

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ISAGANI BOLASA, GERARDO CABAMBAN, ACQUITTED, AND SAMUEL
SALAMANES, DEFENDANT-APPELLANT.**

G.R. No. 80436. June 02, 1992

Ponente: FELICIANO, J.

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FELICIANO, J.:

Samuel Salamanes, together with Isagani Bolasa and Gerardo Cabamban, were charged with selling, delivering and transporting “marijuana flowering tops,” a prohibited drug.[1]

After arraignment and trial, the court a quo rendered in due time a decision acquitting Isagani Bolasa and Gerardo Cabamban for insufficiency of evidence, but finding accused-appellant Samuel Salamanes guilty of violating Section 4 of Republic Act 6425, as amended, and sentencing him to life imprisonment and to pay a fine of P20,000.00 and costs.[2]

The evidence presented by the People tended to establish the following facts:[3]

At around 4:30 p.m. on 17 May 1985, a civilian informer went to the Police Station of Valenzuela, Bulacan, and reported that a person was selling marijuana at the basketball court along Daez Street at Karuhatan, Valenzuela. After evaluation of the report, the Station Commander ordered Sgt. Teodoro Sandro, Pat. Eduardo B. Puchero and Pat. Alfredo Gadiano to conduct a “buy-bust” operation along with the civilian informer for the apprehension of the reported drug pusher.

Pat. Puchero marked a P50.00 bill by writing his initials “EBP” at the upper left hand corner of its obverse side.[4] The marked bill was given to the civilian informer with instructions to buy marijuana from the suspected drug pusher and to give a pre-arranged signal of scratching his head as soon as he had obtained the marijuana from said person.

At the basketball court along Daez Street, the three (3) policemen, who separately positioned themselves about 20 meters away from the civilian informer, saw the civilian informer approach one Gerardo Cabamban. Cabamban was later joined by one Isagani Bolasa and then by accused-appellant. The police team saw the civilian informer hand the marked money to Cabamban, who passed it on to Bolasa and who in turn handed the money over to accused-appellant.[5] Thereafter, accused-appellant left the compound and upon his return handed “something” to the civilian informer. The civilian informer then gave the pre-arranged signal of scratching his head and the police rushed to apprehend Cabamban, Bolasa and accused-appellant. Two of the three suspects tried to flee but were quickly apprehended by the police. An on-the-spot body search was immediately conducted on the three suspects but the search failed to yield any marijuana; however, the marked money was found at the right pocket of accused-appellant.[6]

After the three (3) suspects were arrested and searched, Pat. Puchero asked the civilian informer for whatever Salamanes had given him just before the pre arranged signal was given. The informer turned over to Pat. Puchero

a “Hope” cigarette pack empty of cigarettes but with suspected marijuana dried flowering tops wrapped in a mosquito coil wrapper.[7] The police later delivered the “Hope” pack to the National Bureau of Investigation for laboratory analysis of its contents. On the same day, the National Bureau of Investigation issued a certification declaring that the contents of the “Hope” pack, on preliminary examination, was found positive for marijuana.[8] On 21 May 1990, NBI Forensic Chemist Elvira del Rosario submitted a report (Exhibit “B”) stating that the material confiscated during the “buy-bust” operation had been subjected to microscopic, chemical and chromatographic analyses, which confirmed the preliminary examination result that the specimen consisted of “dried marijuana flowering tops.”

The accused presented a different version of the facts.[9] Bolasa testified that on 17 May 1985, he was playing in the basketball court along Daez street when the police suddenly arrested him. Upon his inquiry as to the cause of his arrest, the police allegedly replied that he was being arrested for being a drug addict. A search was conducted on his person, but the search yielded nothing. Bolasa further testified that on the way to the station, Pat. Puchero argued with and mauled accused-appellant Salamanes and pressured the latter to admit prior possession of the seized marijuana surrendered by the civilian informer.

Accused Cabamban, for his part, testified that on 17 May 1985 at around 4:30 p.m. he, having just accompanied his sister-in-law to a bus-stop at MacArthur Highway, was passing by the basketball court along Daez Street, when he was arrested together with Bolasa and accused-appellant Salamanes on charges of being a drug addict.

Accused-appellant Samuel Salamanes testified that on 17 May 1985 at around 4:30 p.m., he was watching a basketball game along Daez Street when Pat. Puchero, Sandro and Gadiano drew out their guns and arrested him on charges of being a drug addict; that a body search was conducted on his person, but yielded nothing; and that while they were on the way to the police station, Pat. Puchero pressed him to inform them who his supplier was. The person pointed to was one Natividad Yabut who was accordingly arrested and charged criminally in court.

Accused-appellant ascribes the following errors to the trial court:

- “1. The lower court erred in convicting accused-appellant for the alleged violation of Section 4, Republic Act No. 6425, otherwise known as the Dangerous Drugs Act, as amended.
2. The lower court erred in giving too much credence to the testimonies of Pat. Puchero, Pat. Gadiano and Pat. Sandro.
3. The lower court erred by not requiring the informer (CI) to testify in the case to achieve fair and equal justice.
4. The lower court erred in not giving credence [to] the testimonies of accused-appellant and his co-accused and his witnesses.
5. The lower court erred in not acquitting the accused-appellant Samuel Salamanes [on grounds of] reasonable doubt.”[10]

These supposed errors may be reduced to a single issue of credibility: whether or not the trial court erred in giving credence to the evidence of the prosecution rather than to that of the defense.

Appellant Salamanes argues that the non-presentation of the civilian informer as a witness was fatal to the cause of the prosecution. The Court does not agree. It has been repeatedly held that the determination of who should be presented as witnesses for the prosecution is addressed to the sound discretion of the prosecuting officer.[11] While the civilian informer, as the “poseur buyer,” would have been the most logical witness to testify on what transpired at the “buy-bust” operation, his testimony would nonetheless have been merely corroborative. This being so, the identity of the civilian informer may remain confidential; there are strong reasons for permitting the

continued anonymity of the informer such as the maintenance of his health and safety and the encouragement of others to report wrongdoing to police authorities. At any rate, the mounting and conduct of the “buy-bust” operation were sufficiently established by the arresting police officers who, having carried out the “buy-bust” operation, testified with clarity and consistency that accused-appellant had possession of the marked money at the time of his arrest and that he was the same person who had handed the “marijuana flowering tops” to the civilian informer.[12]

Next, Salamanes denies having been arrested in a drug “buy-bust” operation and the seizure from his person of the “buy-bust” money. Instead, he presented the following story: That on 17 May 1985 at around 4:30 p.m., he was watching a basketball game at Daez Street when a group of police officers composed of Sgt. Sandro, Pat. Puchero and Pat. Gadiano arrived on board a passenger jeep and suddenly arrested him and his co-accused on charges of being drug addicts; that on the way to the police station, Pat. Puchero manhandled him and forced him to admit possession of the “marijuana flowering tops” and to inform them (i.e., the police officers) of his source of prohibited drugs; that Pat. Puchero asked from his brother Cesar Salamanes the amount of P3000.00 to “settle the matter”; that upon failing to give to the arresting officers the amount of P3000.00, he and his co-accused were charged in court under the present information.

It is now too well settled to require extensive documentation that where the issue is the extent of credence properly given to the declarations made by witnesses, the findings of the trial court are accorded great weight and respect. Trial judges are undeniably in the best position to weigh conflicting declarations of the witnesses in the light of their opportunity to observe and examine the witnesses’ conduct and attitude at the trial and in the witness chair. Appellate courts will not disturb the credence (or lack of it) accorded by the trial court to the testimony of witnesses unless it be clearly shown that the trial court had overlooked or disregarded arbitrarily the facts and circumstances of significance in the case.

The Court finds no reason to depart from the above general rule. The trial court did not err in giving more credence to the evidence of the prosecution considering that the evidence of the defense consisted mainly of uncorroborated and self-serving statements. In appraising the evidence of the prosecution, the trial court held:

“A close scrutiny of the testimony of all the three police officers in the case will show that they corroborate each other on one salient point and that is [sic] the last person among the three [accused] who received the buy money and delivered the dried marijuana flowering tops to the confidential informer was Samuel Salamanes. Although the court believes that the prosecution should have presented the alleged confidential informer because he was no longer a mere informer but a participant in the bust buy operation, the court is convinced that the testimonies of Pat. Sandro, Gadiano and Puchero sufficed to pin down Samuel Salamanes because of the following grounds: First, according to Pat. Sandro and Pat. Gadiano’s testimony in court, the confidential informer, mentioned one seller of marijuana, and the nickname given which caught the ear of Pat. Gadiano is that of a male person. The testimony on rebuttal of Pat. Puchero mentions the nickname “Gideon” as one of the alleged sellers of marijuana and that Gideon is the nickname of Samuel Salamanes. Second, the testimonies given by these police officers were given in court at long intervals with each other within a span of two years, and the absences of said witnesses having calendared trials may show that the schedules of these police officers did not indicate that they would have been together in court at the same time to tailor their testimony in such a way that would make them jibe with each other on the matter of the complicity of Samuel Salamanes. Thirdly, if the three police officers’ wanted to harass the Salamanes family or to get grease money from them as they alleged in court (see testimony of Cesar Salamanes) the said police officers should not have released Samuel’s brother, Levy Salamanes, who was already with the group when the raid was conducted; with Levy Salamanes in their custody the police can get even a bigger sum. Fourth, when the police officers asked for the source of the marijuana, Alicia Salamanes who was in the jeepney with Samuel Salamanes when the latter was apprehended, she was able to pinpoint the source of the marijuana to the said police officers. The person

pointed to was Natividad Yabut who was indeed arrested and accordingly charged in court before this branch of the Regional Trial Court.”[13]

The defense of extortion must be rejected since it was unsubstantiated by any evidence other than the self-serving testimonies of appellant Samuel Salamanes and his brother Cesar Salamanes.[14] The defense of extortion, and the claim that the arresting officers had deliberately and falsely charged appellant Salamanes of a crime as serious as selling prohibited drugs, must be clearly and convincingly shown if only because of the presumption of regularity of performance of official functions that such defense and claim must over-turn.[15] This, the accused-appellant failed to do. The testimonies of police officers given in court cannot be readily discredited by mere allegations. Moreover, if accused-appellant was indeed arrested arbitrarily, as he would suggest, he could have presented independent witnesses, for instance, spectators at the basketball game along Daez Street, to testify on his behalf. The failure of Salamanes to offer independent corroborating evidence suggests that his defense of extortion was either fabrication or an afterthought.[16] The Court thus finds no reason for overturning the credence and weight given by the trial court to the evidence of the prosecution.

WHEREFORE, the challenged Decision of the Regional Trial Court of Valenzuela dated 31 July 1987 in Criminal Case No. 6929-V-85 is hereby AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Gutierrez, Jr., (Chairman), Bidin, Davide, Jr., and Romero, JJ., concur.

[1] Rollo. p. 6.

[2] RTC Decision, p. 7.

[3] Rollo, p. 96.

[4] TSN, 27 July 1987, p. 5; Folder of Exhibits, p. 6.

[5] TSN, 8 September 1986, p. 5.

[6] TSN, 10 March 1986, p. 5; 9 July 1986, p. 8; 27 July 1987, p. 5.

[7] TSN, 10 March 1986, p. 5; 16 April 1986, p. 2; 8 September 1986, p. 7; 24 September 1986, p. 4; 13 October 1986, p. 7; 9 June 1987, p. 4, 9; 27 July 1987, p. 4.

[8] Folder of Exhibits, p. 2.

[9] Rollo, p. 82 (Appellant's Brief).

[10] Ibid.

[11] People v. Babac, G.R. No. 97932, 23 December 1991; People v. Alerta, Jr., 198 SCRA 656 (1991).

[12] See footnote nos. 5 and 6.

[13] RTC Decision, p. 6.

[14] TSN; 18 May 1987, p. 5; Appellant's Brief, pp. 7,12,15.

[15] People v. Labriaga, 199 SCRA 530 (1991); People v. Vocente, 188 SCRA 100 (1990); People v. Pilar, del, 188 SCRA 37 (1990).

[16] People vs. Ocampo, G.R. Nos. 90247-49, 13 February 1992; People vs. Graza, 196 SCRA 512 (1991).

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