

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE PIRRERAS, AND PIO C. PABONA, JR., DEFENDANTS-APPELLANTS, JOSE PIRRERAS, ACCUSED-APPELLANT.

G.R. No. 63462. November 06, 1989

Ponente: PARAS, J.

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PARAS, J.:

Jose Pirreras, herein appellant, together with Pio C. Pabona, was charged with having violated Sec. 4 of Republic Act 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended by P.D. 1683 in an Information filed before the Court of First Instance of Pangasinan and which reads —

"That on or about the 13th day of September, 1981, at barangay Libsong West, municipality of Lingayen, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, did, then and there, wilfully, unlawfully and feloniously engage in possessing, pushing and/or distributing prohibited drug, to wit:

two (2) match boxes full of dried crushed marijuana leaves together with cash marked money in different denominations amounting to Thirty-Three (P33.00) Pesos.

which were caught actually in their possession, control and custody." (pp. 52-53, Rollo)

Both accused pleaded not guilty and after trial on the merits, the lower court rendered a Decision, the dispositive portion of which reads as follows:

"WHEREFORE, with these considerations, judgment is hereby rendered finding the accused, PIO PABONA, JR. and JOSE PIRRERAS, guilty beyond reasonable doubt of VIOLATION OF SECTION 4 OF REPUBLIC ACT 6425 as amended as charged in the Information and are hereby each sentenced to suffer the penalty of life imprisonment and to each pay a fine of TWENTY THOUSAND PESOS (P20,000.00). With costs.

The two (2) match boxes (Exhibits "A" and series, and "B") of marijuana are ordered forfeited in favor of the government. Upon finality of the judgment, let these exhibits be burned in the presence of the Clerk of Court of this Court, the Station Commander, Lingayen, Pangasinan, and 4th Assistant Provincial Fiscal, Serapio C. Bravo. The bills confiscated (Exhibits "H", "H-I" to "H-14") are ordered returned to the PC authorities upon proper receipt thereof, these being the money used for entrapment.

SO ORDERED." (pp. 88-89, Rollo)

From the aforesaid decision, both accused interposed the present appeal. Subsequently, however, accused Pio Pabona, Jr., withdrew his appeal thus leaving Jose Pirreras as the lone appellant.

The evidence for the prosecution shows that in the afternoon of September 13, 1981, then 1st Lt. Manuel Quevedo, Commanding Officer of the 152nd PC Company stationed at Lingayen, Pangasinan, formed a group to conduct a surveillance on the reported involvement of Pio Pabona, Jr., in the sale of marijuana leaves and other prohibited drugs (t.s.n., pp. 2-3, August 2, 1982). The plan, as conceived by Lt. Quevedo, was for a civilian

informer to buy marijuana using marked money consisting of fourteen (14) two (2) peso bills and one (1) five (5) peso bill (ibid.).

Thereafter, the group, led by Sgts. Cabrera and Pagaduan, together with the civilian informer proceeded to the house of Pio Pabona, Jr., at Libsong West, Lingayen, Pangasinan (t.s.n., p. 5, ibid.). Upon arrival thereat, the group (except the civilian informer) covertly positioned themselves in vantage positions (t.s.n., p. 6, ibid.). The civilian informer then negotiated with Pio Pabona, Jr. and Jose Pirreras right in front of Pabona's house (ibid.). After a short while, the civilian informer gave a wad of bills to Pio Pabona, Jr. (t.s.n., p. 7, ibid.). In turn, Jose Pirreras handed over two (2) match boxes to the civilian informer (ibid.).

At this juncture, Sgt. Cabrera and his companions went out of their hiding place (ibid.). Sensing that something had gone wrong, Pio Pabona, Jr. and Jose Pirreras scampered away but were nevertheless caught after a one kilometer chase (ibid.). Pio Pabona, Jr., was searched and on him was found the marked money bills (ibid.).

The two (2) match boxes were delivered by the civilian informer to the authorities, after which, the same were forwarded to the PC Crime Laboratory for chemistry examination (t.s.n., p. 8, ibid.). The examination conducted of the contents of the match boxes "gave positive results for marijuana, as a prohibited drug" (t.s.n., p. 10, May 4, 1982, Exhibit "C").

The appellant Jose Pirreras professes innocence claiming that he was a victim of circumstances. As synthesized by the trial court, Pirreras' version is as follows:

"For his part, the evidence for the accused, Jose Pirreras, tends to establish that he is employed at the Fernandez Cottage Industries at Burgos St., Lingayen, Pangasinan. He earns about P50.00 a week.

Sometime in the afternoon of September 13, 1981, he set to see a movie at Dagupan City. But, as he was in front of the PNB building, Lingayen, Pangasinan, a certain "Antonio" approached him. "Antonio" inquired about a certain "Aro," an ice-cream vendor. Later, Antonio asked about Pio Pabona, Jr. Jose Pirreras was only casually acquainted with Pio Pabona, Jr. Nonetheless, he agreed to accompany Antonio to Pio Pabona, Jr. They boarded a tricycle. They came upon Pio Pabona, Jr. by the roadside.

Antonio and Pio Pabona, Jr. conversed. Suddenly, Antonio ran towards the PC Headquarters. A white car met Antonio. Pio Pabona, Jr. fled. So, Jose Pirreras also ran. Pio Pabona, Jr. and Jose Pirreras ran towards the ricefields. But, they were met by persons in civilian clothes with their guns drawn. Pio Pabona, Jr. and Jose Pirreras were apprehended. They were handcuffed. They were also searched. Nothing was found.

Pio Pabona, Jr. and Jose Pirreras were brought to the PC Headquarters. Their handcuff could not be opened. So, they were brought to Lopez Street, Lingayen, Pangasinan. Here, their handcuff was finally unlocked.

Pio Pabona, Jr. and Jose Pirreras were detained. Jose Pirreras was convinced into signing a document. That way, he will be released: So, Jose Pirreras did.

Jose Pirreras denied having matches of marijuana on September 13, 1981. He never acted as an agent to sell marijuana." (pp. 3-4, Decision)

In this appeal Pirreras contends that the lower court erred —

I. In giving too much weight to the testimony of the PC Officers and/or soldier in its finding of guilt against the herein accused-appellant, Jose Pirreras, inspite of the inherent improbabilities shown by their testimonies;

II. In not giving weight to the testimony of accused-appellant Jose Pirreras;

III. In not giving the necessary effect which would render the acquittal of the herein accused-appellant Jose Pirreras, by the prosecution's suppresal of the testimony of the civilian informer, who introduced himself as

Antonio Santos to the herein appellant;

IV. In not holding that the presumption of innocence in favor of the herein accused-appellant Jose Pirreras was sufficiently rendered overcome by the evidence of the prosecution;

V. Erred in holding that the guilt of the herein accused-appellant Jose Pirreras for Violation of Section 4 of Republic Act 6425 as amended, charged in the information filed against him was proven beyond the shadow of reasonable doubt; and

VI. In not acquitting the herein accused-appellant Jose Pirreras of the crime charged against him in the information.

The real issue here is credibility. Time and again this Court has ruled that appellate courts will not disturb the findings of the trial judge unless he has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case. This exception is not present here. We have carefully examined the records and find no sufficient reason to depart from the trial court's appraisal of the evidence of the prosecution and the defense. We are constrained to give credence to the narration of the incident by the prosecution witnesses, more so if they are law enforcers who are presumed to have regularly performed their duty in the absence of convincing proof to the contrary. (*People v. Madarang*, 147 SCRA 1251)

Despite Jose Pirrera's protestations of innocence, circumstances point to his complicity with Pio Pabona, Jr. in the sale of marijuana.

In the first place, he himself admitted that he accompanied the civilian informer, a total stranger to him, to the residence of Pio Pabona, Jr. Note must be taken of the fact that according to Jose Pirreras himself, he purposely absented himself from his work at the Fernandez Cottage Industries in Lingayen, Pangasinan to watch a movie in Dagupan City. No valid or justifiable reason was given why he took a special interest in accompanying the civilian informer to the residence of Pio Pabona, Jr. and, in the process, deviating from his alleged original plan to see a movie in Dagupan City.

Secondly, Sgts. Cabrera and Pagaduan testified in a positive manner that they saw Jose Pirreras hand the two matchboxes to the civilian informer which, upon later examination, turned out to contain marijuana. It is incredible even just to suggest that the said witnesses would concoct what they related to the court simply to implicate the accused Jose Pirreras since there is nothing in the record which even remotely suggests that they knew Jose Pirreras before the incident or that they harbored a grudge against him.

Thirdly, after the sale of marijuana was consummated and as the police officers made known their presence, Jose Pirreras and Pio Pabona, Jr. fled towards the same direction and were apprehended only after a one (1) kilometer chase. Jose Pirreras' flight from the lawmen shatters his facade of innocence. Indeed, if he had nothing to do with the sale of marijuana or if he knew nothing of the transaction between Pio Pabona, Jr. and the civilian informer, there was no logical reason for him to flee as he actually did. If he had to run at all, it would have been more consistent with his plea of innocence had he ran towards, not away from, the police officers.

All considered, We hold that Pirreras committed an act in direct violation of Sec. 4, Art. II of Republic Act No. 6425, as amended, which provides —

"Section 4. Sale, Administration, Delivery, Distribution and Transportation of Prohibited Drugs. — The penalty of life imprisonment to death and fine ranging from twenty thousand to thirty thousand pesos shall be imposed upon any person who, unless authorized by law, shall sell, administer, deliver, give away to another, distribute, dispatch in transit or transport any prohibited drug, or shall act as a broker in any of such transactions. If the victim of the offense is a minor, or should a prohibited drug involved in any offense under this Section be the

proximate cause of the death of a victim thereof, the maximum penalty herein provided shall be imposed."

WHEREFORE, the appealed Decision is hereby AFFIRMED.

SO ORDERED.

Melencio-Herrera (Chairperson), Padilla, Sarmiento, and Regalado, JJ., concur.

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