

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE O. DUHAN, MANUEL RECLA AND ROGER REYES, ACCUSED-APPELLANTS.

G.R. No. 65189, May 28, 1986

Ponente: NARVASA, J.

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NARVASA, J.:

From the judgment of the Regional Trial Court of Manila finding them guilty of violating Section 4 in relation to Section 21, Article II of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended, Jose Duhan, Manuel Recla and Roger Reyes, have appealed to this Court. Appellants Duhan and Recla were each sentenced to reclusion perpetua and to pay a fine of P20,000.00, without subsidiary imprisonment in case of insolvency. Appellant Reyes, being only 16 years of age at the time of the commission of the offense, was sentenced to 12 years and 1 day of prision mayor, and to pay a fine of P10,000.00, without subsidiary imprisonment in case of insolvency. All three appellants were further sentenced to pay proportionate costs.

They were all charged under an information dated June 30, 1982, reading as follows:

"That on or about the 29th day of June, 1982, 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 drugs, did then and there wilfully, unlawfully and knowingly jointly sell or offer for sale to the public the following: dried marijuana leaves wrapped in an aluminum foil and one (1) stick of marijuana cigarette, which is a prohibited drug."

In the Trial Court's view, the prosecution had succeeded in establishing by competent evidence the following facts:

"On or about 7:00 o'clock in the evening of 29 June 1982, a confidential informer (whose name was not divulged for security reasons but was simply described as an 18-year old lady) went to Police Station No. 5 of the Western Police District located at United Nations Avenue, Ermita, Manila. The Informer claimed that she could now buy some prohibited stuff (e.g., marijuana leaves or cigarettes) from herein suspects. Three (3) marked money bills in P5.00 denomination were given to the Informer. The latter boarded an unidentified taxi, followed by a private vehicle wherein PFC Romeo Jesus, PFC Segundino Bautista, Pat. Crisanto Garcia and others, all members of the Drug Enforcement Unit of the said police command, boarded. The latter was following, at a discreet distance, the Informer's taxi as it was cruising towards the 'suspected' area. As soon as the Informer arrived at the place, three suspects (who turned out to be the herein three accused) immediately approached the taxi. By then, the police operatives were some 5 to 10 yards away. Negotiations ensued but briefly between the Informer and the three accused. Accused Manuel Recla was seen to have actually hand over the prohibited stuff to the Informer, just as accused Jose Duhan himself received the marked 3-P5.00 bills as payment for the marijuana. Before the payment, the suspected dried marijuana leaves were actually seen being passed from one accused to the other until the actual handing over of it to the Informer. As soon as the latter left, the police operatives, who were all in civilian clothes, sprang the net, so to speak, and placed under arrest the three accused. They were then brought to the police station. While thereat, the marked P5.00 bills were taken from Duhan's pants, more particularly on his right hand pocket. Accused Reyes in turn was frisked

and found inside his wallet was a stick of a hand rolled suspected marijuana cigarette.

Immediately, the suspected marijuana leaves and cigarette were sent to the Forensic Division of the NBI for examination. The result: positive for marijuana (Exh. C and D).

The pertinent police report (Exh. E) and the Booking and Information Sheet for each of the accused were prepared (Exhs. F, G and H). Each of the three (3) accused signed the Sheet which contains, among other entries, the following:

Accused, after being informed of his constitutional right TO REMAIN AND TO COUNSEL, readily admitted his guilt but refused to give any written statement. (Decision, pp. 51-52, Rollo.)"

Upon the other hand, the appellants contend that the evidence on record does not justify the Trial Court's findings, but on the contrary, demonstrates the existence of a quite different version of the facts, for which reason they are entitled to an acquittal at least on reasonable doubt. They invoke the familiar doctrine that "an accused should be convicted on the strength of the evidence presented by the prosecution and not on the weakness of his defense." (People vs. Sunga, 123 SCRA 327.)

The Solicitor General agrees with the appellants. In a "Manifestation and Motion In Lieu of Appellee's Brief" filed by the Solicitor General's Office under date of March 31, 1986, a view of the material occurrences is presented quite at odds with that set out in the appealed decision:

"The credible evidence instead shows that the four policemen indiscriminately rounded-up appellants at two separate places at the corner of Jorge Bocobo and Remedios Street in Malate, Manila on the evening of June 29, 1982 pursuant to a police saturation drive, and forced them to ride in their private vehicle to the police headquarters, informing them that they were being rounded-up for verification purposes. In fact, no searches on their persons were made by the policemen upon their apprehension at the suspected area.

True to form and practice, however, on their way to the police precinct that evening, the police-men manhandled and beat appellants Recla and Reyes inside the vehicle. One policeman inserted a stick of marijuana cigarette inside the back pocket of appellant Duhan. When appellant Duhan took out his handkerchief, the marijuana cigarette fell, and another policeman picked it up, and this time inserted it in the wallet of appellant Reyes. When appellant Reyes protested, he was boxed by the policeman (pp. 4-5, tsn, Feb. 8, 1983).

Upon their arrival at the police station that same evening, the policemen made body searches on the appellants. All the three appellants were brought inside the comfort room of the police station, one after the other, where they were subjected to maltreatment and forced to admit the possession of two foils of marijuana leaves and two marijuana cigarettes. The policemen found no drugs on the persons of the appellants, except P25.00 from appellant Duhan for buying stork candies for sale on the streets, Duhan being a street vendor. Pat. Joves poked a gun at appellant Duhan's back and then forcibly took the latter's personal money. Appellants maintained their innocence and refused to admit what the policemen wanted them to admit (pp. 2, 5, 7, 8, tsn, Feb. 8, 1983). Appellant Duhan declared that what was forcibly taken from him was his personal money of P25.00, not the alleged three five-peso marked bills (p. 8, tsn, Feb. 8, 1983).

After the body searches of the appellants by the policemen inside the police precinct, appellants were separately confronted and were asked to give their names, allegedly for verification purposes. Appellants did not give any written statements to the police. Instead, the police investigator, Pfc. Bautista, prepared for them three Booking and Information Sheets, which they later respectively signed (Exhibits 'F', 'G' and 'H'), upon their belief and the police assurances that they were for verification purposes and that they would be released thereafter. Instead, appellants were brought to a cell room and locked up inside (pp. 5, 11, tsn, Feb. 8, 1983; p. 6, tsn, Feb. 17, 1983).

The testimonies of three appellants, as corroborated by witness Martha Oliva Vda. de Duhan, mother of appellant Duhan, are clearly obvious for their sincerity and straightforwardness, which satisfactorily and convincingly explained the reasons for their innocent and lawful presence at the suspected area that evening. Their narration regarding the abusive actuations and acts of maltreatment inflicted upon them by the policemen during their ride to and while under custodial investigation at the police station that same evening is more reliable and trustworthy. Paradoxically, the contradictory nature of Pat. Joves' testimony and the failure of the prosecution to present the vital witnesses and the important pieces of evidence alluded to only serve to strengthen the defense version of the case.

Indeed, lone prosecution witness Pat. Joves confirmed the presence of an old woman, no other than Mrs. Martha Oliva Vda. de Duhan, mother of appellant Duhan, at the suspected area when the policemen rounded-up the appellants that evening. Pat. Joves admitted having heard the old woman protesting the arrest of her son Duhan, saying that her son was there to buy something at the store, and that her son was not involved in any illegal sale of prohibited drug or marijuana. When the old woman pleaded that she ride along to accompany her son to the police headquarters, the policemen refused to accommodate her. She was told to follow them to the police headquarters, informing her that her son was only being taken for verification purposes (pp. 4-5, tsn, Nov. 16, 1982; p. 25, tsn, March 25, 1983). She followed later and went to the police station, and saw her son Duhan being investigated and made to admit possession of marijuana. She cried because it was not true (pp. 13-14, tsn, Jan. 11, 1983).

Worst still, when the policemen were processing her son's papers, one policeman approached her, demanding P100.00 so that her son could be released. She could not raise the money at that time because her employer was out of town (pp. 13, 15, 20, tsn, id.). She returned the following day with the money, but she could not find Pat. Joves or Pfc. Bautista to whom she would give the money because of her belief that they were the only ones who could release her son (pp. 20-21, tsn, id.).

If the appellants and their relatives no longer, filed any complaint against the abusive and corrupt policemen with the proper authorities, the same could be attributed to their lowly stations in life and their fear and belief that nothing would come out of such course of action (pp. 19-20, tsn, Jan. 11, 1983; pp. 7-8, tsn, Feb. 17, 1983; pp. 6, 8-9, tsn, Feb. 8, 1983)."

After a careful and thoroughgoing review of the evidence, this Court has in turn come to agree with the Solicitor General that in this case the prosecution has indeed failed to establish the guilt of the appellants beyond reasonable doubt, and they should therefore be ac-quitted.

It may not be amiss to stress, additionally, that as both the defense and the Solicitor General have pointed out, it was error for the Trial Court to have admitted and appreciated against the appellants the Booking and Information Sheets prepared by a Police Investigator, Pfc. S. Bautista, for each of the appellants and respectively signed by them (Exhs. "F", "G" and "H"), containing the following paragraph:

"Accused, after being informed of his constitutional right TO REMAIN SILENT AND TO COUNSEL, readily admitted his guilt but refused to give any written statement."

At the trial, "the testimony of PFC. S. Bautista x x x was dispensed with by the Trial Fiscal after he had obtained from the Defense a stipulation to the effect that, had said witness testified, he would have identified and testified on the existence and due execution of Exhibits E, F, G and H." (Decision, p. 50, Rollo.) The accused, however, subsequently denied in effect having made any such verbal admissions of guilt. But even if they had indeed made the verbal confessions imputed to them as alleged in the Booking and Information Sheets, the same would not be acceptable as evidence against them because the constitutional preconditions for their admission had not been complied with. The mere assertion by a police officer that after an accused was informed of his constitutional right to remain silent and to counsel, he readily admitted his guilt does not make the supposed confession admissible against the purported confessant. This Court has already ruled that:

"When the Constitution requires a person under investigation 'to be informed' of his right to remain silent and to counsel, it must be presumed to contemplate the transmission of meaningful information rather than just the ceremonial and perfunctory recitation of an abstract constitutional principle. As a rule, therefore, it would not be sufficient for a police officer just to repeat to the person under investigation the provisions of Section 20, Article IV of the Constitution. He is not only duty-bound to tell the person the rights to which the latter is entitled; he must also explain their effects in practical terms, e.g., what the person under interrogation may or may not do, and in a language the subject fairly understands. (See *People vs. Ramos*, 122 SCRA 312; *People vs. Caguioa*, 95 SCRA 2.) In other words, the right of a person under interrogation 'to be informed' implies a correlative obligation on the part of the police investigator to explain, and contemplates an effective communication that results in understanding what is conveyed. Short of this, there is a denial of the right, as it cannot truly be said that the person has been 'informed' of his rights. Now, since the right 'to be informed' implies comprehension, the degree of explanation required will necessarily vary, depending upon the education, intelligence and other relevant personal circumstances of the person under investigation. Suffice it to say that a simpler and more lucid explanation is needed where the subject is unlettered.

"Thus, in the cited case of *People vs. Ramos*, this Court said:

'In the case at bar, appellant has only finished Grade VI, which means that he is not adequately educated to understand fairly and fully the significance of his constitutional rights to silence and to counsel. As mandated, it is not enough that the police investigator merely informs him of his constitutional rights to silence and to counsel, and then taking his statements down, the interrogating officer must have patience in explaining these rights to him. The records do not reveal that these requirements have been fully complied with, nor was there any showing that appellant has been represented by counsel during custodial investigation. In consonance with Section 20 of the Bill of Rights which states that 'any confession obtained in violation of this section shall be inadmissible in evidence,' We hold that the verbal admissions of appellant during custodial investigation may not be taken in evidence against him.' (pp. 321-322.)

"xxx xxx xxx.

"As it is the obligation of the investigating officer to inform a person under investigation of his right to remain silent and to counsel, so it is the duty of the prosecution to affirmatively establish compliance by the investigating officer with his said obligation. Absent such affirmative showing, the admission or confession made by a person under investigation cannot be admitted in evidence. x x x ." (*People of the Philippines vs. Nelia Nicandro y Valarma*, G.R. No. L-59378, prom. February 11, 1986.)

WHEREFORE, the appealed decision is reversed and set aside and another one entered ACQUITTING appellants on reasonable doubt. Costs de oficio.

SO ORDERED.

Abad Santos, (Chairman), Yap, Melencio-Herrera, and Cruz, JJ., concur.

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