

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HASANADDIN GUIARA Y BANSIL ACCUSED-APPELLANT.

G.R. No. 186497. September 17, 2009

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

This is an appeal from the September 19, 2008 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02958 entitled *People of the Philippines v. Hasanaddin Guiara y Bansil* which affirmed the July 18, 2007 Joint Decision[2] of Branch 267 of the Regional Trial Court (RTC) of Pasig City in Criminal Case Nos. 14272-D-TG and 14273-D-TG, finding accused-appellant Hasanaddin Guiara y Bansil guilty of violations of Sections 5 and 11, Article II of Republic Act No. (RA) 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The Facts

The charge against the accused-appellant stemmed from the following Information:

Criminal Case No. 14272-D-TG
(Violation of Section 5 [Sale], Article II of R.A. 9165)

That on or about the 24[th] day of August, 2005, in the City of Taguig, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there willfully, unlawfully and knowingly sell, deliver and give away to PO2 Rolly B. Concepcion, who acted as poseur-buyer, a total of 0.17 gram of white crystalline substance, which substance was found positive to the test for Methamphetamine Hydrochloride, also known as Shabu, a dangerous drug.

Contrary to law.[3]

Criminal Case No. 14273-D-TG
(Violation of Section 11 [Possession], Article II of R.A. 9165)

That on or about the 24[th] day of August, 2005, in the City of Taguig, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to possess any dangerous drug, did, then and there willfully, unlawfully and knowingly possesses and under his custody and control .23 gram of white crystalline substance contained in one (1) heat sealed transparent plastic sachet, which substance was found positive to the test for Methamphetamine Hydrochloride, also known as "Shabu", a dangerous drug, in violation of the above-cited law.

Contrary to law.[4]

On November 29, 2005, accused-appellant was arraigned and entered a plea of "not guilty" to the charges against him.

At the pre-trial conference, the prosecution and the defense stipulated on: (1) the identity of accused-appellant; (2)

the jurisdiction of the trial court over the person of accused-appellant and the subject matter of the cases; (3) the date, place, and fact of the arrest; (4) the authority of the police officers as members of the Station Anti-Illegal Drugs-Special Operations Task Force (SAID-SOTF) of the Taguig City Police Station; (5) the existence of the subject specimens; (6) the fact that a request has been made by the arresting officers for the examination of the confiscated items; (7) the fact that the Forensic Chemist, Police Senior Inspector Maridel Rodis, examined the specimens and issued a laboratory report thereon; (8) the fact that the examining forensic chemist had no knowledge from whom the alleged specimens were taken; and (9) the fact that the subject specimens tested positive for methylamphetamine hydrochloride. Hence, after the stipulations were made, the testimony of the Forensic Chemist was dispensed with.

Thereafter, trial on the merits ensued.

During the trial, the prosecution presented as their witnesses PO2 Rolly B. Concepcion and PO2 Ronnie L. Fabroa. On the other hand, the defense presented as its witnesses accused-appellant, Normina Piang, and Abdul Pattah.

Version of the Prosecution

The facts, according to the prosecution, are as follows:

On August 24, 2005, at about 3 o'clock in the afternoon, a confidential informant arrived at the Taguig City Police Station and reported the illegal drug peddling activities of one alias "Mads" on Zamboanga Street, Maharlika Village, Taguig City. Accordingly, the information was relayed to their Chief P/Insp. Ronaldo Pamor who then conducted a briefing.

During the briefing, PO2 Rolly B. Concepcion was designated as the poseur-buyer. He was given a five hundred peso (PhP 500) bill, which he marked with his initials, "RBC," and photocopied for record purposes, to be used as the buy-bust money during the entrapment.

After making the necessary coordination with the Philippine Drug Enforcement Agency, the police team, which was composed of P/Insp. Pamor, PO2 Concepcion, PO3 Arnulfo Vicuña, PO3 Danilo Arago, PO3 Santiago Cordova, PO3 Felipe Metrillo, PO2 Ronnie L. Fabroa, PO2 Remegio Aguinaldo, PO3 Antonio Reyes, and SPO1 Angelito Galang, with the informant, proceeded to their target area. Upon arriving at the target area, the team members positioned themselves strategically to observe the transaction, while PO2 Concepcion and the informant proceeded to the location of the shabu peddler where the informant introduced PO2 Concepcion to alias "Mads." He told "Mads" that his friend wanted to buy PhP 500 worth of shabu. "Mads" then replied, "Limang-daang piso lang ba? Meron pa ako dito." He then pulled out two (2) plastic sachets containing white crystalline substance and gave the smaller packet to PO2 Concepcion. In turn, PO2 Concepcion gave the marked money to "Mads." Thereafter, "Mads" handed a plastic sachet containing shabu to PO2 Concepcion, who upon receiving the same, executed the pre-arranged signal, by removing his ballcap, signifying that the transaction was already consummated. This prompted his team to rush to their position to assist in the arrest.

After the apprehension of "Mads," who was later identified as accused-appellant, the buy-bust money was recovered from the possession of accused-appellant, as well as another plastic sachet containing shabu. PO2 Concepcion then marked the confiscated pieces of evidence for future identification purposes. After marking, accused-appellant was brought to the police station.

Upon arrival at the police station, PO2 Concepcion turned over the confiscated items to the police investigator for the preparation of the necessary request for examination at the crime laboratory. Subsequently, the specimens subject of the buy-bust operation were forwarded to the Philippine National Police (PNP) Crime Laboratory in

Camp Crame, Quezon City. Police Senior Inspector Maridel C. Rodis, Forensic Chemical Officer conducted a qualitative examination on the said specimens. The specimens gave positive result to the tests for Methamphetamine Hydrochloride, a dangerous drug. He issued Chemistry Report No. D-959-05 dated August 25, 2005, which showed the following results:

SPECIMEN SUBMITTED:

Two (2) heat-sealed transparent plastic sachets each containing white crystalline substance having the following markings and net weights:

A (HBG-1 8-24-05) - 0.17 gram

B (HBG-2 8-24-05) - 0.23 gram

x x x x

PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of any dangerous drugs. x x x

FINDINGS:

Qualitative examination conducted on specimen A and B gave POSITIVE result to the tests for Methylamphetamine Hydrochloride, a dangerous drug.

x x x x

CONCLUSION:

Specimen A and B contain Methylamphetamine Hydrochloride, a dangerous drug.[5] x x x

Version of the Defense

On the other hand, accused-appellant interposed the defenses of denial and frame-up.

He recounted that on August 24, 2005, at around 2:30 in the afternoon, while he was on his way to a billiard hall, a white motor vehicle suddenly stopped in front of him on Zamboanga Street, Maharlika Village, Taguig City. Immediately, three armed men with guns went out of the vehicle and approached him. After they introduced themselves as policemen, they held him and forced him to get inside their vehicle. He was then taken to the SAID-SOTF office at the Taguig police station.

While at the police station, accused-appellant inquired as to the reason why he was being detained. The police officers did not respond, instead they told him to call his parents or relatives and to tell them that he was caught by the police. PO2 Concepcion extorted him and told him to produce PhP 20,000 or else they would file a case against him for violation of the dangerous drugs law.

After having failed to produce the amount that the police were asking, accused-appellant was taken to the PNP Crime Laboratory in Camp Crame for drug testing. He was then taken back to Taguig City and presented for inquest.

The testimony of accused-appellant was corroborated by the testimonies of Normina Piang and Abdul Pattah to the extent of the manner in which the arrest of the accused-appellant was made by the police.

Ruling of the Trial Court

After trial, the RTC convicted accused-appellant. The dispositive portion of the Joint Decision reads:

WHEREFORE, in view of the foregoing considerations, the Court finds accused HASANADDIN GUIARA y Bansil in Criminal Case No. 14272-D-TG for Violation of Section 5, 1[st] paragraph, Article II of Republic Act No. 9165, otherwise known as "The Comprehensive Drugs Act of 2002", GUILTY beyond reasonable doubt. Hence, accused Hasanaddin Guiara y Bansil is hereby sentenced to suffer LIFE IMPRISONMENT and ordered to pay a fine of FIVE HUNDRED THOUSAND PESOS (PhP500,000.00).

Moreover, accused HASANADDIN GUIARA y Bansil is also found GUILTY beyond reasonable doubt in Criminal Case No. 14273-D-TG for Violation of Section 11, 2[nd] paragraph, No. 3 Article II of Republic Act No. 9165, otherwise known as "The Comprehensive Drugs Act of 2002". And since the quantity of methylamphetamine hydrochloride (shabu) found in the possession of the accused is only .23 gram, accused Hasanaddin Guiara y Bansil is hereby sentenced to suffer imprisonment ranging from TWELVE (12) YEARS and ONE (1) DAY as minimum -to- FOURTEEN (14) YEARS and TWENTY ONE (21) DAYS as maximum. Accused Hasanaddin Guiara y Bansil is further penalized to pay a fine in the amount of THREE HUNDRED THOUSAND PESOS (PhP300,000.00).

Accordingly, the Jail Warden of Taguig city Jail where accused Hasanaddin Guiara y Bansil is presently detained is hereby ordered to forthwith commit the person of convicted Hasanaddin Guiara y Bansil to the New Bilibid Prisons (NBP), Bureau of Corrections in Muntinlupa City, Metro Manila.

Upon the other hand, the shabu contained in two (2) heat-sealed transparent plastic sachets with a total weight of 0.40 gram which are the subject matter of the above-captioned cases, are hereby ordered transmitted and/or submitted to the custody of the Philippine Drug Enforcement Agency (PDEA) subject and/or pursuant to existing Rules and Regulations promulgated thereto for its proper disposition.

Costs de officio.

SO ORDERED.[6]

On appeal to the CA, accused-appellant disputed the lower court's decision finding him guilty beyond reasonable doubt of the crime charged. He raised the issue that the police officers failed to conduct a legitimate and valid buy-bust operation. He also questioned whether the chain of custody of the shabu allegedly recovered from him was properly established arguing that the police officers failed to follow the established rules governing custodial procedures in drug cases without any justification for doing so.

Ruling of the Appellate Court

On September 19, 2008, the CA affirmed the judgment of the lower court. It ruled that all the elements of the crimes charged were aptly established by the prosecution, including the chain of custody, to wit:

The foregoing testimony indubitably shows that a transaction involving shabu between appellant and the poseur-buyer actually took place. This is important because in prosecutions involving illegal sale of dangerous drugs, what is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti as evidence. The corpus delicti in this case was sufficiently established with the presentation of the specimen 'HBG-1' in court and the Chemistry Report No. D-959-05 which clearly states that the contents thereof were shabu.

x x x x

In the case at bar, appellant was caught in actual possession of prohibited drugs without any showing that he was duly authorized by law to possess the same. Having been caught in flagrante delicto, there is, therefore a prima facie evidence of animus possidendi on appellant's part.

x x x x

On this aspect, [w]e find that the chain of custody of the seized substance was not broken and that the prosecution was able to properly identify the same. The confiscated items were marked by PO2 Concepcion immediately after he arrested appellant. Moreover, said marked items were the same items which were submitted to the PNP Crime Laboratory for analysis and examination, and which was later on found to be positive for shabu.[7]

The CA also dismissed the allegation of frame-up saying that the defense failed to establish any ulterior motive on the part of the arresting officers in deviation from the legitimate performance of their duties.

The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the Joint Decision of the Regional Trial Court of Pasig City, Branch 267, in Criminal Case Nos. 14272-D-TG & 14273-D-TG, promulgated on July 18, 2007, finding accused-appellant guilty beyond reasonable doubt of violating Secs. 5 and 11, Art. II of Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002), as amended, is hereby AFFIRMED and UPHeld.

With costs against the accused-appellant.

SO ORDERED.[8]

Accused-appellant filed a timely notice of appeal of the CA Decision.

The Issue

WHETHER OR NOT THE EVIDENCE ADDUCED BY THE PROSECUTION IS SUFFICIENT TO ESTABLISH THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT

Our Ruling

We sustain accused-appellant's conviction.

Buy-Bust Operation was Legitimate and Valid

Accused-appellant attacks the credibility of the police officers who conducted the buy-bust operation. He argues that the contradictory testimonies of the police show that no buy-bust operation was actually carried out and that it was merely fabricated or concocted by the police officers to maliciously charge accused-appellant.

We disagree.

In our jurisprudence, a buy-bust operation is a recognized means of entrapment using such ways and means devised by peace officers for the purpose of trapping or capturing a lawbreaker.[9] It is legal and has been proved to be an effective method of apprehending drug peddlers, provided due regard to constitutional and legal safeguards is undertaken.[10]

In the prosecution of illegal sale of shabu, the essential elements have to be established, to wit: (1) the identity of the buyer and the seller, the object of the sale and the consideration; and (2) the delivery of the thing sold and the payment therefor.[11] What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti as evidence. The delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the buy-bust transaction.

In the instant case, the prosecution was able to establish these elements beyond moral certainty. Accused-appellant sold and delivered the shabu for PhP 500 to PO2 Concepcion posing as buyer; the said drug was seized and identified as a prohibited drug and subsequently presented in evidence; there was actual exchange of the marked money and contraband; and finally, accused-appellant was fully aware that he was selling and

delivering a prohibited drug. In fact, PO2 Concepcion testified thus:

PROSEC. SANTOS:

What time did your team arrive at Maharlika?

A:

5:45 p.m., sir.

PROSEC. SANTOS:

In what particular place in Maharlika did your team go?

A:

At Zamboanga Street, Maharlika Village, Taguig City.

PROSEC. SANTOS:

Upon arrival thereat, tell us what[,] if any[,] did you observe or see?

A:

Upon arrival, sir, we walk towards the basketball court together with the confidential informant and readily saw alias "mads", sir.

PROSEC. SANTOS:

So, your confidential informant readily saw alias "mads"?

A:

Yes, sir.

PROSEC. SANTOS:

After that, when you[r] CI saw this "mads", what did you do?

A:

He talked to alias "mads" and he introduced me as [a] buyer of shabu.

PROSEC. SANTOS:

Will you please repeat to us if possible[,] in verbatim[,] what your informant told alias "mads" about you?

A:

They talked, sir, and he told him that I'm his friend and I'm going to buy shabu worth five hundred pesos and alias "mads" uttered "limang-daang piso lang ba? Meron pa ko dito".

PROSEC. SANTOS:

Now, after that exchange [of] words, "limang-daan piso lang ba? Meron pa ko dito", what happened, Officer?

A:

He asked for the five hundred pesos and he brought out two (2) plastic sachets, he chooses [one] and [gives] me the plastic sachet with a lesser contents.

PROSEC. SANTOS:

And how many sachets did this alias "mads" give you during that time?

A: Only one (1) plastic sachet, sir.

PROSEC. SANTOS: So, after that exchange of that money and commodity has already taken place, what if any did you do then?

A: I gave the pre-arrange and I saw the immediate approach of PO2 Ronnie Fabroa, sir.

PROSEC. SANTOS: And what happened?

A: We arrested alias "mads" and I ask for his personal circumstances and I told him to bring out the contents of his pockets.

PROSEC. SANTOS: Did this alias "mads" obey your instructions to bring out the contents of his pockets?

A: Yes, sir, and I recovered the buy-bust money and another plastic sachet containing suspected shabu.[12]

The foregoing testimony indubitably shows that a transaction involving shabu actually took place between accused-appellant and the poseur-buyer. What is more, the corpus delicti in this case was sufficiently established with the presentation of the specimen "HBG-1" in court and Chemistry Report No. D-959-05 which clearly states that the contents were shabu.

Likewise, the foregoing testimony also establishes that accused-appellant was indeed found in possession of illegal drugs aside from what he sold to the poseur-buyer, without showing that accused-appellant had any authority to possess them.

On the other hand, in the prosecution for illegal possession of dangerous drugs, the following elements must be proved with moral certainty: (1) that the accused is in possession of the object identified as a prohibited or regulatory drug; (2) that such possession is not authorized by law; and (3) that the accused freely and consciously possessed the said drug.[13]

It bears stressing that this crime is *mala prohibita*, and as such, criminal intent is not an essential element. Further, possession, under the law, includes not only actual possession, but also constructive possession. Actual possession exists when the drug is in the immediate physical possession or control of the accused. Constructive possession, on the other hand, exists when the drug is under the dominion and control of the accused or when he has the right to exercise dominion and control over the place where it is found.[14]

Also, the prosecution must prove that the accused had *animus possidendi* or the intent to possess the drugs. In *U.S. v. Bandoc*,[15] the Court ruled that the finding of a dangerous drug in the house or within the premises of the house of the accused is *prima facie* evidence of knowledge or *animus possidendi* and is enough to convict in the absence of a satisfactory explanation.[16]

In the case at bar, accused-appellant was caught in actual possession of prohibited drugs without any showing that he was duly authorized by law to possess the same. Having been caught in *flagrante delicto*, there is, therefore, a *prima facie* evidence of *animus possidendi* on accused-appellant's part.

As a matter of fact, the trial court, in disposing the case, said:

The substance of the prosecution's evidence is to the effect that accused Hasanaddin Guiara y Bansil was arrested by the police because of the existence of the shabu he sold to PO2 Rolly B. Concepcion as well as the recovery of the buy-bust money from his possession, and the presence of another plastic sachet containing

shabu that was also recovered from his person.

To emphasize, the prosecution witnesses in the person of PO2 Rolly B. Concepcion and PO2 Ronnie L. Fabroa positively identified accused Hasanaddin Guiara y Bansil as the person they apprehended on August 24, 2005 at Zamboanga Street, Maharlika Village, Taguig City. [They] arrested accused Hasanaddin B. Guiara because their team was able to procure shabu from him during the buy-bust operation they purposely conducted against the aforementioned accused.

The buy-bust money recovered by the arresting officers from the possession of the accused Hasanaddin Guiara y Bansil as well as the shabu they were able to purchase from the accused sufficiently constitute as the very corpus delicti of the crime of 'Violation of Section 5, 1[st] paragraph, Article II of Republic Act No. 9165', and the other plastic sachet containing shabu that was recovered from the accused Guiara similarly constitute as the corpus delicti of the crime of 'Violation of Section 11, 2[nd] paragraph, No. 3, Article II of Republic Act No. 9165'.[17] x x x

Clearly, the trial court found that the testimonies of both PO2 Concepcion and PO2 Ronnie L. Fabroa established the existence of a valid and legitimate buy-bust operation and all the essential elements of the crimes charged against accused-appellant.

Furthermore, contrary to accused-appellant's contentions, the minor inconsistencies in the testimonies of the police officers are too insufficient or insubstantial to overturn the judgment of conviction against him, since those testimonies are consistent on material points. Time and time again, this Court has ruled that the witnesses' testimonies need only to corroborate one another on material details surrounding the actual commission of the crime.[18] Questions as to the exact street where the illegal sale was consummated do not in any way impair the credibility of the witnesses. To secure a reversal of the appealed judgment, such inconsistencies should pertain to that crucial moment when the accused was caught selling shabu, not to peripheral matters.[19]

It should be noted that in passing upon the credibility of witnesses, the appellate court generally yields to the judgment of the trial courts since they are in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial.[20] Thus, this Court finds no cogent reason to disturb the trial court's assessment of the credibility of the prosecution witnesses.

Chain of Custody Was Properly Established

In every prosecution for the illegal sale of prohibited drugs, the presentation of the drug, i.e., the corpus delicti, as evidence in court is material.[21] In fact, the existence of the dangerous drug is crucial to a judgment of conviction. It is, therefore, indispensable that the identity of the prohibited drug be established beyond doubt. Even more than this, what must also be established is the fact that the substance bought during the buy-bust operation is the same substance offered in court as exhibit. The chain of custody requirement performs this function in that it ensures that unnecessary doubts concerning the identity of the evidence are removed.[22]

To ensure that the chain of custody is established, the Implementing Rules and Regulations of RA 9165 provide:

SECTION 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. - The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(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 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.[23] x x x (Emphasis and underscoring supplied.)

A close reading of the law reveals that it allows certain exceptions. Thus, contrary to the assertions of accused-appellant, Section 21 need not be followed with pedantic rigor. Non-compliance with Sec. 21 does not render an accused's arrest illegal or the items seized/confiscated from him inadmissible.[24] What is essential is "the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused." [25]

In the instant case, there was substantial compliance with the law and the integrity of the drugs seized from accused-appellant was preserved. The chain of custody of the drugs subject matter of the case was shown not to have been broken. The factual milieu of the case reveals that the confiscated items were marked by PO2 Concepcion immediately after he arrested accused-appellant. Then, the said marked items were submitted to the PNP Crime Laboratory for analysis and examination, and which was later on found to be positive for shabu. PO2 Concepcion testified thus:

PROSEC. SANTOS:

Now, you were telling us that your immediate back up, you saw him rushing to your place, what[,] if any[,] did your immediate backup do when he was already near you?

A:

We arrested him and I [asked] for his personal circumstances and marked the evidence I confiscated from him and the shabu I bought, sir.

PROSEC. SANTOS:

You said you marked the shabu that you bought from him and the shabu that was confiscated from his possession, tell us, what kind of marking did you put on the plastic sachet containing the shabu that you bought from him during that time?

A:

HBG-1, the subject of the sale and HBG-2 the evidence confiscated from his possession.

PROSEC. SANTOS:

Now, after you have marked the shabu or these plastic sachets containing the shabu that you bought and confiscated from him, what happened?

A:

My companions [approached] us and we brought alias "mads" to the police station.

x x x x

PROSEC. SANTOS:

Now after you have brought him to your station, what happened to the shabu that you bought and confiscated from him during that time?

A:

We [turned] it over to the investigator and after that he prepared a request for laboratory examination.

PROSEC. SANTOS:

So there was already a request for laboratory examination?

A:

Yes, sir.

PROSEC. SANTOS:

Now, you said you [turned] it over to the investigator, who among you transported these specimen to the crime laboratory for examination?

A:

I and the investigator, sir.

PROSEC. SANTOS:

So, you said that together with the investigator, you brought the specimens to the crime lab?

A:

Yes, sir.

PROSEC. SANTOS:

What happened at the crime lab?

A:

They received the request for laboratory examination.

PROSEC. SANTOS:

The request, how about the specimens?

A:

Together with the specimens, sir.

PROSEC. SANTOS:

Do you have any proof to show that the crime lab received the request and the specimens?

A:

There was, sir.

PROSEC. SANTOS:

What is that?

A:

The stamp received, sir.

PROSEC. SANTOS:

If you will see that document again, will you be able to identify it?

A:

Yes, sir.

PROSEC. SANTOS:

I'm showing to you Exhibit `B', this is a request for laboratory examination, will you please examine the same and tell us the proof of the receipt of the request and the specimens?

A:

It was recorded by PO1 Calimag, sir.

PROSEC. SANTOS:

For the record, your Honor, the witness is referring to Exhibit "B-2", your Honor. Now, Officer, if you will see again the shabu that you bought and confiscated from the accused, will you be able to identify it?

A:

Yes, sir.

PROSEC. SANTOS:

Why do you say that you could identify the same?

A:

Because there are my initials, sir.

PROSEC. SANTOS:

I have here with me two (2) plastic sachets containing shabu, will you please carefully examine the same and point us the plastic sachet containing the shabu that you bought and the plastic sachet containing the shabu that you confiscated from the possession of the accused during that time? For the record, your Honor, the two (2) plastic sachets are contained in [a] small plastic bag. I'm showing to you these two (2) plastic sachets, Officer, and please [examine] it and tell us, which one of them is the subject of the sale and the confiscated shabu?

A:

This one is the subject of the sale, HBG-1.

INTERPRETER:

Witness is referring to Exhibit `D-1'.

A:

And HBG-2, this is the plastic sachet confiscated from the accused.

INTERPRETER:

Witness is referring to Exhibit `D-2'. [26]

Moreover, this Court held in *Malillin v. People*[27] that the testimonies of all persons who handled the specimen are important to establish the chain of custody. Thus, the prosecution offered the testimony of PO2 Concepcion, the police officer who first handled the dangerous drug. The testimony of Police Senior Inspector Maridel C. Rodis, who handled the dangerous drug after PO2 Concepcion, was, however, dispensed with after the stipulations made by both the prosecution and the defense.

Undoubtedly, therefore, there was an unbroken chain in the custody of the illicit drug purchased from accused-appellant.

Defenses of Denial and Frame-Up Are Weak

Denial, as a defense, is an inherently weak one[28] and has been viewed by this Court with disdain, for it can easily be concocted and is a very common line of defense in prosecutions arising from violations of RA 9165.[29] Similarly, the defense of frame-up is also easily fabricated and commonly used in buy-bust cases.[30]

In order for the Court to appreciate such defenses, there must be clear and convincing evidence to prove such defense because in the absence of any intent on the part of the police authorities to falsely impute such crime against accused-appellant, the presumption of regularity in the performance of duty stands.

In the case at bar, the defense failed to show any evidence of ill motive on the part of the police officers. Even accused-appellant himself declared that he did not know any of the police officers who arrested him. During his direct examination, he testified, thus:

Q : While walking along Zamboanga Street going to the billiard hall, what happened?

A : A white Adventure blocked my way, sir.

Q : And after this vehicle blocked your way, what happened, Mr. Witness?

A : Three men in civilian clothes alighted from the vehicle and approached me. They held me and forced me to board their vehicle.

Q : Do you know any of the three individuals who got out and tried to force you inside the vehicle?

A : None, sir.

ATTY. GARLITOS : Did they tell you the reason why you are being forcibly taken inside the vehicle?

A : No sir.

Q : Did they introduce themselves to you?

A : They introduced themselves as policemen, sir.[31]

Likewise, the trial court held:

The testimony of PO2 Rolly B. Concepcion that was corroborated by PO2 Ronnie L. Fabroa, who have not shown and displayed any ill motive to arrest the accused is sufficient enough to convict the accused of the crimes charged against him. x x x As law enforcers, their narration of the incident is worthy of belief and as such they are presumed to have performed their duties in a regular manner, in the absence of any evidence to the contrary. To stress x x x testimony of arresting officers, with no motive or reason to falsely impute a serious charge against the accused is credible.[32]

Thus, the categorical statements of the prosecution witnesses must prevail over the bare denials of the accused.[33] Denial, if unsubstantiated by clear and convincing evidence, is a negative and self-serving evidence which deserves no weight in law and cannot be given greater evidentiary value over the testimony of the credible witnesses who testify on affirmative matters.[34]

Therefore, this Court upholds the presumption of regularity in the performance of official duties and finds that the prosecution has discharged its burden of proving the guilt of accused-appellant beyond reasonable doubt.

WHEREFORE, the appeal is DISMISSED. The CA Decision in CA-G.R. CR HC No. 02958 finding accused-appellant Hasanaddin Guiara guilty of the crimes charged is AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Nachura, and Peralta, JJ., concur.

[1] Rollo, pp. 2-24. Penned by Associate Justice Martin S. Villarama, Jr. and concurred in by Associate Justices Noel G. Tijam and Arturo G. Tayag.

[2] CA rollo, pp. 13-24. Penned by Judge Florito S. Macalino.

[3] Records, p. 1.

[4] Id. at 18.

[5] Id. at 76.

[6] CA rollo, pp. 23-24.

[7] Rollo, pp. 17-21.

[8] Id. at 24.

[9] *People v. Rumeral*, G.R. No. 86320, August 5, 1991, 200 SCRA 194; *People v. Castiller*, G.R. No. 87783, August 6, 1990, 188 SCRA 376; *People v. Gatong-o*, G.R. No. 78698, December 29, 1988, 168 SCRA 716.

[10] *People v. Herrera*, G.R. No. 93728, August 21, 1995, 247 SCRA 433; *People v. Tadepa*, G.R. No. 100354, May 26, 1995, 244 SCRA 339.

[11] *People v. Gonzales*, G.R. No. 143805, April 11, 2002, 380 SCRA 689; *People v. Bongalon*, G.R. No. 125025, January 23, 2002, 374 SCRA 289; *People v. Lacap*, G.R. No. 139114, October 23, 2001, 368 SCRA 124; *People v. Tan*, G.R. No. 133001, December 14, 2000, 348 SCRA 116; *People v. Zheng Bai Hui*, G.R. No. 127580, August 22, 2000, 338 SCRA 420.

[12] TSN, May 24, 2006, pp. 12-14.

[13] *People v. Del Norte*, G.R. No. 149462, March 29, 2004, 426 SCRA 383.

[14] *People v. Tira*, G.R. No. 139615, May 28, 2004, 430 SCRA 134. See *State v. Staley*, 123 Wash. 2d 794, 872 P.2d 502 (1994).

[15] 23 Phil. 14 (1912).

[16] Id. at 15.

[17] CA rollo, p. 21.

[18] *People v. Gonzales*, G.R. No. 143805, April 11, 2002, 380 SCRA 689; *People v. Uy*, G.R. No. 129019, August 16, 2000, 338 SCRA 232.

[19] *People v. Chen Tiz Chang*, G.R. Nos. 131872-73, February 17, 2000, 325 SCRA 776.

[20] *People v. Appegu*, G.R. No. 130657, April 1, 2002, 379 SCRA 703; *People v. Julian-Fernandez*, G.R. Nos. 143850-53, December 18, 2001, 372 SCRA 608.

[21] *People v. Doria*, G.R. No. 125299, January 22, 1999, 301 SCRA 668, 718; citing *People v. Zervoulakos*, G.R. No. 103975, February 23, 1995, 241 SCRA 625 and *People v. Rigodon*, G.R. No. 111888, November 8, 1994, 238 SCRA 27.

[22] *Malillin v. People*, G.R. No. 172953, April 30, 2008, 553 SCRA 619, 632.

[23] Implementing Rules and Regulations of RA 9165, Sec. 21.

[24] *People v. Naquita*, G.R. No. 180511, July 28, 2008, 560 SCRA 430, 448; citing *People v. Del Monte*, G.R. No. 179940, April 23, 2008, 552 SCRA 627.

[25] *Id.* at 448; citing *People v. Concepcion*, G.R. No. 178876, June 27, 2008, 556 SCRA 421.

[26] Records, pp. 125-129. TSN, May 24, 2006, pp. 14-18.

[27] *Supra* note 22, at 632-633: "As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claim it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same."

[28] *People v. Dulay*, G.R. No. 150624, February 24, 2004, 423 SCRA 652, 662; citing *People v. Arlee*, G.R. No. 113518, January 25, 2000, 323 SCRA 201, 214.

[29] *People v. Barita*, G.R. No. 123541, February 8, 2000, 325 SCRA 22, 38.

[30] *People v. Tiu*, G.R. No. 144545, March 10, 2004, 425 SCRA 207, 219; *People v. Cercado*, G.R. No. 144494, July 26, 2002, 385 SCRA 277.

[31] Records, pp. 167-168. TSN, November 15, 2006, pp. 4-5.

[32] CA rollo, pp. 21-22.

[33] *People v. Bello*, G.R. No. 92597, October 4, 1994, 237 SCRA 347, 352.

[34] *People v. Belga*, G.R. Nos. 94376-77, July 11, 1996, 258 SCRA 583, 594; *Abadilla v. Tabiliran, Jr., A.M.* No. MTJ-92-716, October 25, 1995, 249 SCRA 447.

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