

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REY BERNARDINO Y MOLINA, ACCUSED-APPELLANT.

G.R. No. 83810. January 28, 1991

Ponente: CRUZ, J.

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CRUZ, J.:

The informant's telephone tip was terse: a certain Rey Bernardino was selling marijuana at Malaya St., Malanday, Marikina.[1]

The police acted promptly. A team consisting of Patrolman Roberto Jocson, Isidro Mariano, Romeo Caviso and Mateo Garcia proceeded to the said place to look for their quarry. They brought with them a ten peso bill previously marked on its four corners with the initials of Pat. Wilson Balauitan.[2]

Upon arrival in Malaya St., Jocson sought Bernardino, whom the informer pointed to. The other members of the team positioned themselves in various unobtrusive places where they could watch Jocson and Bernardino. Jocson approached Bernardino and asked if he could "score," meaning if he could buy marijuana. Bernardino left and returned after a while, bringing with him three sticks of marijuana, which he gave to Jocson. Jocson paid him the marked bill and scratched his head, the pre-arranged signal. The other policemen then moved in and arrested Bernardino.[3]

They took from him the marked ten-peso bill and a black wallet containing some residue of marijuana leaves and personal identification papers.

Bernardino was taken to the Eastern Police District Headquarters, where, after being apprised of his constitutional rights, he refused to give any written statement. The three sticks of marijuana and the residue found in his wallet were turned over to the PC Crime Laboratory for examination.[4]

The following information was then filed against Bernardino:

That on or about the 25th day of August, 1987, in the Municipality of Marikina, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without having been duly authorized by law, did then and there willfully, unlawfully and feloniously sell and deliver to another person three (3) sticks of marijuana cigarettes, which is a prohibited drug, in violation of the above-cited law.

All the members of the team testified on the incident as above narrated.[5] Pat. Balauitan related his investigation of Bernardino.[6] The prosecution also presented Capt. Lina Sarmiento, the PC forensic chemist, who declared under oath that the cigarette sticks and the leaves found in Bernardino's wallet were positive for marijuana.[7] These were offered as exhibits, together with the marked money.[8]

Bernardino was the only witness for the defense. He denied the charge against him, claiming he was digging a "pozo negro" when he was arrested and was not at all involved in the sale of marijuana.[9]

In his decision dated May 13, 1988, Judge Martin S. Villarama, Jr. of the Regional Trial Court of Pasig found the

accused guilty as charged and sentenced him to life imprisonment and to pay a fine of P20,000.00, plus the costs.

Bernardino is now before us asking for a reversal of his conviction. He claims the trial court should not have given credence to the prosecution's evidence nor should it have presumed that the policemen had regularly performed their functions. His contention is that his guilt has not been proved beyond reasonable doubt to overcome the constitutional presumption of innocence in his favor.

In questioning the credibility of the prosecution witnesses, the accused-appellant points to certain discrepancies in their respective testimonies that he avers prove they were not telling the truth when they testified. Among these are the inconsistencies on why they commenced the operation in the first place, who bought and who sold the marijuana, and who among them actually frisked him upon his arrest.

These are minor matters that do not impair the essential integrity of the prosecution evidence as a whole nor do they reflect on the witnesses' honesty. Differences in the recollection of details relating to the same incident may be expected from the several persons justifying thereon; but as long as there is basic agreement on the main points of the incident, their respective declarations may not be rejected as totally untrue.

As for the statements of Mariano and Balaitan, referring to Bernardino as the buyer rather than the seller, these were rectified later when, on further questioning, they declared that the buyer was Jocson. These statements are in the record and cannot be denied.[10]

The argument that the accused-appellant would not have sold marijuana to a total stranger is at best conjectural and in any case not convincing. Drug pushers have become increasingly casual about their activities and less cautious about isolated transactions like the one at bar. Bernardino evidently considered the sale an ordinary transaction and Jocson an ordinary user.

Pat. Balaitan's testimony that the accused-appellant verbally admitted the sale of the marijuana to Jocson is, of course, inadmissible as violative of the constitutional rights of the accused, who was not properly informed thereof. Nevertheless, even if that testimony were discarded, the rest of the prosecution evidence would still suffice to sustain his conviction.

Street pushers like the accused-appellant have contributed immensely to the aggravation of drug abuse, and it is only just that they be punished severely in accordance with the Dangerous Drugs Act. But it is hoped that the government will exert more efforts against the big and powerful drug syndicates that have so far evaded the clutches of the law. These are the real culprits that, for evil gain, are sapping the strength and morality of the nation with the terrible poison they are spreading. They must be stopped.

WHEREFORE, the appealed decision is AFFIRMED in toto. It is so ordered.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] TSN, October 9, 1987, pp. 3, 6,.

[2] Ibid., September 16, 1987, p. 4; October 9, 1987, pp. 2-3; November 18, 1987, pp. 2-3.

[3] Id., September 16, 1987, p. 2; October 9, 1987, pp. 6-7; November 18, 1987, pp. 3-4.

[4] id., October 9, 1987, p. 4; November 18, 1987, p. 8; December 2, 1987, pp. 5-6.

[5] id., September 16, 1987; October 9, 1987; November 18, 1987.

[6] id., December 2, 1987.

[7] *id.*, February 12, 1988, pp. 3-4.

[8] Exhibits "E," "H-1," and "H-2," Envelope of Exhibits.

[9] TSN, April 20, 1988, p. 2.

[10] *Id.*, October 9, 1987, p. 2; December 2, 1987, p. 2.

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