

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. SUKARNO JUNAIDE Y AGGA, APPELLANT.

G.R. No. 193856. April 21, 2014

Ponente: ABAD, J.

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ABAD, J.:

The Court addresses Sukarno A. Junaide's motion for reconsideration of the Court's Resolution of January 20, 2014.

It may be recalled that the prosecution witnesses in this case testified that on November 25, 2004 the Zamboanga Drug Enforcement Unit received a tip that accused Junaide was selling prohibited drugs at Lower Calarian, Zamboanga City. The police unit formed a buy-bust team with SPO1 Roberto Roca as poseur-buyer. It then went to the place mentioned. As the informant and SPO1 Roca saw accused Junaide standing near a store, they approached him. The informant told Junaide that his companion wanted to buy P100.00 worth of shabu.

Accused Junaide took a sachet from his pocket and handed it to SPO1 Roca who in turn gave him a marked P100.00 bill. The police officer then signaled the rest of the police team to come. When SPO1 Roca let it known that he was a police officer, Junaide tried to flee but the police stopped him. SPO1 Amado Mirasol, Jr. searched and found four sachets of suspected shabu and the marked money on Junaide.

Subsequently, the police brought accused Junaide to the police station where SPO1 Mirasol marked the four sachets seized from him and turned these over to the case investigator, SPO1 Federico Lindo, Jr. The latter then turned over the seized items to the police crime laboratory. The sachet Junaide sold was found to contain 0.0101 gram of methamphetamine hydrochloride or shabu; the other sachets contained a total of 0.0235 gram.

Accused Junaide, on the other hand, testified that he was napping at home when sounds of commotion outside his house woke him up. As he took a look, he saw people being chased and his neighbors getting arrested. Junaide left his house a little later to fetch his nephew from school but while waiting for the boy, two armed men alighted from a white jeep and handcuffed him. They frisked him but found nothing. They showed him a sachet of shabu and said that they would use it as evidence against him. Junaide later identified the two men as SPO1 Roca and SPO1 Mirasol. Two neighbors claimed that they had seen the incident and corroborated Junaide's story.

The Public Prosecutor charged accused Junaide before the Regional Trial Court (RTC) of Zamboanga City with (1) illegal sale of shabu in violation of Section 5, Article II of Republic Act (R.A.) 9165[1] in Criminal Case 5601 (21215) and (2) illegal possession of shabu in violation of Section 11, Article II of the same law in Criminal Case 5602 (21216).

On January 30, 2008 the RTC found accused Junaide guilty of both charges. The trial court sentenced him to suffer the penalties of life imprisonment and a fine of P500,000.00 for selling dangerous drugs and 12 years and 1 day to 16 years of imprisonment and a fine of P300,000.00 for illegal possession of dangerous drugs. On January 29, 2010 the Court of Appeals (CA) rendered judgment in CA-G.R. CR-HC 00593-MIN affirming the RTC

Decision in toto, hence, the appeal in this case.

On January 20, 2014 the Court affirmed the CA's Decision. It held that, despite a few deviations from the required procedure, the prosecution sufficiently proved the integrity and evidentiary value of the seized items.

On February 24, 2014 Junaide filed a motion for reconsideration pleading for a reexamination of the Court's finding that the police officers involved substantially complied with the requirements of Section 21, Article II of the Implementing Rules and Regulations of R.A. 9165. The Court has accommodated the plea.

In a prosecution for the sale and possession of the prohibited drugs known as shabu, the State does not only carry the heavy burden of proving the elements of the offense. It also bears the obligation to prove the corpus delicti, failing in which the State would not have proved the guilt of the accused beyond reasonable doubt.[2]

And, to prove the corpus delicti, it is indispensable for the prosecution to show that the dangerous drugs subject of the sale and examined in the police laboratory are the same drugs presented in court as evidence.[3] The first stage in the chain of custody is the marking of the seized drugs or related items.[4] Marking is the affixing of the initials or other identifying signs on the seized items by the arresting officer or the poseur-buyer. This must be done in the presence of the accused shortly after arrest.[5]

Here, compliance with the requirement of marking is not clear. SPO1 Roca testified that he marked the plastic sachet of shabu that he bought with his initials "RR" but when the supposed sachet was presented to him in court for identification, it instead carried the marking "RR-1." This may be just a mistake but he denied having made a mistake and admitted that the "RR-1" marking could have been made by just anybody.[6] Thus:

Prosecutor Pajarito:

Q:

If this one sachet of shabu be shown to you, the one which you said sold to you by Sukarno will you recognize it?

A:

Yes Ma'am.

Q:

How would you be able to recognize it Mr. witness?

A:

I mark my initial Ma'am.

Q:

What initial did you place?

A:

RR means Roberto Roca.

x x x x

Q:

I have one sachet of white crystalline substance bearing RR marking what relation has this to the one sachet which you bought from the accused and turned over to the investigator?

A:

This is the very one that I bought from Sukarno here is my RR marking.

Atty. Talip:

May I manifest for the record Your Honor that the actual marking that appears on the shabu is RR-1 and not RR.

x x x x

Atty. Talip:

Q:

You said double R, you ever mentioned RR-1 and when shown to you it was RR-1 can you tell us why?

A:

I was not able to mention the -1 but it is RR-1.

Q:

It would been a different item RR is different from RR-1.

A:

Yes Ma'am.

Q:

Do you agree?

A:

But RR –s my very initial marking.

Q:

How many times have you been designated as poseur buyer?

A:

I can not recall Ma'am if as poseur buyer for how many times.

Q:

Just an estimate Mr. witness?

A:

More or less 10 times.

Q:

In those instances your marking would be RR only?

A:

Yes Ma'am.

Q:

That's why you mention a while ago, that what you place is RR only?

A:

Yes Ma'am.

x x x x

Prosecutor Pajarito:

Q:

Mr. witness on that day November 25, 2004 there was only how many sachet did you have from your possession?

A:

Only one sachet Ma'am.

Q:

This was the result of the buy bust operation?

A:

Yes Ma'am.

Q:

How many bills did you also have on that day?

A:

Only one Ma'am.

Q:

So you could not be confused with it?

A:

Yes Ma'am.

x x x x

Atty. Talip:

Q:

Mr. witness, regarding the discrepancy, you said there was no buy bust operation, do you agree to the letter RR-1 could have been written by anybody else?

A:

Yes ma'am. (Emphasis supplied)

SPO1 Roca may have truly marked the item of shabu he seized from accused Sukarno as "RR" which he insisted he did. Someone else, therefore, replaced the item by another one, now marked as "RR-1." Indeed, Roca has not ruled out the possibility that the latter marking on the shabu item presented in court may have been made by someone else. This leads the Court to conclude that there may have been switching of evidence in the selling

charge. Guilt in that charge has not, therefore, been proved beyond reasonable doubt.

WHEREFORE, the Court PARTIALLY GRANTS the accused Sukarno A. Junaide's Motion for Reconsideration and ACQUITS him on the ground of reasonable doubt of the charge of selling dangerous drugs in violation of Section 5, Article II of Republic Act 9165 in Criminal Case 5601 (21215) of the Regional Trial Court of Zamboanga City. His conviction, however, in Criminal Case 5602 (21216) on the charge of possession of dangerous drugs in violation of Section 11, Article II of the same law remains.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Mendoza, and Leonen, JJ., concur.

May 2, 2014

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on ____April 21, 2014____ a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on May 2, 2014 at 3:15 p.m.

Very truly yours,
(SGD)
LUCITA ABJELINA SORIANO
Division Clerk of Court

- [1] Comprehensive Dangerous Drugs Act of 2002.
- [2] *People v. Relato*, G.R. No. 173794, January 18, 2012, 663 SCRA 260, 270.
- [3] *People v. Gonzales*, G.R. No. 182417, April 3, 2013, 695 SCRA 123, 133.
- [4] *Id.* at 134.
- [5] *Id.*
- [6] TSN, June 16, 2005, pp. 33-35, 60-62, 66-67.

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