

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROBERTO TOLEDO Y TEJARIO ALIAS “OBET”; ACCUSED-APPELLANT.

G.R. No. 67609, November 22, 1985

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Roberto Toledo y Tejarío, alias Obet, appeals from the judgment of the Regional Trial Court of Manila, Branch XXIV, in Criminal Case No. 55406 for Violation of Sec. 4, Art. II of R.A. 6425, as amended, otherwise known as the "Dangerous Drugs Act", sentencing him to "life imprisonment."

The Information against accused-appellant, Roberto Toledo y Tejarío alias Obet, age 26, and residing at 384-C Asuncion, Tondo, Manila charged:

"That on or about August 24, 1980 in the City of Manila, Philippines, the said accused, without being authorized by law to use, sell, administer, deliver and distribute prohibited drug, did then and there wilfully, unlawfully, feloniously and knowingly use, sell, administer, deliver and distribute to the public three (3) plastic bags containing dried marijuana leaves, which are prohibited drugs.

"CONTRARY TO LAW."[1]

Subsequent to the accused's plea of not guilty and upon his mother's motion, the trial Court, on September 29, 1980, ordered the transfer of the accused from the City Jail to the NBI Treatment and Rehabilitation Center at Tagaytay City. In the meantime, trial was suspended pending his rehabilitation.

On June 3, 1981, on the basis of the Final Report of the Center, the trial Court ordered the release of the accused from the Center and his turn-over to the Warden of the City Jail of Manila to await the trial of the case.[2] Pending his release, however, the accused escaped from the Center only to be arrested later without bail.[3] Thereafter, trial proceeded until its termination and the accused's eventual conviction.

The prosecution evidence, as synthesized by the trial Court, and adopted in the People's Brief reads:

"x x x the testimony of the witnesses of the prosecution; namely: Corporal Pedro Cerillo, Pfc. Rolando Termulo and Patrolman Manuel de Leon, all of the Drug Enforcement Unit of Police Station No. 2, Western Police District, and Forensic Chemist Leticia S. Manso of the National Bureau of Investigation are as follows: On August 24, 1980 at about 4:00 in the morning, Cpl. Cerillo received confidential information that a person coming from the provinces was due to arrive at 8:00 that morning with a supply of marijuana which he will deliver to a certain pusher identified as 'Junior Payat' (pp. 6-8, t. s. n., Jan. 18, 1982). So at about 7:00 that same morning, Cpl. Cerillo alerted his operatives among whom was Pfc. Termulo and Pat. Manuel de Leon and Pat. Reynaldo Sanchez, and posted them on strategic places along Del Pan Street, Tondo, Manila to intercept the supplier of marijuana (pp. 8-9, t. s. n., id.). Failing to intercept the supplier of marijuana, Cpl. Cerillo withdrew his men and instead assigned Patrolmen de Leon and Sanchez to post themselves at a gasoline station nearby. At about 1:00 in the afternoon, Pat. de Leon informed Cpl. Cerillo that a person who turned out to be

herein accused was seen crossing Del Pan Street and entering the squatter's area (p. 9, t.s.n., id.; p. 3, t.s.n., June 15, 1982). Patrolmen de Leon and Sanchez were then directed to stay put. Cpl. Cerillo accompanied by Patrolman Termulo, and two other policemen ringed the vicinity where the suspect was sighted. At about 1:45 in the afternoon, accused was seen coming out of the squatter's area carrying a big carton box and walking along Del Pan Street towards the direction of Patrolmen de Leon and Sanchez (pp. 9-12, t.s.n., January 18, 1982). At a pre-arranged signal Patrolmen de Leon and Sanchez approached accused and apprehended him (pp. 20-22, t.s.n., id.). A search of the carton box carried by accused yielded three plastic bags of leaves and seeds (pp. 25-26, t.s.n., id.). Suspecting the leaves and seeds to be marijuana, the police operatives arrested accused and confiscated the box and its contents. (id.)

Brought to the police station for investigation, accused, after having been informed of his constitutional rights, voluntarily and spontaneously gave a written statement (Exhibit 'A'), wherein he admitted that he was engaged in selling prohibited drugs and he has been previously arrested by the PC Anti-Narcotics Unit for the same offense. He likewise admitted that he buys his supply of marijuana from one Edgardo Villarante at P1, 500.00 per plastic bag (pp. 27-30, t.s.n., id.).

Samples of the confiscated leaves and seeds (Exhibit 'D') were brought to the NBI Forensic Laboratory for examination. Forensic Chemists Jocelyn Dacio and Leticia S. Manso examined the specimens and found same to be marijuana leaves and seeds (Exhibits 'B-1' and 'E').[4]

Upon the other hand, the defense gave the following version of the incident:

The accused testified that on August 24, 1980, he came from Del Pan Extension particularly the house of a friend who would become the godfather of his child. He was standing at the waiting shed while he was about to cross the street. Suddenly, he was surprised when a policeman arrived and arrested him, thus, the other persons around him scampered. He asked the policeman for an explanation but the latter opened a box beside the accused. The policeman told him that the contents were marijuana. He was invited by the policeman to the police station but he protested, explaining that he knew nothing about the marijuana. The policeman brought him to the Police Station No. 2 at about 2:00 P.M., where he was beaten up by them and forced to confess that the box containing marijuana was his own. But he could not pinpoint who among them beat him up because he was placed in a dark room. The interrogation conducted by the police at the dark room lasted for a long time, about two (2) hours. He requested the police for the assistance of counsel but was only ignored. Also, he asked the police that he be given a chance to call up his mother or any relative but in vain. When the booking sheet and arrest report was presented to him in court and was asked if he read the contents therein before affixing his signature, he declared that he could not read and understand those contents because he was dizzy and confused after he came from the dark room wherein he was interrogated for two hours and beaten up. In the evening after the interrogation and his signing of the booking sheet and arrest report, his mother who heard the rumor about his arrest, visited him. He requested his mother to contact a lawyer. A lawyer came to assist him the following day so that he would be transferred to the City Jail to avoid being beaten again by the apprehending police officers. When asked in court to comment on the box of marijuana, he stated that he saw it for the first time at one arm's length away from him when he was arrested. Before the box was transmitted by the police to the NBI, he was not afforded a chance to see its contents (pp. 1-6, t.s.n., January 31, 1983).

On her part, the mother of the accused declared that on August 24, 1980, she told her son to go to Del Pan to collect some amounts of money from her kumadre who bought step-ins shoes from her. She was informed in the evening that her son was arrested. At around 7:00 o'clock in the evening, she went to the police station No. 2 and was shocked upon seeing her son crying in pain. Consequently, she had a stroke. A doctor was summoned and she was brought to Mary Johnston Hospital. The following day, she visited her son who informed her that he was suspected of being the owner of the marijuana and that he was mauled by the police (pp. 2-3, February 15, 1983)."[5]

After trial, the lower Court rendered a judgment of conviction, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered finding accused Roberto Toledo y Tejarlo alias Obet guilty beyond reasonable doubt of the crime of illegally selling, distributing and delivering prohibited drugs, defined and penalized under Sec. 4, Article II of Republic Act 6425, as amended by Presidential Decree No. 1675, and hereby sentences him to suffer the penalty of life imprisonment, to pay a fine of P25,000.00, and to pay the costs of suit.

The three (3) plastic bags of marijuana leaves and seeds, subject of the present action, are declared forfeited in favor of the Government and shall be turned over to the Dangerous Drugs Board for proper disposal.

SO ORDERED."

From the above disposition, accused-appellant elevated the case to us attributing the following errors to the trial Court.

"I

The trial Court gravely erred in finding the accused-appellant guilty beyond reasonable doubt.

"II

The trial Court gravely erred in finding that the extra-judicial confession of the accused was voluntarily given.

Upon review of the evidence, we find no reversible error committed by the lower Court.

We find as established that, notwithstanding his denials, appellant was found with a box of dried marijuana leaves. A chemistry report confirmed the nature of the contents (Exhibit "E"). The area where appellant was apprehended had been under surveillance by the Drug Enforcement Unit of the police after an informant had given a tip that a "viajero" was coming from the Ilocos Region and would deliver marijuana to a certain "Junior Payat".[6] Pat. Manuel de Leon, a member of the Unit and the accused, knew each other even before the apprehension. Appellant's name was in the police files as actively participating in the illegal traffic and distribution of prohibited drugs within the area.[7] The four members of the Unit firmly testified as to appellant's possession of the prohibited drug. Appellant himself admitted that much in his extrajudicial confession when he said:

"T-04 : Maari bang isalaysay mo kung bakit narito ka ngayon sa himpilang ito?

S :

Ako po ay nahuli ni Pat. Manny de Leon na may dalang isang kahon na naglalaman ng tatlong kilo ng pinatuyong dahon na may halong buto ng marijuana habang ako ay naglalakad sa kalye Del Pan, Tondo, Maynila.

"T-05 :

Anong oras ka naman nahuli ng Patrolman Manny de Leon?

S :

Kaninang 1:45 ng hapon ng petsang ito." (page 1, Sworn Statement of Roberto Toledo, August 24, 1980). (Emphasis supplied)."

That same confession establishes that appellant was about to sell/distribute/deliver the marijuana in his possession

to his customers. Thus:

"T-06 : Maari bang sabihin mo sa akin kung saan mo naman kinuha ang nabanggit na tatlong kilo ng pinatuyong dahon at mga buto ng marijuana na nakuha sa iyo?

S : Sa bahay po nina pareng junior sa may looban ng Delpa malapit sa opisina ng Nawasa, Tondo, Maynila (affiant referring to Edgardo Amata Villarante, 24 years old, married, a vendor, and residing at 874 int. Del Pan Street, Tondo, Manila.).

T-07 : Magkano naman ang iyong ibinayad sa nabanggit na marijuana?

S : Sa isang kilo po ang benta niya sa akin ay P1,500.00 at ang nakuha sa akin ay nagkakahalaga ng P4,500.00 sa kabuuan.

T-08 : Ikaw ba ay matagal ng kumukuha ng iyong supply ng marijuana kay Pare Junior mo?

S : Mula noong maging kumpare ko siya ay may limang beses na po.

T-09 :

Maari bang sabihin mo sa akin kung saan mo naman dinadala ang nabanggit na marijuana?

S : Ang mga ito ay dini deal ko po naman sa halagang P1,600.00 bawat kilo.

T-10 : Kanino mo naman ito dini deal?

S : Sa isang kumpare ko po sa Sevilla at San Nicolas Sts., Binondo, Maynila.

T-11 : Maari bang banggitin mo sa akin kung anong pangalan ng iyong kumpareng binanggit mo sa itaas?

S : Si Ric Soriano po na isang pusher sa Sevilla at San Nicolas.

T-12 :

Ikaw ba ay matagal nang nag 'pupushing' ng pinag-babaw na mga pinatuyong halaman na ito?

S : Higit isang taon na po subalit nang ako ay nahu-li ay tumigil po ako at naulit lamang nitong mga bandang huli.

T-13 : Sinabi mong itinigil no na buhat nang ikaw ay nahuli. Bakit ka umulit na naman.

S : Wala po akong pagkakikitaan kasi wala akong permihang trabaho.' (page 2, Sworn Statement of Roberto Toledo, August 24, 1980). Emphasis supplied)."

As the trial Court had pointed out "the possession of such considerable quantity as three plastic bags of marijuana leaves and seeds coupled with the fact that he is not a user of prohibited drugs cannot indicate anything except the intention of the accused to sell, distribute and deliver said marijuana."

The repudiation by appellant of his confession on the ground that it was extorted by force, coercion, and intimidation is negated by the following circumstances: (1) the Statement contained details which only appellant could have known, particularly, the identities of the individuals from whom he purchased and to whom he was going to sell the marijuana. A team of police officers went with appellant to the house of the individual pointed to by him, "Junior Payat" whose real name is Edgardo Villarante, situated at the same alley where appellant was first spotted, and, true enough, thereat appellant pointed to a "maleta" containing three plastic bags also of dried marijuana leaves, which the police retrieved.[8] Unfortunately, Villarante had already flown the coop and the criminal charge, at the time of the accused's trial, was still pending against Villarante. But the latter's mother was taken to the precinct and investigated.[9]

Appellant, too, confirmed in his testimony before the Court that in his confession, he had given the name of one Larry Quintano, also a "pusher" in the same place.[10] Other names mentioned as "pushers" by appellant in his confession were Elvira Mata, Rading Sacdalan, Pepeng Bakal, Spouses Jerry Arambulo and Pacita de Mesa among others.[11] All the revelations combined bolster the conclusion that appellant underwent police interrogation and that he gave his detailed answers voluntarily.

The extent of the alleged maltreatment inflicted by police officers on appellant consisting of fistic blows on the chest, on both sides of the body, and on the neck, if true, would have weakened him tremendously, and yet, his signature in his extrajudicial confession immediately after showed no tremors, as observed by the trial Court. Appellant's mother testified that she had a stroke when she saw her son in pain on the evening of his apprehension and she had to be taken to a hospital until the next day[12]; but there is nothing to substantiate that story. A lawyer went to see appellant the next day and yet no complaint was lodged on appellant's behalf against those who were supposed to have tortured him into owning his guilt. His explanation that he could not identify any of his torturers because he was closeted in a dark room remains a bare assertion contradicted by the details which he had revealed and which only he could have known. Nor did appellant submit himself to any medical examination or treatment by a physician of his choice, which would have been a normal reaction on his part.

Section 4 of Article II of the Dangerous Drugs Act (R.A. No. 6425), as amended by P.D. No. 1675, provides:

"Sec. 4. Sale, administration, delivery, distribution and transportation of prohibited drugs. — The penalty of life imprisonment to death and a 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."

The testimonial and documentary evidence convincingly establish that appellant has, in fact, run afoul of the law. WHEREFORE, the appealed judgment is hereby affirmed, with costs against appellant Roberto Toledo y Tejario.

SO ORDERED.

Plana, Gutierrez, Jr., De La Fuente, and Patajo, JJ., concur.

Teehankee, J., (Chairman), no part.

Relova, J., on official leave.

[1] Original Record, p. 1.

[2] *ibid.*, p. 28.

[3] *ibid.*, pp. 41-43.

[4] Decision, pp. 1-3, July 14, 1983; Appellee's Brief, pp.3-5.

[5] Appellant's Brief, pp. 5-6.

[6] T.s.n., June 15, 1982, p. 2.

[7] T.s.n., January 18, 1982, p. 14.

[8] T.s.n., January 18, 1982, p. 29; June 15, 1982, p. 4.

[9] T.s.n., June 15, 1982, p. 5.

[10] T.s.n., January 31, 1983, p. 31.

[11] Original Rollo, p. 136.

[12] T.s.n., February 15, 1983, p. 2.

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