale of the 3 kilos of shabu actually happened. The rest of the prosecution witnesses corroborated SPO1 Cadoy's testimony, that indeed the arrest of Ching was pursuant to a buy-bust operation. Their accounts dovetailed each other and described the incident as a successful and effective buy-bust operation against a drug dealer.

According to the records, the entrapment operation started when Police Chief Suan received information from an informant that the latter was arranging a drug deal with Ching. Since the transaction was to be carried out almost immediately, Police Chief Suan no longer required the conduct of a surveillance operation to verify the information. Police Chief Suan lost no time in briefing his men. He then assembled a team to apprehend Ching in the arranged drug deal. He designated SPO1 Cadoy to act as the poseur-buyer and gave him the marked money to be used in the transaction. Inspector Arsenal was also tasked to lead the group in the target area. Police Chief Suan was monitoring his men nearby the area and communicated to them through a radio. Although he did not witness the actual sale, he was able to recount the incidents prior and immediately after the buy-bust operations, thus:

Q:

On October 19, 1998, can you tell where were you?

A:

I am at the office.

xxxx

Q:

What happened while you were there at the office?

A:

At about 12:00 o'clock in the morning I received information from our informant regarding an arranged drug deal.

xxxx

Q:

Do you know what is that all about?

A:

Selling arrangement with drug dealer they mentioned a certain Willy.

Q:

What happened after you were given the arranged drug deal?

A:

After receiving the information I gave my men briefing regarding the drug transaction

Q:

Who were your men?

A:

I am the team leader, Arsenal, Cadoy, Velazquez, San Luis, Bernardo and others.

Q:

Who was designated as the poseur-buyer?

A:

During that briefing, Cadoy was the poseur-buyer.

Q:

How about his back-up?

A:

I remember SPO1 Bernardo was one of the back-up of Cadoy on the buy bust operation.

xxxx

Q:

What happened thereafter after the briefing if any?

A:

As I said SPO1 Cadoy acted as the poseur-buyer. Arsenal will act as the team leader of the group. SPO1 Bernardo as back-up xxx.

Q:

Was there money involved in this transaction?

A:

During that time I gave seven (7) pieces of P1,000.00 peso bill to be used as marked money in the plan buy-bust operation.

xxxx

Q:

Now aside from the genuine seven P1,000.00 peso bill, were there any other money involved?

A:

I supposed [the] boodle money will be used in the buy bust operation.

Q:

Do you have any pre-arranged signal in the conduct of buy bust operation?

A:

Yes, sir. During the briefing, instruction was given to SPO1 Cadoy. The pre-arranged signal was as soon as the buy bust operation was consummated, [SPO1 Cadoy was to remove] his hat.

xxxx

Q:

Do you know the approximate time that you arrived at the target area at Binondo, Manila?

A:

Almost 2:00 o'clock.

xxxx

Q:

Where did you position yourself, your car, Mr. witness?

A:

I position my car near the Binondo church and contacted thru the radio.

xxxx

Q:

You said you conducted your communication thru the radio, what happened thereafter xxx?

A:

I don't know what actually happened. I was not in the real place or area in the actual place of buy bust operation, sir.

Q:

What happened to the plan to the buy-bust?

A:

I heard it was already consummated.

xxxx

Q:

What else happened?

A:

There was an information that the suspect was arrested by Arsenal and was told to wait a while. The source of shabu will come near from San Fernando and Peñaranda Street.

xxxx

Q:

What else happened?

A:

Arsenal told me that they were waiting for few minutes at San Fernando St. because the suspect told them that [the source of the] shabu will be coming and going to get the money.

Q:

After that few minutes elapsed, did you have another communication [with] the group of Arsenal?

A:

After few minutes, I think ten minutes after waiting they cannot find the source of shabu, I informed them to proceed to our office.[27]

Q:

Now, could you tell us where were you on October 19, 1998?

A:

At the office, sir.

xxxx

Q:

Up to what time were you there at the office?

A:

Until 12:00 o'clock we received an information that there is a buy-bust conducted at San Fernando, Binondo, Manila, sir.

Q:

Now, what happen thereafter after the receipt of the information by the office?

A:

Major Suan conducted a briefing regarding that buy bust operation. And designated SPO1 Cadoy as poseur buyer, Bernardo as the back up and the rest as the perimeter and the advance party.

Q:

Can you tell us how many were involved in this buy-bust operation in Binondo?

A:

More or less eight (8).

Q:

Can you name them if you can still remember?

A:

Major Suan, Cadoy, Bernardo, Velasquez, San Luis, Cutsero, Congyan and Anasta.

Q:

Can you remember how many cars were you when you went to the operation at Binondo?

A:

One for the poseur buyer and three for the operatives.

Q:

What kind of car did you use in that operation?

A:

I ride in Toyota Corolla color red.

xxxx

Q:

How about the other cars, who were the passengers of the operatives?

A:

On one car, white Toyota Corolla Major Suan, the driver and on Tamaraw FX, Cadoy and the CI.

Q:

What do you mean by CI?

A:

Confidential Informant.

Q:

Or asset?

A:

Yes, sir. And the other car I think Velasquez and Bernardo.

Q:

xxx What is the fourth car, what kind of car was that?

A:

Lancer gray, sir.

xxxx

Q:

Now, upon arrival... Okay upon positioning can you tell us what transpired if any, Mr. witness?

A:

Upon arrival of the Tamaraw FX, CI alighted and proceeded toward the direction of San Fernando Street from the gasoline station. So he proceeded to the direction of San Fernando and after more or less ten minutes they return together with one Chinese looking.

Q:

Now, can you identify that Chinese looking person whom your confidential informant fetch, if you can see him again can you identify him?

A:

Yes, sir.

xxxx

Q:

Now what happened next, if any? Mr. Witness?

A:

After that I saw Bernardo running towards the direction of FX and suddenly there was apprehension.

xxxx

Q:

How about the accused what was he doing then?

A:

Then we let them ride on the Tamaraw FX and then we conducted investigation as to who was this source. So he said that the source will wait for him at Peñaranda corner San Fernando Street to that money from us he will give to this source of that shabu.

xxxx

Q:

Now you said you went there. What happened when you reached that place?

A:

We waited for the source of that area for around fifteen minutes but accused told us that a while [ago a] Honda Civic arrived and left already. So we also left the place.[28]

SPO1 Cadoy's back-up, SPO1 Bernardo, confirmed the actual sale as he personally witnessed the drug deal. He recounted the incident in this manner:

Q:

You said the accused finally arrived. What happened afterwards the accused arrived in that place?

A:

The two finally met sir. SPO1 Cadoy exchange the boodle money with the goods from the accused and after exchanging, SPO1 Cadoy made the pre-arranged signal.

Q:

What was the pre-arranged signal?

A:

SPO1 Cadoy took off his hat.

xxxx

Q: While watching the two transacted xxx, where were you at the precise moment?

A: We were on board our vehicle sir.

xxxx

Q:

Now, after SPO1 Cadoy made the pre-arranged signal by removing his hat, what did you do if any Mr. witness?

A:

I alighted from our vehicle, rushed to the place of SPO1 Cadoy and accused where I immediately grabbed the boodle money and as fast we can, we immediately boarded our vehicle xxx.[29]

Forensic Chemist, Marilyn D. Dequito, who examined the confiscated crystalline substance weighing 3,076.28 grams, found the same positive for methamphetamine hydrochloride.

Comparing the defense version with that of the arresting/entrapping police officers as to what occurred in the afternoon of 19 October 1998, this Court finds, as did the RTC and the Court of Appeals, the accounts of the latter more credible. Aside from the presumption that they -- the police operatives -- regularly performed their duties, this Court notes that these operatives, as prosecution witnesses, gave consistent and straightforward narrations of what transpired on the day in question. The police officers uniformly testified of having apprehended the appellant in a buy-bust operation.

The version depicted by the prosecution, through the testimonies of the entrapping officers, could only be described by people who actually witnessed the event that took place on 19 October 1998. Only trustworthy witnesses could have narrated with such detail and realism what really happened on the date referred to.

Once again this Court stresses that a buy-bust operation is a legally effective and proven procedure, sanctioned by law at that, for apprehending drug peddlers and distributors.[30] It is often utilized by law enforcers for the purpose of trapping and capturing lawbreakers in the execution of their nefarious activities.[31] This Court, of course, is not unaware that in some instances law enforcers resort to the practice of planting evidence to extract information or even to harass civilians. But the defense of frame-up in drug cases requires strong and convincing evidence because of the presumption that the law enforcement agencies acted in the regular performance of their official duties. Moreover, the defense of denial or frame-up, like alibi, has been viewed by the court with disfavor for it can just as easily be concocted and is a common and standard defense ploy in most prosecutions for violation of the Dangerous Drugs Act.

In the case under consideration, there is no evidence of any improper motive on the part of the police officers who apprehended Ching. His allegations that the police officers beat him up in their attempt to extract money from him is belied by the absence of any proof to that effect. He did not present any medical record that he was physically abused. If the police officers indeed tried to extort money from Ching by beating him up, he could have filed the proper charges against the erring police officers. The fact that no administrative or criminal charges were filed lends cogency to the conclusion that the alleged frame-up was merely concocted as a defense ploy. In addition, if indeed the supposed disinterested witnesses of the defense, i.e., the pedicab driver and the vendor, really saw Ching being forcibly dragged by unidentified men, they could have at least informed the local authorities of such

fact. This they did not do. Thus, the story of the defense is simply implausible.

As to Ching's contention that the buy-bust operation is improbable since no person possessed of his wit would close a 2.1 million-peso deal in broad daylight and in a crowded place, this Court finds the same unavailing.

This Court observed in many cases that drug pushers sell their prohibited articles to any prospective customer, be he a stranger or not, in private as well as in public places, even in the daytime.[32] Indeed, drug pushers have become increasingly daring, dangerous and, worse, openly defiant of the law.[33] Hence, what matters is not the time and venue of the sale, but the fact of agreement and the acts constituting sale and delivery of the prohibited drugs.

Likewise untenable is Ching's objection to SPO1 Cadoy's credibility relative to the latter's testimony that prior to the hearing of this case before the RTC, he attended another hearing in Cavite. As elucidated by the RTC:

On the confusion as to who arrived first at the target place ahead, [SPO1 Cadoy] explained that when he took the witness stand, he just came from Cavite where he testified in a drug case where he was also the poseur-buyer and the buy-bust operation also took place near a gas station. In that case, the seller arrived ahead of the operation team. The defense submitted certifications to the effect that there is no RTC Branch [197] in Cavite and case alluded to by SPO1 Cadoy. xxx. The defense should not capitalize on this on its effort to seek acquittal. Honest mistakes in a rather lengthy testimony cannot dilute the credibility of a witness. In fact, honest mistakes are not inconsistent with truthful testimony.[34]

Ching's claim that his warrantless arrest was invalid is not meritorious. The rule is settled that an arrest made after an entrapment does not require a warrant inasmuch as it is considered a valid warrantless arrest pursuant to Rule 113, Section 5(a) of the Rules of Court 47 which states:

SEC. 5. Arrest Without Warrant; When Lawful. -- A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense.

Having established that the buy-bust operation is factual and legitimate, the subsequent warrantless arrest of Ching and as well as the warrantless seizure of the illegal drugs was permissible, thus:

This interdiction against warrantless searches and seizures, however, is not absolute and such warrantless searches and seizures have long been deemed permissible by jurisprudence in instances of (1) search of moving vehicles, (2) seizure in plain view, (3) customs searches, (4) waiver or consented searches, (5) stop and frisk situations (Terry search), and search incidental to a lawful arrest. The last includes a valid warrantless arrest, for, while as a rule, an arrest is considered legitimate [if] effected with a valid warrant of arrest, the Rules of Court recognize permissible warrantless arrest, to wit: (1) arrest in flagrante delicto, (2) arrest effected in hot pursuit, and (3) arrest of escaped prisoners.[35]

The prosecution also established the identity of the shabu subject matter of the sale as the very same drug submitted for laboratory examination and later presented before the RTC. SPO1 Cadoy testified that during the buy-bust operation Ching handed him the green bag with the Prudential Bank logo and inside it were three transparent plastic bags containing three kilos of shabu. SPO1 Cadoy declared that he personally made the markings "AFC" (representing his initials) on the items seized which were turned over to the SPO3 Pio G. Titong, the police investigator.[36] The police investigator made an inventory of the confiscated items and prepared a letter request to the PNP Crime Laboratory to examine the seized items which had "AFC" markings.[37] A certain PO1 Pascua personally brought the said items to the PNP Crime Laboratory with a request for laboratory examination and was duly received thereat as evidenced by the stamp signifying receipt thereof on the request

itself.[38] Forensic Chemist Marilyn D. Dequito personally received from PO1 Pascua the subject specimens.[39] When the specimens were quantitatively examined by the forensic chemist, the same weighed a little more than three kilos. The forensic chemist likewise found the specimens to be positive for shabu. When the seized items marked "AFC" were presented during the trial, SPO1 Cadoy positively identified the said pieces of evidence as the same items he received from Ching and identified his initials written on the plastic bags. Forensic Chemist Dequito also testified that the substances she examined positive for shabu had the markings "AFC." With these pieces of evidence adduced by the prosecution, the identity of the drugs has been duly preserved and established.

In sum, the positive identification made by the police officers and the laboratory report, not to mention the incredulous defense of frame-up to which Ching resorts, sufficiently prove beyond reasonable doubt that he committed the crime charged.

The Court of Appeals imposed against petitioner the penalty of reclusion perpetua and to pay a fine of Three Million (P3,000,000.00) Pesos.

The penalty prescribed under Section 15 of Article III, in relation to Section 20 of Article IV, of the Dangerous Drugs Act of 1972, as amended by Republic Act No. 7659, for unauthorized sale of 200 grams or more of shabu or methamphetamine hydrochloride is reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos.[40]

In the instant case, the report of Forensic Chemist Marilyn D. Dequito shows that the three (3) plastic plastic bags contained the total weight of 3,076.28 grams. Since the quantity of the shabu weighs more than 250 grams, the proper penalty should be reclusion perpetua to death. Since the penalty of reclusion perpetua to death consists of two indivisible penalties, Ching was correctly meted the lesser penalty of reclusion perpetua, conformably with Article 63(2) of the Revised Penal Code that when there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied. As to the fine, considering that the amount of shabu sold was 3,076.28 grams, this Court finds the amount of P3,000,000.00 imposed by the RTC as reasonable.

WHEREFORE, the Decision of the Court of Appeals in CA G.R. CR HC No. 00945, which affirmed in toto the Decision of the Regional Trial Court of Manila, Branch 27, convicting William Ching for violation of Section 15, Article III of Republic Act No. 6425, as amended by Republic Act No. 7659, and sentencing him to suffer the penalty of Reclusion Perpetua and ordering him to pay the fine of P3,000,000.00, is AFFIRMED in toto.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Corona[*], and Reyes, JJ., concur.

[*] Assigned as additional member in place of Justice Antonio Eduardo B. Nachura who was the Solicitor General of that time, per raffle date of 22 September 2008.

[1] Penned by Associate Justice Myrna Dimaranan Vidal with Associate Justices Jose L. Sabio, Jr. and Jose C. Reyes, Jr., concurring. Rollo, pp. 27-48.

[2] Penned by Judge Teresa P. Soriaso. CA rollo, pp. 36-50.

[3] Records, p. 1.

[4] TSN dated 16 February 2001, p. 4.

[5] TSN dated 19 March 1999, p. 7.

- [6] TSN dated 16 February 2001, p. 5.
- [7] TSN dated 19 March 1999, p. 13.
- [8] Id. at 20.
- [9] TSN dated 15 December 2000, p. 11.
- [10] TSN dated 19 March 1999, pp. 22 and 29.
- [11] Id. at 22-23.
- [12] Id. at 26.
- [13] Id. at 33-37.
- [14] Id. at 37.
- [15] Id.
- [16] Records, p. 110.
- [17] Id. at 644.
- [18] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640.
- [19] CA rollo, p. 295.
- [20] Rollo, p. 109.
- [21] *People v. Matito*, 468 Phil. 14, 24-25 (2004).
- [22] Id.
- [23] *People v. Piedad*, 441 Phil. 818, 838-839 (2002).
- [24] *People v. Castillo*, G.R. No. 118912, 28 May 2004, 430 SCRA 40, 50.
- [25] *People v. Padasin*, 445 Phil. 448, 461 (2003).
- [26] TSN dated 19 March 1999, pp. 21-37.
- [27] TSN dated 16 February 2001, pp. 3-11.
- [28] TSN dated 8 December 2000, pp.12-27.
- [29] TSN dated 14 January 2000, pp. 17-18.
- [30] *People v. Chua Uy*, 384 Phil. 70, 85 (2000).
- [31] Id.
- [32] *People v. Nario*, G.R. No. 94863, 19 July 1993, 224 SCRA 647, 650.
- [33] Id.
- [34] Records, p. 643.
- [35] *People v. Cabugatan*, G.R. No. 172019, 12 February 2007, 515 SCRA 537, 552-553.
- [36] TSN dated 19 March 1999, pp. 41-45.

[37] Id. at 38.

[38] TSN dated 5 February 1999, p. 10.

[39] Id. at 9.

[40] *People v. Remerata*, 449 Phil. 813, 823 (2003).

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