

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROBERTO RANOLA Y MAGDARAO, ACCUSED-APPELLANT.

G.R. No. 71752. April 12, 1989

Ponente: PARAS, J.

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PARAS, J.:

Finding the accused guilty of violating Section 4, Article II of Republic Act 6425 as charged in the information, to wit:

"That on or about the 4th day of July, 1983, in Caloocan City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously sell and deliver to Pat. Eduardo Puchero, who posed as buyer, dried marijuana leaves in a small plastic bag, a prohibited drug, knowing the same to be such and without any lawful authority.

"CONTRARY TO LAW." (p. 17, Rollo)

the Regional Trial Court of Kalookan City, Branch 123, in its questioned decision dated July 17, 1985, ordered thus:

"WHEREFORE, premises considered the court finds the accused guilty beyond reasonable doubt of the crime of violation of Section 4, Article II of RA 6425 and imposes on him the penalty of RECLUSION PERPETUA and to pay a fine of TWENTY THOUSAND (P20,000.00) PESOS. The packet of marijuana leaves are ordered confiscated and forfeited in favor of the Government and the Social Worker of this Court is hereby directed to turn over said packet of marijuana leaves after proper receipt therefor to the Dangerous Drug Board for proper disposal of the same.

"SO ORDERED." (p. 21, Rollo)

Hence, the accused interposed this present appeal. And as expected of cases of this nature, the parties hold on to their own version of the facts. As found by the trial court, the prosecution's account in brief states:

"The evidence for the prosecution showed that at about 4:25 p.m. on July 4, 1983 Pat. Eduardo Puchero and Pfc. Albino Pedria went to Bagong Barrio, Caloocan City together with a confidential informer after they were instructed by their chief to cause the arrest of a certain alias 'John Lennon' reported to be a drug pusher. Pat. Puchero knew who 'John Lennon' was even prior to July 4, 1983 and that his real name was Roberto Ranola. He learned all this from his informer. After conducting a surveillance at the place, they finally saw 'John Lennon' at about 8:20 p.m. along G. de Jesus Street, Bagong Barrio, Caloocan City. Pat. Puchero acted as possessor-buyer while Pfc. Pedria stood about 5 to 8 meters away from them during the transaction. The informer had left,

"Pat. Puchero made Contact with 'John Lennon', the accused herein and told him he wanted to buy marijuana. After a brief negotiation, the accused gave him a small plastic bag containing the marijuana he was buying. He gave accused a marked ten (P10.00) peso bill and then arrested him (TSN October 3, 1984). Pfc. Pedria joined him and took the marked P10.00 bill from the pocket of the accused after they had arrested him (TSN April 26,

1984). They brought him to Camp Sikatuna, Pat. Ricardo Param conducted the investigation and referred the specimen confiscated from the accused to the PC Crime Laboratory for the necessary examination. The Chemistry Report (Exh 'B') showed that the specimen was positive for marijuana." (p. 19, Rollo)

Likewise, the court *a quo* summarized the evidence for the defense in this manner:

"On the other hand, the lone witness for the defense, who was the accused himself, testified that on July 4, 1983 at about 7:00 p.m. was going home from work when he stopped at the corner of G. de Jesus St., Bagong Barrio, Caloocan City to converse with two tricycle drivers whom he knew. Two persons approached them, together with a boy who pointed to him and said 'Yan ho, yan ho.' He was immediately handcuffed and was told he was John Lennon, a drug pusher. He denied this and said he did not know any John Lennon. The two who handcuffed him introduced themselves as peace Officers and forced him to go with them. They showed a plastic container to his companions, the tricycle drivers. The police officers brought him to police HQ at Sikatuna, Quezon City, where he was mauled. They told him to make a statement but he did not give any. They continued mauling him and brought him to the Fiscal, but he did not tell the Fiscal about the mauling because the police threatened him." (TSN January 23, 1985) (p. 19, Rollo)

Basically, appellant submits that his guilt has not been proven beyond reasonable doubt. He assails the credibility of the two arresting officers as witnesses for the prosecution, pointing to inconsistencies and alleged improbabilities in their respective testimonies. It is claimed that while Patrolman Pedria testified that there were only two (2) of them involved in the buy-bust operation (TSN, April 26, 1984, p. 4), Patrolman Puchero states that there were three of them, including his informer (TSN, October 31, 1984, p. 6). Appellant also insists that since the arresting officers do not know alias JOHN LENNON as the person to be arrested, they could not be honestly believed in their declarations. He finally submits that, in reality, no such buying and selling of marijuana ever occurred and that he was a victim of the two arresting officers' eagerness to please their commanding officers in arresting anybody who may be pointed to them as alias JOHN LENNON.

After having gone through the records, We find no reason to alter the trial court's ruling. As correctly noted by the Solicitor General in his Brief, the issue involved here is one of credibility of witnesses. And like the trial court, We believe the prosecution's version and uphold the credibility of its witnesses.

It is a settled principle of evidence in this jurisdiction that findings of fact and credibility of witnesses by the trial court are entitled to great weight and respect on appeal (*People v. Millarpe*, 134 SCRA 555; *Municipality of Victorias v. CA*, 149 SCRA 32; *People v. Taduyo*, 154 SCRA 350; *People v. Francia*, 154 SCRA 495). Finding no indiscretion on the part of the trial court, We apply the above legal tenet to the case at bar. But even if such principle were not invoked the fact is that the appellant failed to controvert the more credible evidence of the prosecution pointing to the fact that the former actually sold to Pat. Puchero marijuana leaves for ten pesos (P10.00) in violation of RA 6425, Sec. 4. While there may be some contradictions in the testimonies of the arresting officers as to incidents in carrying out the buy-bust operation, such are minor and do not affect their credibility (*People v. Manalo*, 135 SCRA 84; *People v. Dava*, 149 SCRA 582). And contrary to the appellant's claim, the evidence shows that Pat. Puchero, who posed as buyer, came to know the person of alias JOHN LENNON through his confidential informer while he was conducting surveillance activities prior to the actual buy--bust operation (see TSN, October 31, 1984, pp. 6, 8). The best evidence the appellant could have presented, aside from his self-serving declarations, are the testimonies of his tricycle driver friends who allegedly witnessed his arrest. As the trial court fittingly observed:

"He could have supported this allegation by presenting his two friends, the tricycle drivers Boy and Kiko, who, according to his testimony were present when he was apprehended by the two policemen, since they were conversing at that time.

‘An accused persons runs the risk of an inference against him because of his failure to produce evidence. Unless the failure to produce evidence is explained away, the inference is that the tenor of the specific unproduced evidence would not support his case.’ (People v. Santos, 91 Phil, 320)

Rule 131, Sec. 5 includes among the disputable presumptions the following: ‘that evidence willfully suppressed would be adverse if produced.’” (RTC Decision, p. 20, Rollo)

Having failed in this respect, the above presumption made by law operates against appellant. All these taken together create a moral certainty as to appellant's guilt, compelling us to affirm the trial court's ruling.

In a last ditch effort to avoid liability, appellant attacks the arresting officers motive in apprehending him. However, appellant's allegations remain unfounded. As such, the legal presumption that official duty has been regularly performed (Rule 131, Sec. 5(6)) stands. Furthermore, as pointed out by the Solicitor General 'there is no showing that prosecution witnesses... had any ill-motive against and falsely accused appellant, considering the gravity of the offense charged... As such, their testimonies cannot be discredited where no motive is shown why they would frame up the accused. (People v. Lim, 71 SCRA 249 [1976])." (Rollo, p. 40-K).

Accordingly, We AFFIRM the trial court's decision.

SO ORDERED.

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

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