

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. IDEL AMINNUDIN Y AHNI, DEFENDANT-APPELLANT.

G.R. No. 74869. July 06, 1988

Ponente: CRUZ, J.

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CRUZ, J.:

The accused-appellant claimed his business was selling watches but he was nonetheless arrested, tried and found guilty of illegally transporting marijuana. The trial court, disbelieving him, held it was high time to put him away and sentenced him to life imprisonment plus a fine of P20,000.00.[1]

Idel Aminnudin was arrested on June 25, 1984, shortly after disembarking from the M/V Wilcon 9 at about 8:30 in the evening, in Iloilo City. The PC officers who were in fact waiting for him simply accosted him, inspected his bag and finding what looked like marijuana leaves took him to their headquarters for investigation. The two bundles of suspect articles were confiscated from him and later taken to the NBI laboratory for examination. When they were verified as marijuana leaves, an information for violation of the Dangerous Drugs Act was filed against him.[2] Later, the information was amended to include Farida Ali y Hasson, who had also been arrested with him that same evening and likewise investigated.[3] Both were arraigned and pleaded not guilty.[4] Subsequently, the fiscal filed a motion to dismiss the charge against Ali on the basis of a sworn statement of the arresting officers absolving her after a "thorough investigation." [5] The motion was granted, and trial proceeded only against the accused-appellant, who was eventually convicted.[6]

According to the prosecution, the PC officers had earlier received a tip from one of their informers that the accused-appellant was on board a vessel bound for Iloilo City and was carrying marijuana.[7] He was identified by name.[8] Acting on this tip, they waited for him in the evening of June 25, 1984, and approached him as he descended from the gangplank after the informer had pointed to him.[9] They detained him and inspected the bag he was carrying. It was found to contain three kilos of what were later analyzed as marijuana leaves by an NBI forensic examiner,[10] who testified that she conducted microscopic, chemical and chromatographic tests on them. On the basis of this finding, the corresponding charge was then filed against Aminnudin.

In his defense, Aminnudin disclaimed the marijuana, averring that all he had in his bag was his clothing consisting of a jacket, two shirts and two pair of pants.[11] He alleged that he was arbitrarily arrested and immediately handcuffed. His bag was confiscated without a search warrant. At the PC headquarters, he was manhandled to force him to admit he was carrying the marijuana, the investigator hitting him with a piece of wood in the chest and arms even as he parried the blows while he was still handcuffed.[12] He insisted he did not even know what marijuana looked like and that his business was selling watches and sometimes cigarettes.[13] He also argued that the marijuana he was alleged to have been carrying was not properly identified and could have been any of several bundles kept in the stock room of the PC headquarters.[14]

The trial court was unconvinced, noting from its own examination of the accused that he claimed to have come to Iloilo City to sell watches but carried only two watches at the time, traveling from Jolo for that purpose and

spending P107.00 for fare, not to mention his other expenses.[15] Aminnudin testified that he kept the two watches in a secret pocket below his belt but, strangely, they were not discovered when he was bodily searched by the arresting officers nor were they damaged as a result of his manhandling.[16] He also said he sold one of the watches for P400.00 and gave away the other, although the watches belonged not to him but to his cousin,[17] to a friend whose full name he said did not even know.[18] The trial court also rejected his allegations of maltreatment, observing that he had not sufficiently proved the injuries sustained by him.[19]

There is no justification to reverse these factual findings, considering that it was the trial judge who had immediate access to the testimony of the witnesses and had the opportunity to weigh their credibility on the stand. Nuances of tone or voice, meaningful pauses and hesitation, flush of face and dart of eyes, which may reveal the truth or expose the lie, are not described in the impersonal record. But the trial judge sees all of this, discovering for himself the true fact amidst the falsities.

The only exception we may make in this case is the trial court's conclusion that the accused-appellant was not really beaten up because he did not complain about it later nor did he submit to a medical examination. That is hardly fair or realistic. It is possible Aminnudin never had that opportunity as he was at that time under detention by the PC authorities and in fact has never been set free since he was arrested in 1984 and up to the present. No bail has been allowed for his release.

There is one point that deserves closer examination, however, and it is Aminnudin's claim that he was arrested and searched without warrant, making the marijuana allegedly found in his possession inadmissible in evidence against him under the Bill of Rights. The decision did not even discuss this point. For his part, the Solicitor General dismissed this after an all-too-short argument that the arrest of Aminnudin was valid because it came under Rule 113, Section 6(b) of the Rules of Court on warrantless arrests. This made the search also valid as incidental to a lawful arrest.

It is not disputed, and in fact it is admitted by the PC officers who testified for the prosecution, that they had no warrant when they arrested Aminnudin and seized the bag he was carrying. Their only justification was the tip they had earlier received from a reliable and regular informer who reported to them that Aminnudin was arriving in Iloilo by boat with marijuana. Their testimony varies as to the time they received the tip, one saying it was two days before the arrest,[20] another two weeks[21] and a third "weeks before June 25." [22] On this matter, we may prefer the declaration of the chief of the arresting team, Lt. Cipriano Querol, Jr., who testified as follows:

"Q

You mentioned an intelligence report, you mean with respect to the coming of Idel Aminnudin on June 25, 1984?

"A Yes, sir.

"Q When did you receive this intelligence report?

"A Two days before June 25, 1984 and it was supported by reliable sources.

"Q Were you informed of the coming of the Wilcon 9 and the possible trafficking of marijuana leaves on that

date?

"A

Yes, sir, two days before June 25, 1984 when we received this information from that particular informer, prior to June 25, 1984 we have already reports of the particular operation which was being participated by Idel Aminnudin.

"Q You said you received an intelligence report two days before June 25, 1984 with respect to the coming of Wilcon 9?

"A Yes, sir.

"Q Did you receive any other report aside from this intelligence report?

"A Well, I have received also other reports but not pertaining to the coming of Wilcon 9. For instance, report of illegal gambling operation.

"COURT:

"Q

Previous to that particular information which you said two days before June 25, 1984, did you also receive any report regarding the activities of Idel Aminnudin?

"A

Previous to June 25, 1984 we received reports on the activities of Idel Aminnudin.

"Q What were those activities?

"A Purely marijuana trafficking.

"Q From whom did you get that information?

"A It came to my hand which was written in a required sheet of information, maybe for security reason and we

cannot identify the person.

"Q

But you received it from your regular informer?

"A Yes, sir.

"ATTY. LLARIZA:

"Q Previous to June 25, 1984, you were more or less sure that Idel Aminnudin is coming with drugs?

"A

Marijuana, sir.

"Q

And this information respecting Idel Aminnudin's coming to Iloilo with marijuana was received by you many days before you received the intelligence report in writing?

"A Not a report of the particular coming of Aminnudin but his activities.

"Q You only knew that he was coming on June 25, 1984 two days before?

"A Yes, sir.

"Q You mean that before June 23, 1984 you did not know that Aminnudin was coming?

"A

Before June 23, 1984, I, in my capacity, did not know that he was coming but on June 23, 1984 that was the time when I received the information that he was coming. Regarding the reports on his activities, we have reports that he has already consummated the act of selling and shipping marijuana stuff.

"COURT:

"Q And as a result of that report, you put him under surveillance?

"A Yes, sir.

"Q In the intelligence report, only the name of Idel Aminnudin was mentioned?

"A Yes, sir.

"Q

Are you sure of that?

"A On the 23rd he will be coming with the woman.

"Q

So that even before you received the official report on June 23, 1984, you had already gathered information to the effect that Idel Aminnudin was coming to Iloilo on June 25, 1984?

"A Only on the 23rd of June.

"Q You did not try to secure a search warrant for the seizure or search of the subject mentioned in your intelligence report?

"A No, more.

"Q Why not?

"A Because we were very very sure that our operation will yield positive result.

"Q Is that your procedure that whenever it will yield positive result you do not need a search warrant anymore?

"A Search warrant is not necessary."[23]

That last answer is a cavalier pronouncement, especially as it comes from a mere lieutenant of the PC. The

Supreme Court cannot countenance such a statement. This is still a government of laws and not of men.

The mandate of the Bill of Rights is clear:

"Sec. 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized."

In the case at bar, there was no warrant of arrest or search warrant issued by a judge after personal determination by him of the existence of probable cause. Contrary to the averments of the government, the accused-appellant was not caught in flagrante nor was a crime about to be committed or had just been committed to justify the warrantless arrest allowed under Rule 113 of the Rules of Court. Even expediency could not be invoked to dispense with the obtention of the warrant as in the case of *Roldan v. Arca*,^[24] for example. Here it was held that vessels and aircraft are subject to warrantless searches and seizures for violation of the customs law because these vehicles may be quickly moved out of the locality or jurisdiction before the warrant can be secured.

The present case presented no such urgency. From the conflicting declarations of the PC witnesses, it is clear that they had at least two days within which they could have obtained a warrant to arrest and search Aminnudin who was coming to Iloilo on the M/V Wilcon 9. His name was known. The vehicle was identified. The date of its arrival was certain. And from the information they had received, they could have persuaded a judge that there was probable cause, indeed, to justify the issuance of a warrant. Yet they did nothing. No effort was made to comply with the law. The Bill of Rights was ignored altogether because the PC lieutenant who was the head of the arresting team, had determined on his own authority that a "search warrant was not necessary."

In the many cases where this Court has sustained the warrantless arrest of violators of the Dangerous Drugs Act, it has always been shown that they were caught red-handed, as a result of what are popularly called "buy-bust" operations of the narcotics agents.^[25] Rule 113 was clearly applicable because at the precise time of arrest the accused was in the act of selling the prohibited drug.

In the case at bar, the accused-appellant was not, at the moment of his arrest, committing a crime nor was it shown that he was about to do so or that he had just done so. What he was doing was descending the gangplank of the M/V Wilcon 9 and there was no outward indication that called for his arrest. To all appearances, he was like any of the other passengers innocently disembarking from the vessel. It was only when the informer pointed to him as the carrier of the marijuana that he suddenly became suspect and so subject to apprehension. It was the furtive finger that triggered his arrest. The identification by the informer was the probable cause as determined by the officers (and not a judge) that authorized them to pounce upon Aminnudin and immediately arrest him.

Now that we have succeeded in restoring democracy in our country after fourteen years of the despised dictatorship, when any one could be picked up at will, detained without charges and punished without trial, we will have only ourselves to blame if that kind of arbitrariness is allowed to return, to once more flaunt its disdain of the Constitution and the individual liberties its Bill of Rights guarantees.

While this is not to say that the accused-appellant is innocent, for indeed his very own words suggest that he is lying, that fact alone does not justify a finding that he is guilty. The constitutional presumption is that he is innocent, and he will be so declared even if his defense is weak as long as the prosecution is not strong enough to convict him.

Without the evidence of the marijuana allegedly seized from Aminnudin, the case of the prosecution must fall.

That evidence cannot be admitted, and should never have been considered by the trial court for the simple fact is that the marijuana was seized illegally. It is the fruit of the poisonous tree, to use Justice Holmes' felicitous phrase. The search was not an incident of a lawful arrest because there was no warrant of arrest and the warrantless arrest did not come under the exceptions allowed by the Rules of Court. Hence, the warrantless search was also illegal and the evidence obtained thereby was inadmissible.

The Court strongly supports the campaign of the government against drug addiction and commends the efforts of our law-enforcement officers against those who would inflict this malediction upon our people, especially the susceptible youth. But as demanding as this campaign may be, it cannot be more so than the compulsions and the Bill of Rights for the protection of the liberty of every individual in the realm, including the basest of criminals. The Constitution covers with the mantle of its protection the innocent and the guilty alike against any manner of high-handedness from the authorities, however praiseworthy their intentions.

Those who are supposed to enforce the law are not justified in disregarding the rights of the individual in the name of order. Order is too high a price for the loss of liberty. As Justice Holmes, again, said, "I think it a less evil that some criminals should escape than that the government should play an ignoble part." It is simply not allowed in the free society to violate a law to enforce another, especially if the law violated is the Constitution itself.

We find that with the exclusion of the illegally seized marijuana as evidence against the accused-appellant, his guilt has not been proved beyond reasonable doubt and he must therefore be discharged on the presumption that he is innocent.

ACCORDINGLY, the decision of the trial court is REVERSED and the accused-appellant is ACQUITTED. It is so ordered.

Narvasa, Gancayco, and Medialdea, JJ., concur.

Griño-Aquino, J., Pls. see attached dissenting opinion.

[1] Rollo, p. 29.

[2] Ibid., p. 2.

[3] Original Records, p. 6.

[4] Ibid., p. 20.

[5] "Exh. 1," Original Records, p. 204.

[6] Original Records, p. 26.

[7] TSN, Sept. 19, 1984, p. 5; Oct. 25, 1984, p. 31.

[8] TSN, Oct. 25, 1984, p. 29.

[9] TSN, Sept. 19, 1984, pp. 6-7.

[10] TSN, Sept. 5, 1984, pp. 8-10.

[11] TSN, Aug. 15, 1985, p. 3.

[12] Ibid., pp. 8-9; 19-20.

[13] Id., pp. 10 & 13.

[14] Brief for the Appellant, p. 22.

[15] Rollo, p. 28.

[16] TSN, Aug. 15, 1985, pp. 17-18; 22-24.

[17] Ibid., p. 29.

[18] Id., p. 4.

[19] Rollo, p. 28.

[20] TSN, Oct. 25, 1984, p. 31.

[21] TSN, Sept. 19, 1984, p. 19.

[22] TSN, Oct. 25, 1984, p. 12.

[23] TSN, Oct. 25, 1984, pp. 31-33.

[24] 65 SCRA 336.

[25] *People v. Rubio*, 142 SCRA 329; *People v. Madarang*, 147 SCRA 123; *People v. Sarmiento*, 147 SCRA 252; *People v. Cerelegia*; 147 SCRA 538; *People v. Fernando*, G.R. No. L-68409, December 1, 1987.

DISSENTING

GRÍÑO-AQUINO, J.,

I respectfully dissent. I hold that the accused was caught in flagrante, for he was carrying marijuana leaves in his bag at the moment of his arrest. He was not "innocently disembarking from the vessel." The unauthorized transportation of marijuana (Indian hemp), which is a prohibited drug, is a crime. (Sec. 4, Rep. Act No. 6425). Since he was committing a crime, his arrest could be lawfully effected without a warrant (Sec. 6-a, Rule 113, Rules of Court), and the search of his bag (which yielded the marijuana leaves) without a search warrant was also lawful (Sec. 12, Rule 126, Rules of Court). I vote to affirm the judgment of the trial court finding him guilty of illegally transporting marijuana.

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