

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LORENZO SAYANG-OD, ACCUSED-APPELLANT.

G.R. No. 77582. December 19, 1989

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

This is a prosecution under section 4, Article II, of the Dangerous Drug Act, involving the delivery and distribution of six kilos of dried marijuana leaves.

The information alleged as follows:

The undersigned 2nd Assistant Provincial Fiscal accuses LORENZO SAYANG-OD y LAUNGAN, BEN BULA-OY y ORIBELLO, BALTAZAR CARANAY y DUCUSIN and JUANITO CARREON y CASUGAY of the crime of VIOLATION OF SEC. 4, ART. II OF R.A. 6425 AS AMENDED BY P.D. 1675, committed as follows:

That on or about the 28th day of August, 1982, in the Municipality of Naguilian, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating together and mutually helping one another with Brando Flores @ Boy Flores who is still at large, did then and there willfully, unlawfully and feloniously and without any justifiable cause and not being authorized by law, sell six (6) kilos, more or less of dried marijuana leaves, a prohibited drug, to Sgt. Edmund Hufana, PC, a government agent, who pretended as buyer.

CONTRARY to Sec. 4, Art. II of R.A. 6425 as amended by P.D. 1675.[1]

The arrest of the four accused, except Brando Flores, was effected as a result of a "buy-bust" mission conducted by the intelligence division of the Philippine Constabulary (PC), stationed at Camp Diego Silang, Carlatan, San Fernando, La Union. Flores has since remained at large.

The prosecution presented six witnesses. Sgt. Edmund Hufana, of the San Fernando PC, declared that on August 24, 1982, he was contacted by a civilian informant that he, the informant, had been told by the accused Brando Flores "that he knows of some marijuana pushers at Bagulin," in San Fernando, La Union; that he alerted his fellow-soldiers in order to map out a modus operandi to bring the said dope peddlers to justice; that they agreed that it was a certain Patrolman Yaranon who would act as buyer-poseur; that they proceeded to Aguyan, Pugo, of the same municipality where they met their informer, Brando Flores, and Ben Bulaoy; that they were allegedly instructed to proceed to Bacsil (same municipality) because Flores and Bulaoy were going to Dagup, to contact their sources; they, Hufana and his backup, however, allegedly told Flores and Bulaoy that they could not wait and promised to meet the team on the 28th; then on the said date, they met Flores and Bulaoy who further instructed them to proceed to Barangay Lower Bimmotubot in Naguilian, La Union where the alleged transaction would take place; that upon arriving there, Flores and Bulaoy allegedly made them wait in a hut; that five men, one of whom, the accused Lorenzo Sayang-od, arrived toting a sack of dried marijuana leaves; that they allegedly

haggled over the price with Sayang-od, Baltazar Caranay, and Juanito Carreon; and that at that precise moment he, Sgt. Hufana, signalled at his back-up who swept down on the foursome to make the arrest; that, however, Flores allegedly jumped out of the window and managed to escape; that the quartet of Bulaoy, Sayang-od, Caranay, and Carreon were thereafter taken to the PC headquarters and the plants turned over to the PC laboratory, which were positively found to be cannabis sativa.

The prosecution thereafter put Patrolman Emilio Yaranon on the stand, in which he corroborated Hufana. So did Patrolman Edwin Benavidez, Sergeant Ricardo Gacunasa, and Renato Oca, and Captain Valentino Gaerlan.

The defense presented Baltazar Caranay as its first witness. His version is that he knew Sayang-od, Carreon, and Bulaoy; that on August 28, 1982, at or about 12:00 noon, he was called by a certain Eduardo Layugan who had been allegedly conversing with three male persons (Hufana and two others whom he claimed he did not know), to assist him, Layugan, because he did not allegedly speak Tagalog; that subsequently, he, Caranay, cooked food for the three; that thereupon, he saw Carreon whom he asked to catch fish; that Carreon later returned with canned fish and other food; that thereafter, Brando Flores arrived carrying a sack which turned out to contain tetrahydrocannabinol, or marijuana; that moments later, Hufana trained his firearm at Flores, who, however, managed to jump out of the window and made good his escape; that Hufana allegedly took a shot at Flores but apparently missed; that the latter repaired to the house; that he allegedly made Carreon and Layugan, lie spread-eagle on the floor; that at such a precise time, Hufana's companions, three in number, clamped upon Sayang-od who was also made to lie face down to the ground where all three were later bound; that all three were led to a "Ford Fiera"; that Linda Carreon, mother of the accused Carreon, inquired: "Why are you getting those people;" that Hufana allegedly riposted, "We will get them only for questioning and they will come back later;" that the three were transported aboard the Fiera; that while there, a certain Benny produced three bundles of marijuana and declared, "Pagkakakwartahan natin ito"; that they were taken to the PC headquarters at San Fernando, La Union, where they were detained.

The version, on the other hand, of Sayang-od is to the effect that on August 28, 1982, he went to a certain Ruben Mendoza's house where he agreed to meet a certain Remigio Caluza who was selling cattle; that upon arriving at the Mendoza residence, he saw only Ruben; that while he waited he heard two gunshots coming from the house of Layugan; that he proceeded to Layugan's residence in order to verify matters; and that thereupon, Hufana called him while Edwin Benavidez, also a police operative, pushed him; that Benavidez poked his gun at him; that he also saw Caranay and Carreon lying face down; he corroborated Caranay's testimony as to the inquiries of Carreon's mother and the fact that "Benny" had taken interest in the substance.

He added, however, that while at the PC headquarters at San Fernando, La Union, they were made to impress their thumbprints on a piece of paper on police pretenses that "they could go home" thereafter; that he protested because he did not know the contents of the paper; that they were incarcerated until September 5, 1982, after which they were transported to Naguilian, where they were held for a month, and then returned to San Fernando.

Bulaoy's story is as follows: that he had been at San Fernando because his aunt summoned him to help till their land; that on August 28, 1982, he was at Barrio Pias; that he saw a man pushing a "Ford Fiera" along the road; that another man was behind the wheel; that they asked him help to push the vehicle; that after the car started, he hopped in; that when he later asked them to let him off, one of them said "not yet," that instead he was brought to the PC headquarters in San Fernando; that he was later taken to Barangay Bimmotubot, where he was left in the company of two soldiers; that meanwhile, the two men who had accosted him picked up Brando Flores; that when they returned, they were with Carreon, Sayang-od, and Caranay, all bound at the hands; that they proceeded toward Bauang, La Union; that later, "Benny" brought out paper bags containing "grass" and uttered: "Pagkakakwartahan, Pare"; that they were taken to San Fernando PC headquarters where they were allegedly

mauled and forced to admit ownership of the sackful of tetrahydrocannabinol.

Carreon testified that on August 28, 1982, Layugan called him to ask him to trap fish for certain visitors' request; that after catching fish, he returned where he, together with Caranay, prepared the meal; that three persons later arrived, one of whom (Flores) toted a sack; that Hufana, one of the visitors, opened it up; that he, Hufana, held Flores by the arm; that notwithstanding, the latter managed to jump out of the window and was able to escape; that moments later, he heard five gunshots; that they, Caranay, Sayang-od, and Carreon, were all made to drop on the floor, where they were hogtied.

On January 30, 1987, the lower court rendered a 40-page judgment, the dispositive portion of which reads:

WHEREFORE, and in view of the foregoing premises, judgment is hereby rendered as follows:

1. The accused Ben Bula-oy, Juanito Carreon and Baltazar Caranay are hereby acquitted of the crime charged in the Information, on the ground that their guilt are (sic) not proven beyond reasonable doubt, and, accordingly, the Provincial Warden of La Union is hereby ordered to release them immediately, unless they are detained for another offense;
2. Finding the accused Lorenzo Sayang-od guilty beyond reasonable doubt of the offense charged in the Information, he is hereby sentenced to suffer the penalty of life imprisonment, and to pay a fine of twenty thousand (P20,000.00) pesos; and
3. Ordering the confiscation and forfeiture of the marijuana leaves in favor of the Government, and the Clerk of Court is hereby ordered to immediately turn over the said marijuana leaves to the Dangerous Drugs Board for proper disposal without delay.

With costs against the accused Lorenzo Sayang-od.

SO ORDERED.[2]

The trial court acquitted, but one, all of the accused for failure of the prosecution to establish conspiracy beyond reasonable doubt. It rejected the defense's version that it was Brando Flores who owned the sack of Indian hemp, but rather Sayang-od himself. Hence, Sayang-od alone was held culpable.

The Court feels that the trial judge should have convicted all four, for conspiracy to distribute marijuana. It is clear, from their testimonies, that all four were bent on pinning solitary blame on Brando Flores and were determined to cover up for the others' part in committing the offense. This is evidence of conspiracy and collective guilt.

In addition, the prosecution witnesses were straightforward and spontaneous in their recital. The defense has not successfully shown any motive on the part of the prosecution, as a matter of grudge, to persecute them.

For all its errors, however, the lower court must be sustained. There is no doubt that Sayang-od is guilty, having been positively identified as the carrier of a marijuana sack. His effort, as we said, to point sole fault to Brando Flores can not negative the clear and convincing evidence presented by the prosecution that he is guilty. With respect to his co-accused, double jeopardy is a bar in reexamining the cases against them. But, in letting them go scot-free, he, Sayang-od, winds up being the fall guy. And while he can not be acquitted, judicial sympathy is on his side.

WHEREFORE, judgment is hereby rendered **AFFIRMING** the decision appealed from. We, however, strongly recommend executive clemency. Let the Department of Justice be furnished a copy of this Decision.

SO ORDERED.

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

[1] Criminal Case Records, Regional Trial Court, First Judicial Region, Branch 33, Bauang, La Union, Crim. Case No. 556-BG, 15.

[2] Rendered by Judge Avelino S. Quintos, rollo, 86-125.

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