

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CIRILO TARUC Y REYES, ACCUSED-APPELLANT.

G.R. No. 74655. January 20, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Regional Trial Court of Cabanatuan City. Branch XXIX finding the accused CiriloTaruc y Reyes guilty beyond reasonable doubt of violating Sec. 4, Rep. Act No. 6425 (Dangerous Drugs Act of 1972 as amended) and sentencing him to serve the penalty of reclusion perpetua, to pay a fine of P20,000.00, and to pay the costs.

The information filed against the accused alleged:

“That on or about the 6th day of March, 1984, in the City of Cabanatuan, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not authorized by law to possess dangerous drugs, did then and there, willfully, unlawfully and feloniously sell two (2) matchboxes full of dried marijuana fruiting tops included in the category of Indian Hemp, a dangerous drugs (sic) to an informer of the elements of the integrated National Police, Cabanatuan City Station.

“CONTRARY TO LAW” (At page 12, Rollo)

The judgment that guilt was established beyond reasonable doubt was justified by the lower court as follows:

“ON the basis of the evidence adduced by the prosecution, testimonial as well as documentary, this Court is fully convinced that the accused is liable for the crime charged for selling marijuana, a prohibited drug, covered by the provision of Section 4, Rep. Act. No. 6425, otherwise known as the Dangerous Drugs Act.

“PROSECUTION witnesses. Pats. Feliciano Liguero and Enrico Campos clear, positive and categorical testimonies prove beyond doubt that the herein accused was caught red-handed, in flagranti delicto, selling two (2) matchboxes of marijuana fruiting tops to an informer of the INP of Cabanatuan City. Furthermore, from the testimony of P/Lt. Marlene Salangad, Forensic Chemist, PC Recom HI, Camp Olivas, San Fernando, Pampanga, it is established that on March 9, 1984, Pat. Enrico Campos personally delivered the marijuana specimen for examination wrapped in a bond paper and duly sealed to the PC Crime Laboratory at Recom III, San Fernando, Pampanga. After physical and chemical examination of said marijuana specimen, result Exh. “E” shows it is POSITIVE for marijuana.

“THE evidence of denial put up by the accused cannot prevail over the explicit, positive and categorical declarations of the prosecution witnesses.” (Rollo, pp. 23-24).

The facts of the case from the viewpoints of the prosecution and the defense are summarized by the Solicitor General as follows:

EVIDENCE FOR THE PROSECUTION

“Patrolmen Feliciano Liguero, Jr. and Enrico Campos are both members of the Integrated National Police, Cabanatuan City Police Station. In March 1982, both were assigned at the Anti-Narcotics and Juvenile Division of said police station, charged with the duty of apprehending any drug pusher in the City of Cabanatuan. At about 5:00 o'clock in the afternoon of March 6, 1982, Patrolman Campos received an information from his informer, named alias Jojo Licup, that Cirilo Taruc was selling marijuana in Bantug Norte, Cabanatuan City. Patrolmen Campos and Liguero, Jr. then proceeded to the said place at around 6:00 o'clock in the evening. Patrolman Liguero Jr. pretended to be a tricycle driver while the informer as a passenger. Upon arrival at the appointed place, the informer and Cirilo Taruc talked about something and then Taruc left. Later, Taruc returned and handed two (2) match boxes to the informer. The informer turned over the two (2) match boxes to Pat. Liguero, Jr. who alighted from the tricycle and arrested Cirilo Taruc. The match boxes contained marijuana leaves with ‘fruiting’ tops. After arresting Cirilo Taruc, the policemen brought Cirilo Taruc to the police station. The two (2) match boxes were sealed by Patrolman Campos and brought to Camp Olivas, Pampanga, for examination, At the police station, while Cirilo Taruc was being investigated by Pat. Liguero, Jr., one (1) twenty peso bills were (sic) found in the possession of Taruc and turned over to one Cpl. Cecilio for safekeeping. At the police station, Cirilo Taruc executed and signed an extrajudicial confession (Exh. “B”, p. 58, rec.) admitting that he was arrested for selling marijuana. (TSN, May 8, 1984, pp. 2-4, June 6, 1984, pp. 2-8)

Police/Lt. Marlene Salangad, connected with the PC Crime Laboratory in Camp Olivas, Pampanga, testified that on March 9, 1984, she received a letter-request for examination of two (2) match boxes suspected to contain marijuana leaves (Exh. “C”) from Pat. Campos; that she conducted a physical and chemical examination and confirmatory test and verified that the contents of the match boxes were positive for marijuana; that she rendered a report (Exh. “E”) and submitted the same to the Police Station Commander of Cabanatuan City (TSN, July 11, 1984, pp. 2-5).

EVIDENCE FOR THE DEFENSE

In his defense, appellant Cirilo Taruc declared that while he was conversing with some friends, including Orlando Pineda in their house in Bantug Norte, Cabanatuan City, a person by the name of alias “Borta” or “Bertong” arrived and placed two (2) match boxes in his pocket and immediately ran away; that two (2) policemen arrived in a tricycle and arrested him; that he told the policemen that the match boxes were not his as they were only placed by “Borta” in his pocket; that despite his protestation, he was forced by the policemen to go to the City Hall. Appellant further testified that he has not sold nor purchased marijuana; that he signed Exh. “B”, his extrajudicial confession as he was forced to do so as ‘water cure’ was applied on him by the policemen who arrested him (TSN, May 3, 1985, pp. 2- 4).

“Appellant's testimony was corroborated by Orlando Pineda, a neighbor, who testified that appellant never used or sold marijuana.” (TSN, February 21, 1985, pp. 2-3).” (At pp. 52-54. Rollo).

Appellant Taruc raised the following assignment of errors in this appeal:

I

“THE TRIAL COURT ERRED IN APPRECIATING THE ALLEGED WRITTEN CONFESSION (EXH. “B”) OF THE ACCUSED ALTHOUGH THOUGH PROCURED THROUGH FORCE, VIOLENCE AND INTIMIDATION.

II

“THE TRIAL COURT ERRED IN DISREGARDING THE DEFENSE OF THE ACCUSED ALTHOUGH CONVINCINGLY PRESENTED.” (Rollo, p. 41)

It is a well-established rule that trial courts’ findings of facts carry great weight for these courts have the privilege of examining the demeanor of the witnesses while on the witness stand, and therefore can discern if these

witnesses are telling the truth or not. This rule is, however, subject to certain exceptions as: (1) when the conclusion is a finding based entirely on speculations; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) where there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; and (5) when the court, in making its findings, went beyond the issues of the case and the same are contrary to the admissions of both the appellant and appellee. (*People v. Canada*, 144 SCRA 121)

In the case at bar, a careful review of the records shows some misapprehension of facts, inconsistencies, and other discrepancies which constrain us to grant this appeal and acquit the accused-appellant. It is significant that the Solicitor General as counsel for the appellee recommended that Cirilo Taruc be acquitted of the crime charged.

The prosecution evidence, testimonial as well as documentary upon which the lower court based its finding of guilt beyond reasonable doubt leaves much to be desired.

The accused signed an extrajudicial confession which was presented as Exhibit “B”.

On this point, the lower court stated:

“ACCUSED testified that while detained inside the cell he was maltreated by administering water treatment to him by the two policemen and he signed the extrajudicial confession (Exh. “B”) because he could no longer bear the hardship.

“CONSIDERING this positive declaration of the accused implicating the two policemen, namely: PATS. Feliciano Ligerio and Enrico Campos, INP, Cabanatuan City, with charges of maltreatment, the INP Station Commander, Cabanatuan City and the Provincial Commander, PC/INP Superintendent are hereby directed to conduct an in-depth investigation of this charge of maltreatment of detained prisoners and if warranted by the evidence, the appropriate charges should be filed against the erring policemen.” (Rollo, p. 23)

This confession is inadmissible in evidence. We agree with the Solicitor General who observed that:

“The long question of the Investigator informing appellant of his right to remain silent and to counsel followed by a monosyllabic answer does not satisfy the requirements of the law that the accused be informed of his rights under the constitution and our laws. (*People v. Galit*, 135 SCRA 465, 473).

“As held by this Honorable Court in the case of *People v. Nicandro*, 141 SCRA 289:

“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 v. Ramos*, 122 SCRA 312; *People v. 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.

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“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, xxx" (Cited in *People v. Duhan*, 142 SCRA 100. 108).

Appellant claimed that he was forced to sign his extrajudicial confession as he was given the 'water treatment.'

"14. Trial courts are cautioned to look carefully into the circumstances surrounding the taking of any confession, especially where the prisoner claims having been maltreated into giving one. Where there is doubt as to its voluntariness, the same must be rejected in toto." (*People v. Galit*, supra) (Rollo, pp. 59-61)

If we disregard the extrajudicial confession, we find that the prosecution has no other evidence to sustain a finding of guilt beyond reasonable doubt.

This Court cannot give full credit to the testimonies of the prosecution witnesses particularly those of the two arresting officers, as they are replete with contradictions and tainted with inaccuracies.

The testimony of Pat. Feliciano Liguero, Jr., creates doubts as to his knowledge of the identity of the alleged informant and as to whether he was indeed present during the alleged sale.

Liguero testified:

"Q.

Can you tell the name of the informer to whom Mr. Cirilo Taruc was selling marijuana?

"A.

Pat. Campos. I do not know his first name." (Original Records, p. 78)

x x x x x x x x

"Q.

You are not in a position to tell who is the informant? "A. It was Pat. Campos, sir." (Original Records, p. 80)

Liguero testified that it was Pat. Campos, his companion- policeman, who was, himself, the informant. Yet, at the same time, Liguero also testified that when the accused Taruc was apprehended, he was with both Pat. Campos and the informer.

The testimony of Liguero contradicted the testimony of Pat. Enrico Campos as to who held the two match boxes of marijuana during the arrest and who took them away from the appellant.

In Liguero's testimony:

"Fiscal:

You said you were the one who actually took the two match boxes from the accused where did you get this two match boxes?

"Atty. Bueneventura:

I object on the ground that it has no basis.

Fiscal:

It is very clear that the witness testified that he actually made the apprehension. He actually got the 2 match boxes from the accused." (Original Records, p. 81)

On the other hand, Campos testified:

"Q. Whom was Taruc giving it?

"A. To the informer, sir.

"Q. Did you see the informer received the two match boxes?

"A. Yes, sir.

"Q. Afterwards was there anything which the informer did when he received it?

"A. The person driving who pretended to be a driver alighted from the tricycle and arrested Taruc, sir.
(Original Records, p. 90)

There was no positive declaration on the part of Pat. Campos that he saw the accused selling marijuana:

He testified:

“Atty. Buenaventura:

“Q.

Let us get this straight and please be honest. When you and your companion made the arrest of Cirilo Taruc and you were not certain what is contained in the match box is it not?

“A.

No, sir.

“Q.

When you said no, sir, you do not know what is contained thereat?

“A.

Yes, sir.

“Q.

You realized only on the strength of the representation of your informer?

“A.

Yes, sir. (Original Records, pp. 93-94)

x x x x x x x x

"Q.

Because your companion was the one near the informer and Taruc, he was the one who can ascertain whether or not the two match boxes came from Taruc or came from your informer is it not?

“A.

Yes, sir.

“Q.

So your testimony that the two match boxes which allegedly contained leaves which you can not be certain whether it is marijuana or not came from Taruc was based only on the information given to you by your informer is it not?

“A.

No, sir.

“Q.

When you said no, sir, you do not know what is contained thereat?

“A.

Yes, sir.

“Q.

You realized only on the strength of the representation of your informer?

“A.

Yes, sir. (Original Records, pp. 93-94)

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“A.

Yes, sir.

“Q.

So your testimony that the two match boxes which allegedly contained leaves which you can not be certain whether it is marijuana or not came from Taruc was based only on the information given to you by your informer is it not?

“A.

Yes, sir. (Original Records, p. 94)

The lower court invoked the disputable presumption that an official duty has been regularly performed in reference to the arrest made by Pat. Liguero and Pat. Campos. The presumption that official duty is regularly

performed cannot, by itself, prevail over the Constitutional presumption of innocence accorded an accused person, (see *People v. Ale*, 145 SCRA 50, 60)

The appellant denies having sold the two match boxes of marijuana to the two arresting officers.

He testified:

“Q.

Now, will you please tell this Honorable Court, how did you come in possession of these 2 match boxes of marijuana?

“A.

This is the situation sir, we were sitting in front of our house together with my friends and suddenly a certain Bortang arrived and he placed something inside my pocket and after placing the 2 match boxes inside my pocket, he immediately ran away and then a tricycle arrived, sir.

“Q.

Why did you not tell the two policemen that the 2 match boxes of marijuana are not yours?

“A.

I told the two policemen that the 2 match boxes of marijuana were not mine, it was only placed by Bortang inside my pocket but the two policemen forced me to go with them at the City Hall, sir.” (Original Records, p. 142)

If the inculpatory facts and circumstances are capable of two or more explanations one of which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction. (*People v. Parayno*, 24 SCRA 3; *People v. Palana*, 47 Phil. 48; *People v. Ale*, *supra*.)

As held in the case of *People v. Ale*, *supra*:

“The drug menace which now assumes epidemic proportions all over the world has not spared the Philippines. The enormous profits of the illicit trade have not only increased the rapidly multiplying number of addicts whose lives have been destroyed but have also spawned a syndicated network of ruthless and cunning operators. The drug traffic unceasingly tries to corrupt law enforcers, prosecutors, judges, and local officials alike.

“Judges trying narcotics cases are often placed in a non-enviable predicament. The threat posed by drugs against human dignity and the integrity of society is malevolent and incessant. Courts should not hamper, in any way, the dedicated although sometimes puny efforts to stem the giant menace. Courts should not unwittingly tie down the hands of narcotic agents whose work is already difficult and dangerous enough without legal and procedural obstacles to successful prosecutions.

“At the same time, we cannot close our eyes to the many reports of evidence being planted on unwary persons either for extorting money or exacting personal vengeance. By the very nature of anti- narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drugs deals, the possibility of abuse is great. Courts must also be extra vigilant in trying drug charges lest an innocent person is made to suffer the unusually severe penalties for drug offenses.” (At pp. 58-59, *People v. Ale*, *supra*)

All considered, we hold that the guilt of appellant Taruc has not been established beyond reasonable doubt.

WHEREFORE, the appealed decision is REVERSED and SET ASIDE, and the appellant is hereby ACQUITTED on grounds of reasonable doubt.

SO ORDERED.

Fernan (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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