

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LORETO DARIA, JR. Y CRUZ, ACCUSED-APPELLANT.

G.R. No. 186138. September 11, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

The instant appeal assails the Decision[1] of the Court of Appeals dated 25 October 2007 in CA-G.R. CR H.C. No. 02544 which affirmed the 14 June 2006 Decision[2] of the Regional Trial Court (RTC) of Pasig City, Branch 267, in Criminal Cases No. 12832-D and No. 12833-D, finding accused-appellant Loreto C. Daria, Jr., a.k.a Tayap (Loreto), guilty of illegal sale and illegal possession of methamphetamine hydrochloride more popularly known as "shabu."

On 1 September 2003, two separate Informations were filed against Loreto before the RTC of Pasig City for violation of Sections 5 and 11, Article II, Republic Act No. 9165, as amended, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, for allegedly (a) selling 0.46 gram of shabu and (b) being in illegal possession of 1.11 grams of shabu.

The offense involved in Criminal Case No. 12832-D for violation of Section 5,[3] Article II of Republic Act No. 9165, was allegedly committed as follows:

On or about August 18, 2003, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away to PO1 Victor S. Bantog, Jr., a police poseur-buyer, one (1) heat-sealed transparent plastic sachet containing forty-six decigrams (0.46 gram) of white crystalline substance, which was found positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.[4]

The accusatory portion of the second Information pertaining to Criminal Case No. 12833-D for violation of Section 11,[5] Article II of the same law, reads:

On or about August 18, 2003, in Pasig City and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to possess or otherwise use any dangerous drug, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control ten (10) heat sealed transparent plastic sachets containing the following weights, to wit:

- five centigrams (0.05 gram)
- twenty decigrams (0.20gram)
- sixteen decigrams (0.16 gram)
- thirteen decigrams (0.13 gram)
- thirteen decigrams (0.13 gram)
- ten decigrams (0.10 gram)

- three centigrams (0.03 gram)
- three centigrams (0.03 gram)
- ten decigrams (0.10 gram)
- eighteen decigrams (0.18)

or a total weight of one (1) gram and eleven (11) decigrams (1.11 gram) of white crystalline substance were found positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.[6]

When arraigned on 3 February 2004, Loreto pleaded not guilty to the two charges. Thereafter, joint trial ensued.

The prosecution presented the oral testimony of its lone witness, Police Officer (PO) 1 Victor S. Bantog, Jr. (PO1 Bantog), of the District Anti-Illegal Drugs Special Operations Task Force (DAID-SOTF), Eastern Police District, Pasig City. It also offered documentary evidence, which consists of the following: Exhibit "A"- Affidavit of Arrest signed by PO1 Bantog, and a certain Police Inspector Hoover SM Pascual (Inspector Pascual); Exhibit "B" - Request for Laboratory Examination of the specimen suspected to be shabu allegedly confiscated from Loreto; Exhibit "C" - Chemistry Report stating that the confiscated specimen tested positive for shabu; Exhibit "D" - envelope containing the specimens; and Exhibit "E" - the Buy-Bust Money.

From the foregoing evidence adduced by the prosecution, it appears that at around 7:30 p.m. on 18 August 2003, a confidential informant showed up at the DAID-SOTF of the Eastern Police District, Pasig City reporting that Loreto was peddling shabu at Sitio Bolante, Barangay Pinagbuhatan, Pasig City.[7] Inspector Pascual immediately briefed the narcotics operatives present composed of Senior Police Officer (SPO) 1 Bernardo, PO1 Jocelyn Samson, PO1 Martinez, PO1 Genove, PO1 Orig, PO1 Damasco, PO1 Ramos, PO1 Montefalcon and PO1 Bantog and ordered them to conduct a buy-bust operation.[8] PO1 Bantog was tasked to act as the poseur-buyer.[9] The buy-bust money, a P500-peso bill, which came from Inspector Pascual, was marked by PO1 Bantog with his initials "VSB." At around 8:30 p.m., the team went to the target area and arrived there at around 9:30 p.m. Inspector Pascual instructed the asset to verify the location of Loreto in the vicinity. As soon as the asset came back and confirmed the presence of Loreto in the area, the former, together with PO1 Bantog, approached the target.[10] Behind them was PO1 Montefalcon, who acted as back-up. The confidential informant introduced PO1 Bantog to Loreto and told the latter that the former wanted to buy shabu.[11] After a brief negotiation, PO1 Bantog handed the buy-bust money to Loreto who, in turn, gave one plastic sachet containing crystalline substance.[12] At once, PO1 Bantog held Loreto and introduced himself as a police officer. PO1 Montefalcon also rushed in and held Loreto.[13] PO1 Bantog retrieved the marked money from Loreto's hand and ten more plastic sachets from the pocket of the latter's pants. PO1 Bantog marked the sachet subject of the buy-bust as "A" and the ten confiscated plastic sachets as "A-1" to "A-10." [14] PO1 Bantog informed Loreto of his constitutional rights. Without delay, the latter was brought to the police station.[15] The recovered plastic sachets were sent to the Philippine National Police (PNP) Crime Laboratory, Eastern Police District Crime Laboratory Office.[16] Per the chemistry report, it was found that the 11 sachets were positive for the presence of methamphetamine hydrochloride or shabu.[17] The chemistry report states:

SPECIMEN SUBMITTED:

1. Eleven (11) heat-sealed transparent plastic sachets with markings "EXH-A LCD/180803 through EXH-A10 LCD/180803" marked as A through K respectively, each containing white crystalline substance having the following recorded net weights:

A = 0.46 gram E = 0.13 gram I = 0.03 gram

B = 0.05 gram F = 0.13 gram J = 0.10 gram

C = 0.20 gram G = 0.10 gram K = 0.18 gram

D = 0.16 gram H = 0.03 gram

PURPOSE LABORATORY EXAMINATION:

To determine the presence of any dangerous drug.

FINDINGS:

Qualitative examination conducted on the above-stated specimens gave POSITIVE result to the tests for Methamphetamine Hydrochloride, a dangerous drug.

CONCLUSION:

Specimens A through K contain Methamphetamine Hydrochloride, a dangerous drug.

The defense, on the other hand, put up the defense of denial and frame-up through the testimonies of Loreto and Rosana de Guzman Daria (Rosana), Loreto's sister-in-law.

According to Loreto, a market vendor, it was on 16 August 2003, and not on 18 August 2003, in the house of his sister-in-law, Rosana, that he was illegally arrested by police officers Orig, Damasco and Montefalcon. He said that at around 10:30 in the evening of 16 June 2003, while he was visiting his sister-in-law and his nephew and niece, said police officers barged inside the living room and pointed guns at him. One of them kicked him in the chest as PO1 Orig sprayed tear gas on his eyes. Despite his protestations, he was forcibly dragged downstairs and loaded into a car and brought to the police district office of Pasig City. Rosana was also accosted and brought to the police station. There, the said police officers demanded P50,000.00 in exchange for his release. Rosana was released later having been tasked to raise and produce the said amount, while Loreto remained incarcerated. He also testified that the P500.00 buy-bust money and the sachets of shabu came from PO1 Orig's pocket and were only shown to him in the police station. He declared that he saw PO1 Bantog for the first time at the police station. He further claimed that the police officers implicated him because he and Melinda, one of his three wives, filed a complaint against Inspector Pascual, PO1 Ramos, PO1 Orig and PO3 Bernardo for the illegal arrest, planting of evidence and robbery in relation to Loreto's first arrest on 22 July 2003, but the complaint was eventually dismissed for insufficiency of evidence. Loreto admitted that his first arrest on 22 July 2003 led to his conviction and imprisonment.

Rosana testified that on 16 August 2003, at around 10:00 to 10:30 p.m., while she was on the second floor of her house, she heard a commotion coming from the ground floor where her children and Loreto were. Thereafter, she saw Loreto and one of her children go upstairs escorted by three police officers with their guns pointed at Loreto. The same police officers ordered him to surrender his gun and the shabu. He denied possession of said items. He was then handcuffed and frisked by the police officers. They confiscated his wallet and cellular phone. After a while, he and Rosana were brought by said police officers to the police station. There, both were shown several plastic sachets containing shabu, the ownership of which were imputed to them. PO1 Orig and PO1 Damasco told Rosana that she would be released, so she could produce P50,000 to settle the charge against her and Loreto. She did not return to the police station and instead went to the National Bureau of Investigation (NBI) to file a complaint against said police officers. The case did not progress since she failed to follow it up, as she had gone abroad.

In a Joint Decision dated 14 June 2006, the RTC found Loreto guilty of the two charges. In the illegal sale, Criminal Case No. 12832-D, the RTC imposed upon him the penalty of life imprisonment and a fine of

P500,000.00; while for illegal possession, Criminal Case No. 12833-D, he was sentenced to suffer imprisonment ranging from 12 years and 1 day to 14 years and to pay a fine of P300,000.00.

Loreto filed a motion for reconsideration, which was denied by the RTC.

Dissatisfied, he elevated his convictions to the Court of Appeals.

The Court of Appeals, however, affirmed his convictions.

Hence, the instant appeal.

Loreto faults the RTC and the Court of Appeals for convicting him despite the fact that the apprehending officers failed to follow the procedures for making a pre-operation report, coordinating with the Philippine Drug Enforcement Agency (PDEA), taking photographs and a physical inventory of the confiscated items, and subjecting the accused to the mandatory drug test provided for by Republic Act No. 9165 and its Implementing Rules and Regulations. He implies that failure to follow these procedures makes the apprehension irregular and unauthorized, thereby destroying the presumption of regularity given to police authorities in the performance of their official duties.

Loreto's arguments are unconvincing.

Section 86(a) of the Implementing Rules and Regulations of Republic Act No. 9165 encourages other enforcement agencies to coordinate with the PDEA prior to anti-drug operations, to wit:

The PDEA shall be the lead agency in the enforcement of the Act, while the PNP, the NBI and other law enforcement agencies shall continue to conduct anti-drug operations in support of the PDEA; Provided, that the said agencies shall, as far as practicable, coordinate with the PDEA prior to anti-drug operations. x x x.

Section 21(a), paragraph 1, Article II of the Implementing Rules and Regulations of Republic Act No. 9165 states:

(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. x x x.

Section 36(f) of the same statute provides:

(f) All persons charged before the prosecutor's office with a criminal offense having an imposable penalty of imprisonment of not less than six (6) years and one (1) day shall have to undergo a mandatory drug test.

This is not the first time that the Court is confronted with this same issue. In *People v. Agulay*,^[18] therein accused-appellant contended that the non-compliance with the procedure in Section 21(a), Article II of the Implementing Rules and Regulations of Republic Act No. 9165, created an irregularity that overcame the presumption of regularity accorded to police authorities in the performance of their official duties. There, the Court decreed that failure to strictly follow the procedure set forth under Section 21(1), Article II of the Implementing Rules and Regulations of Republic Act No. 9165, did not invalidate the seizure and custody of confiscated items during the buy-bust operation, viz:

The dissent agreed with accused-appellant's assertion that the police operatives failed to comply with the proper procedure in the custody of the seized drugs. It premised that non-compliance with the procedure in Section 21(a), Article II of the Implementing Rules and Regulations of Republic Act No. 9165 creates an irregularity and overcomes the presumption of regularity accorded police authorities in the performance of their official duties. This assumption is without merit.

First, it must be made clear that in several cases[19] decided by the Court, failure by the buy-bust team to comply with said section did not prevent the presumption of regularity in the performance of duty from applying.

Second, even prior to the enactment of R.A. 9165, the requirements contained in Section 21(a) were already there per Dangerous Drugs Board Regulation No. 3, Series of 1979. Despite the presence of such regulation and its non-compliance by the buy-bust team, the Court still applied such presumption.[20] We held:

"The failure of the arresting police officers to comply with said DDB Regulation No. 3, Series of 1979 is a matter strictly between the Dangerous Drugs Board and the arresting officers and is totally irrelevant to the prosecution of the criminal case for the reason that the commission of the crime of illegal sale of a prohibited drug is considered consummated once the sale or transaction is established and the prosecution thereof is not undermined by the failure of the arresting officers to comply with the regulations of the Dangerous Drugs Board."

X X X X

Moreover, non-compliance with the procedure outlined in Section 21(a), Article II of the Implementing Rules and Regulations of Republic Act No. 9165, shall not render void and invalid such seizures of and custody over said items, for as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officers.[21] (Emphases supplied.)

From the foregoing disquisition, it can easily be gleaned that non-compliance with the procedural requirements under Republic Act No. 9165 and its Implementing Rules and Regulations relative to the custody, photographing and drug-testing of the apprehended persons, are not serious flaws that can render void the seizures and custody of drugs in a buy-bust operation. In addition, the Court has already ruled that the non-presentation of the pre-operation report is not fatal to the cause of the prosecution, because it is not indispensable in a buy-bust operation.[22]

What determines if there was, indeed, a sale of dangerous drugs in a buy-bust operation is proof of the concurrence of all the elements of the offense, to wit: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor, which the prosecution has satisfactorily established. The prosecution satisfactorily proved the illegal sale of dangerous drugs and presented in court the evidence of corpus delicti.[23]

In the instant case, all the elements of the crime have been sufficiently established by the prosecution. The witness for the prosecution was able to prove that the buy-bust operation indeed took place, and the shabu subject of the sale was brought to and duly identified in court. The poseur-buyer (PO1 Bantog) positively identified Loreto as the one who had sold to him one heat-sealed, transparent plastic sachet containing forty-six decigrams (0.46 gram) of shabu. After Loreto received the marked money and handed to PO1 Bantog one plastic sachet of shabu, the latter introduced himself as a police officer and right away frisked the former. From the body search, PO1 Bantog recovered from the possession of Loreto, specifically from the latter's pocket, another 10 sachets of shabu. PO1 Bantog straightforwardly narrated the circumstances leading to the consummation of the sale of illegal drugs, the possession of ten plastic sachets and the arrest of Loreto:

PROS. Bautista:

Q:

Where were you at around 7:30 p.m. on August 18, 2003?

A:

I was at the office, sir.

Q:

What happened while you were inside the office?

A:

A civilian informant came informing us that there is a rampant selling of shabu along Bolante, sir.

Q:

What was the information relayed to you by the informant other than the rampant selling?

A:

Allegedly the supplier is one alias Tayap, sir.

Q:

Was this Tayap particularly described by this informant?

A:

Yes, sir.

Q:

How was he described?

A:

He has a big built, tall person, has fair complexion.

x x x x

Q:

After receiving the information, what happened?

A:

P/Insp. Hoover Pascual conducted a briefing.

Q:

How many of you were present at that time?

A:

Nine operatives, sir.

Q:

And who are these operatives? Will you name them?

A:

SPO1 Bernardo, PO1 Jocelyn Samson, PO1 Martinez, PO1 Genove, PO1 Orig, PO1 Damasco, PO1 Ramos.

Q:

Was there a briefing conducted by your chief?

A:

Yes, sir.

Q:

What was the briefing all about?

A:

To locate the suspect, to verify if he's really selling shabu in that place, to make a surveillance at the place, to monitor the place.

Q:

What else? Who acted as a poseur-buyer here?

A:

I, sir.

Q:

And as poseur-buyer, what were you supposed to do?

A:

I was given P500 peso bill, sir.

Q:

What did you do with that P500 peso bill?

A:

I put secret markings, sir.

Q:

What markings?

A:

My initials, sir?

Q:

What initials?

A:

VSF, sir.

Q:

What does VSF stands for?

A:

Victor S. Bantog, sir.[24]

PO1 Bantog testified further:

Q: What was your specific instruction at that time?

A: I will act as poseur buyer, sir.

Q: What else?

A: At 9:30, we arrived at the area, sir.

x x x x

Q: When you reached the target area, what happened?

A: Insp. Pascual told the confidential informant to locate Tayap.

x x x x

Q: Were you able to locate this Tayap?

A: Yes, sir.

Q: Who was able to locate this Tayap?

A: At first, the confidential informant, sir.

Q: Not you?

A: Not me, sir.

Q: So what happened after that, after this confidential informant was able to locate Tayap?

A: He went back to us and told us that Tayap is there, sir.

Q: And what did you do after that?

A: I went along with the confidential informant.

Q: Only two of you proceeded to the area?

A: Montefalcon acted as my back-up, sir.

x x x x

Q: What happened when you reached the place where Tayap was located?

A: I was introduced by the confidential informant to Tayap, sir.

Q: How were you introduced?

A: That I will get shabu, sir.

Q: What was the reply of Tayap, of the accused?

A: I asked him if he has shabu, sir.

Q: And what was his answer?

A: He answered, "yes."

Q: Will you narrate to us how this transaction took place?

A: When I gave him the P500, he handed me the shabu, sir.

Q: How many?

A: One piece, sir.

Q: And how much is that shabu worth?

A: P500.00, sir.

x x x x

Q: So when you handed this P500.00 bill, the accused gave to you the one sachet?

A: Yes, sir.

Q: And after the accused gave to you this sachet, what did you do?

A: I introduced myself to him, sir.

Q: You introduced yourself as police?

A: Yes, sir.

Q: And after introducing yourself as police officers, what did you do?

A: I held him, sir.

Q: And then, what happened?

A: PO1 Bedo Montefalcon arrived, sir.

Q: What did Montefalcon do?

A: We both held the accused, sir.

Q: And then, what happened?

A: I was able to recover the marked money from the accused, sir.

Q: You yourself recovered the money?

A: Yes, sir.

Q: Where did you get this marked money?

A: From his hand, sir.

Q: After that, what did you do?

A: I also recovered ten (10) pieces of small plastic sachets aside from the one I bought, sir.

Q: Where did you see it?

A: From his maong pants, sir.

x x x x

Q: How did you get that?

A: After frisking him, sir.

x x x x

Q: And when you frisked this accused, you were able to get how many pieces of shabu or plastic sachet?

A: Ten (10) pieces and the one I bought from him, a total of eleven (11), sir.

Q: After that, what did you do?

A: I put markings on the plastic sachet, sir.

x x x x

Q: And from these things you confiscated from the accused, how do you know the thing subject of a buy-bust operation and the things subject of possession?

A: The one I bought contains more, sir.

Q: And what did you mark on the one you bought?

A: I marked "A" the shabu I bought from him, sir.

x x x x

Q: And then what did you do, what happened next?

A: We brought him to the office, but before that, I informed him of his constitutional rights, sir.

x x x x

Q: If shown to you these sachets of shabu confiscated from the accused, can you identify the same?

A: Yes, sir.

Interpreter: Witness is going over the envelope containing the specimen confiscated from the accused. Witness is going over the plastic sachets.

A: This is the one, sir.[25]

Contrary to what Loreto wants to portray, the chain of custody of the seized prohibited drugs was shown to have not been broken. While still in the crime scene, PO1 Bantog marked the one plastic sachet he bought and the other 10 sachets he seized from Loreto's possession. These plastic sachets containing a white crystalline substance were immediately forwarded to the PNP Crime Laboratory for examination to determine the presence of dangerous drugs. The forensic chemist found that the white crystalline substance inside the 11 confiscated sachets was positive for methylamphetamine hydrochloride (shabu), a dangerous drug. Besides, Loreto did not question the custody and disposition of the drugs that were taken from him in the proceedings before the RTC. In fact, he stipulated the existence of the specimens, the existence of the arresting officer's request for laboratory examination, and the fact that the same were examined by Forensic Chemist Annalee Forro. The examination yielded a positive result for methamphetamine hydrochloride, commonly known as shabu.[26] There can be no doubt that the drug bought and seized from Loreto was the same one examined in the crime laboratory. Plainly, the prosecution established the crucial link in the chain of custody of the sold and seized sachets of shabu, from the time they were first bought and seized from Loreto, until they were brought for examination. We, thus, find the integrity and the evidentiary value of the drugs coming from Loreto to have not been compromised.

Loreto also insists that his defense of having been framed up is supported by clear and convincing evidence, since the involved police officers had a sufficient motive to get back at him for filing a case against said officers. Furthermore, he questions the credibility of the lone testimony of the witness for the prosecution, since said

witness could not remember from which pocket of the accused he got the ten plastic sachets, and what quantity of shabu the witness bought from the accused.

Simply, Loreto wants this Court to evaluate the credibility of the prosecution witnesses vis-a-vis the defense witness. It has often been said, however, that the credibility of witnesses is a matter best examined by, and left to, the trial courts. [27] 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.[28] Thus, appellate courts will not disturb the credence, or lack of it, accorded by the trial court to the testimonies of witnesses. [29] 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 trial court had overlooked or disregarded arbitrarily the facts and circumstances of significance in the case.[30]

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

There was no reason why the police officers involved would exact retribution from Loreto. It must be noted that one of his wives filed a complaint against Inspector Pascual, PO1 Ramos, PO1 Orig and PO3 Bernardo for illegal arrest, planting of evidence and robbery in relation to Loreto's first arrest on 22 July 2003, but, said complaint was already dismissed on 18 May 2004. Not only were the police officers cleared, they were also vindicated when Loreto was convicted in a drug case in relation to his first arrest on 22 July 2003. In addition, he cannot ascribe any ill motive on the part of PO1 Bantog, the lone prosecution witness. What further militates against Loreto's proposition is that it vacillates on whether to stick to the defense that he is a subject of the police officer's revenge or that he is a victim of extortion, both of which remained unsubstantiated. The supposed corroborative testimony mustered by the defense came from Loreto's sister-in-law, a testimony that the court viewed with disfavor since it could easily be fabricated.[31]

Although PO1 Bantog failed to recall from which pants pocket he seized the ten sachets and the exact quantity of drugs he bought from Loreto, said omission cannot affect the cause of the prosecution. This only shows an honest lack of recollection of the minor and inconsequential aspect of what transpired during the entrapment operation. It would be a tall order, indeed, to require the witness to recall every minute detail of an incident, i.e., from which pocket PO1 got the ten sachets and the quantity of the shabu sold. If the event had transpired in rapid succession amid the flurry and excitement of the moment, it would be hard for the arresting officer to absorb all the nitty gritty of what went on during the incident in question.

Comparing the defense version with that of the arresting/entrapping police officer as to what really happened at about 9:30 p.m. of 18 August 2003 or on 16 August 2003 (defense's version), this Court finds, as did the RTC and the Court of Appeals, the account of the prosecution witness more credible. Aside from the presumption that they — PO1 Bantog and his companions — regularly performed their duties, this Court notes that the prosecution witness gave a consistent and straightforward narration of what transpired on the day in question. The version depicted by the prosecution, through the testimony of the entrapping officer, could have only been described by a person who actually witnessed the event that took place on 18 August 2003. Only a trustworthy witness could have narrated with such clarity 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, for apprehending drug peddlers and distributors.[32] It is often utilized by law enforcers for the purpose of trapping and capturing lawbreakers in the execution of their nefarious activities.[33] 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 violations of the drugs law.

In sum, in Criminal Case No. 12832-D, the Court, just like the RTC and the Court of Appeals, is convinced that the prosecution's evidence proved beyond reasonable doubt the charge of violation of Section 5, Article II, Republic Act No. 9165 (illegal sale of shabu). Also proven by the same quantum of evidence was the charge for violation of Section 11, Article II, Republic Act No. 9165 (illegal possession of shabu) in Criminal Case No. 12833-D, Loreto having knowingly carried with him the ten plastic sachets of shabu without legal authority at the time he was apprehended during the buy-bust operation.

In the illegal sale, in Criminal Case No. 12832-D, the RTC imposed upon Loreto the penalty of life imprisonment and a fine of P500,000.00; while in the illegal possession, in Criminal Case No. 12833-D, he was sentenced to the indeterminate penalty of imprisonment ranging from 12 years and 1 day to 14 years and to pay the fine of P300,000.00.

Under Section 5, Article II of Republic Act No. 9165, the unauthorized sale of shabu, regardless of its quantity and purity, carries with it 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). Pursuant, however, to the enactment of Republic Act No. 9346 entitled, "An Act Prohibiting the Imposition of Death Penalty in the Philippines," only life imprisonment and fine shall be imposed. Thus, the RTC properly imposed the penalty of life imprisonment and fine of P500,000.00 on Loreto for the illegal sale of shabu.

The possession of dangerous drugs is punished under Section 11, Article II of Republic Act No. 9165. Paragraph 2, No. 3 thereof, reads:

Sec. 11. Possession of Dangerous Drugs. - x x x.

x x x x

3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of x x x methamphetamine hydrochloride x x x.

In the instant case, Loreto was caught in possession of one gram and 11 decigrams (1.11 grams) of shabu. The penalty imposed by the RTC is proper.

WHEREFORE, the instant appeal is DENIED. The Decision of the Court of Appeals in CA-G.R. CR H.C No. 02544 which affirmed in toto the Decision of the Regional Trial Court of Pasig City, Branch 267 convicting Loreto C. Daria, Jr. "alias" Tayap of violation of Section 5, Article II of Republic Act No. 9165, sentencing him to suffer the penalty of life imprisonment, and imposing upon him a fine of P500,000.00, and, for violation of Section 11, Article II, Republic Act No. 9165, imposing upon him the indeterminate penalty of imprisonment ranging from 12 years and 1 day to 14 years and a fine of P300,000.00, is AFFIRMED in toto.

SO ORDERED.

Ynares-Santiago, (Chairperson), Velasco, Jr., Nachura, and Peralta, JJ., concur.

[1] Penned by Associate Justice Vicente Q. Roxas with Associate Justices Josefina Guevara-Salonga and Ramon R. Garcia, concurring; rollo, pp. 2-20.

[2] Penned by Judge Florito S. Macalino; records, pp. 113-123.

[3] SECTION 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - 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.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) 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 controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursor and essential chemicals trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section. (Emphasis ours.)

[4] Records, p. 1.

[5] Section 11. Possession of Dangerous Drugs. - 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 possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x x

(5) 50 grams or more of methamphetamine hydrochloride or "shabu";

x x x x

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

x x x x

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu," or other dangerous drugs such as, but not limited to, MDMA or "ecstasy," PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

[6] Records, p. 11.

[7] TSN, 18 August 2004, p. 3.

[8] Id.

[9] Id. at 4.

[10] TSN, 25 October 2004, p. 4.

[11] Id. at 5.

[12] Id.

[13] Id. at 6.

[14] Id. at 8.

[15] Id.

[16] Records, p. 7.

[17] Id. at 8.

[18] G.R. No. 181747, 26 September 2008, 566 SCRA 571, 595.

[19] People v. Naquita, G.R. No. 180511, 28 July 2008, 560 SCRA 430, 446-447; People v. Concepcion, G.R. No. 178876, 27 June 2008, 556 SCRA 421, 436-437; People v. Del Monte, G.R. No. 179940, 23 April 2008, 552 SCRA 627, 636-637.

[20] People v. De los Reyes, G.R. No. 106874, 21 January 1994, 229 SCRA 439, 448-449.

[21] People v. Agulay, supra note 18 at 622-624.

[22] People v. Dumlao, G.R. No. 181599, 20 August 2008, 562 SCRA 762, 770.

[23] Id.; People v. Padasin, 445 Phil. 448, 461 (2003).

[24] TSN, 18 August 2004, pp. 3-4.

[25] TSN, 25 October 2004, pp. 3-8.

[26] Records, p. 39.

[27] *People v. Matito*, 468 Phil. 14, 24 (2004).

[28] *Id.*

[29] *People v. Piedad*, 441 Phil. 818, 839 (2002).

[30] *People v. Castillo*, G.R. No. 118912, 28 May 2004, 430 SCRA 40, 50.

[31] *People v. Bello*, 383 Phil. 743, 751 (2000).

[32] *People v. Chua Uy*, 384 Phil. 70, 85 (2000).

[33] *Id.*

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