

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE SALONDRO, JR. Y JAVIER, ACCUSED-APPELLANT.

G.R. No. 59438. February 28, 1989

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

The accused-appellant, Jose Salondro y Javier, was charged before Branch 30[1] of the Court of First Instance (now Regional Trial Court) of Manila with the violation of Section 4, Article II in relation to Section 21(b) of Republic Act No. 6425 otherwise known as the Dangerous Drugs Act, as amended, under an information which reads:

"That on or about December 2, 1980, in the City of Manila, Philippines, the said accused, not being authorized by law to sell, deliver, give away to another or distribute any prohibited drug, did then and there wilfully and unlawfully sell or offer for sale a small plastic bag of marijuana dried leaves with cigarette wrappers inside which is a prohibited drug.

"Contrary to law." (p. 2, Rollo)

Upon being arraigned, the accused entered the plea of not guilty to the offense charged. After trial on the merits, the trial court rendered its decision on September 30, 1981, convicting the accused, the dispositive portion of which reads:

"WHEREFORE, having been found guilty as charged, the accused Jose Salondro, Jr. is sentenced to suffer life imprisonment and to pay a fine of P20,000.00, the accessory penalties thereof, and to pay the costs. The dried marijuana leaves sold by the accused (Exhibit E) and the two P5.00 bills constituting the proceeds of the sale thereof (Exhibits F and F-1) are hereby declared confiscated and forfeited in favor of the Government, to be turned over to the Dangerous Drugs Board for safekeeping and proper disposal in accordance with law.

"SO ORDERED." (p. 4, Rollo)

From the said decision, the accused appealed with a lone assignment of error:

"That the court a quo gravely erred in convicting the accused on the basis of planted evidence." (p. 27, Rollo)

The antecedent facts of this case are as follows:

On December 2, 1980, Constable Santarenala, a member of the Constabulary Anti- Narcotics Unit (CANU) detachment at San Lazaro Compound, dispatched Sergeant Saturnino Guillemer, Patrolman Rolando Hidalgo and two informants to Sevilla Street, Binondo, Manila because of reports that one alias "Pepin Doe" was engaged in the sale of marijuana.

Upon arrival at the place, Sergeant Guillemer and Patrolman Hidalgo strategically positioned themselves as they watched the informants approach and talk to a man who was later identified as the accused-appellant. Shortly thereafter, the accused- appellant left the premises. A few minutes later, he returned carrying a small plastic bag.

He handed the bag to one of the informants who, in turn, paid him two marked five peso (P5.00) bills. Thereupon, Sergeant Guillemer and Patrolman Hidalgo arrested the accused-appellant and recovered from him the two marked five peso (P5.00) bills. They brought Salondro with the confiscated items to the CANU detachment at San Lazaro. The dried leaves found inside the small plastic bag were subjected to a Narcotic Field test by CANU Investigator Pacifico Mugar who found them positive for marijuana. Upon further examination at the Philippine Constabulary Crime Laboratory at Camp Murphy, Forensic Chemist Nelly A. Cariaga confirmed the initial findings of the CANU Investigator in her report submitted to the court (Exh. "D", Records).

On the other hand, accused-appellant denies the accusation levelled against him. He claims that he was a stevedore at the South Harbor, Manila; that in the afternoon of December 2, 1980, he was about to go to his place of work when he met his godfather Rolly Portillo at the Stevedores Labor Union office who advised him to go home and wear shoes as he was then wearing rubber slippers; that he followed his godfather's advice and went home; that upon leaving his house, he was approached by two men, one of whom he recognized as Natoy, a co-worker and an alleged CANU informer, who asked him where they could buy marijuana; that he replied that he did not know; that suddenly, two other men came and the four of them brought him to a street corner; that at gunpoint, the four men searched him and forced him to sign the money taken from him as proof that the same came from him; that at the time he had thirty pesos (P30.00) in his pocket (pp. 26-29, TSN, August 31, 1981).

In support of his lone assignment of error, accused-appellant contends that contrary to the prosecution's submission, the two marked five peso bills were actually part of the thirty pesos which he had in his pocket at the time of arrest. He pointed out that the prosecution failed to present evidence showing that the bills possessed the distinguishing marks such as ultra-violet powder. Furthermore, he claims that it was Natoy and his companion who actually brought the bag containing the dried leaves of marijuana. Finally, he complains that he was forced to make a confession of guilt because the Constabulary Anti-Narcotic Unit (CANU) agents disregarded his rights under the 1973 Constitution, particularly on the admissibility of evidence as well as on his right to remain silent and to have counsel (pp. 29-30, Rollo).

We affirm.

The only issue in this appeal hinges on the credibility of witnesses. It is a well-settled rule that the findings of the trial court relative to the credibility of the testimony of the witnesses as well of the witnesses themselves are entitled to high respect, and, therefore, are generally sustained by the appellate court (*People vs. Natipravat*, No. L-69876, November 13, 1986; 145 SCRA 483). After a careful review of the records, We find no strong and cogent reason to depart from this established rule. The testimony of Patrolman Rolando Hidalgo which stated that he saw appellant receive the money from the informant-buyer of marijuana (pp. 18-19, TSN, March 21, 1981) was clear and positive. There was no showing of any ulterior motive on his part to falsely charge the accused-appellant. The testimony of only one witness, if credible and positive and if it satisfies the court beyond reasonable doubt is sufficient to convict (see *People vs. Lucas*, L-60744, November 25, 1983; 125 SCRA 813). In *People v. Natipravat*, supra, We ruled that credence should be given to the narration of the incident by the prosecution witnesses, especially as they are police officers who are presumed to have performed their duties in a regular manner there being no evidence to the contrary. The absence of ultra-violet powder on the bills is not fatal to the prosecution case. Law enforcers are not limited to the use of ultra-violet powder in identifying the money involved in a crime.

Appellant's contention that the CANU agents disregarded his rights under the 1973 Constitution which resulted in a forced confession of guilt is without basis. The records are bereft of any evidence of appellant's written extra-judicial confession. Instead, We find that accused-appellant was never asked nor pressured to execute an extra-judicial statement. After the CANU agents arrested appellant, they brought him to the San Lazaro

detachment where the dried marijuana leaves were examined. Later, the same specimen was brought to the laboratory of the Philippine Constabulary for further examination. The pertinent portion of Patrolman Hidalgo's testimony in this respect was not rebutted by the defense. He testified:

"Atty. Jalandro, counsel for the accused.

"Q. - From San Lazaro you took him to Camp Crame?

"A. - Yes, Sir.

"Q. - It was you and your companions who took the accused to Camp Crame from San Lazaro?

"A. - Yes, Sir, after we have prepared all necessary paper.

"Q. - You mean your affidavit?

"A. - Yes, Sir.

"Q. - How about the affidavit of the accused was there any record or statement which the accused made while in San Lazaro?

"A. - After executing our affidavit we turned over the accused to the Anti- Narcotics.

"Q. - You did not take the affidavit of the accused at San Lazaro?

"A. - We did not take the affidavit because there is an officer in charge.

"Q. - You just turned him over to him?

"A. - To the duty officer.

"Q. - Do you know the name of that officer on duty?

"A. - I no longer remember.

"Q. - After turning over the accused to the officer on duty you left?

"A. - When he was properly turned over, we left.

"Q. - And that was all what you did?

"A. - Yes, Sir.

"Atty. Jalandro

"That would be all with the witness, Your Honor" (pp. 20-21, TSN, March 23, 1981).

Moreover, We have held that the signature of appellant on the money bills is not a confession or extra-judicial statement (see *People vs. Rosas*, L-72782, April 30, 1987; 149 SCRA 464, 469). Such signature is simply required to show that the items were indeed taken from him. It is not an indication of appellant's guilt.

Further, We are not persuaded by appellant's claim that he was forced at gunpoint by the CANU agents to admit that he received the marked money. Apart from his mother who testified in his favor on this point, appellant did not present any other corroborating witnesses. It is inconceivable that there were no other people in the area aside from the appellant and his mother who could have witnessed the incident considering that the arrest and the alleged act of intimidation which followed thereafter took place in appellant's neighborhood at about four-thirty or thereabouts in the afternoon. On the other hand, Patrolman Hidalgo categorically testified that appellant readily conceded having received the marked money without force, violence or intimidation exerted upon him (pp. 4-5,

TSN, August 10, 1981). Between the biased testimony of defense witnesses and the unprejudiced testimony of a public officer, the latter's testimony should prevail (*People vs. Canizares*, L-32515, September 10, 1981; 107 SCRA 296). At any rate, even without admission, appellant could still be convicted upon the prosecution's evidence which positively identified him as the person who sold the prohibited drug to an informant and received payment in exchange thereof. Thus, the evidence taken from him was an incident to his arrest and the same may be presented in court against him (see *People vs. Veloso*, No. L-23051, October 20, 1925; 48 Phil., 169). Absolute certainty of guilt is not demanded by the law as basis for conviction of any criminal charge but moral certainty is required as to every proposition of proof requisite to constitute the offense (*People vs. Felipe*, L-40432, July 19, 1982; 115 SCRA 88).

As aforesaid, the trial court's findings involving the credibility of witnesses are generally given due respect. Appellant has the burden, therefore, to convince this court that a departure from this rule is justified upon satisfactory showing that the trial court misapplied some facts of weight and substance as would alter the result of the proceedings. He failed to do so.

The penalty of reclusion perpetua imposed by the court a quo is correct.

ACCORDINGLY, the judgment appealed from is AFFIRMED.

Costs against accused-appellant.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Grino-Aquino, JJ., concur.

[1] Presided over by then Judge Pedro A. Ramirez, now Associate Justice of the Court of Appeals.

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