

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GLORIA UMALI Y AMADO AND SUZETH UMALI Y AMADO, DEFENDANTS-APPELLANTS.

G.R. No. 84450, February 04, 1991

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

In Criminal Case No. 85-473 of the Regional Trial Court, Branch 53, Lucena City, Gloria Umali and Suzeth Umali were charged for violation of Section 4, Article 1 of the Dangerous Drugs Act of 1972 under an information which reads:

"That on or about the 22nd day of April, 1985, at Recto Street, Poblacion, Municipality of Tiaong, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused, conspiring and confederating together and mutually helping each other, did then and there willfully, unlawfully and feloniously sell, deliver and give 'marijuana' or Indian Hemp, a prohibited drug to one Francisco Manalo y Arellano, without authority of law.

Contrary to law." (Rollo, pp. 7-8)

Upon arraignment, Gloria Umali entered a plea of "not guilty" as accused Suzeth Umali remained at large. After trial, the lower court rendered a decision on September 9, 1987, the dispositive portion thereof states:

"WHEREFORE, premises considered, this Court finds accused Gloria Umali guilty beyond reasonable doubt of violating Sec. 4 Art. 1 (sic) of RA 6425 as amended, otherwise known as the Dangerous Drugs Act of 1972, and is hereby sentenced to suffer the penalty of Reclusion Perpetua. Accused being a detention prisoner is entitled to enjoy the privileges of her preventive imprisonment. The case against Suzeth Umali, her co-accused in this case is hereby ordered ARCHIVED to be revived until the arrest of said accused is effected. The warrant of arrest issued against her is hereby ordered reiterated.

"SO ORDERED." (Rollo, p. 30)

Hence, this appeal from the lower court's decision with the following assignment of errors:

"I

"THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE BIASED TESTIMONY OF FRANCISCO MANALO

"II

"THE COURT A QUO GRAVELY ERRED IN ADMITTING THE PROSECUTION'S EVIDENCE WHICH WERE OBTAINED IN VIOLATION OF ACCUSED'S CONSTITUTIONAL RIGHTS AGAINST ILLEGAL SEARCH AND SEIZURE

"III

"THE COURT A QUO GRAVELY ERRED IN DECLARING THAT ACCUSED NEVER DISPUTED THE CLAIM THAT SHE WAS THE SOURCE OF MARIJUANA LEAVES FOUND IN THE POSSESSION OF FRANCISCO MANALO ON APRIL 5, 1985 AND THAT WHICH WAS USED BY PIERRE PANGAN RESULTING TO THE LATTER'S DRUG DEPENDENCY

"IV

"THE COURT A QUO GRAVELY ERRED IN FINDING ACCUSED GLORIA UMALI GUILTY OF VIOLATION OF DANGEROUS DRUGS ACT OF 1972 ON THE BASIS OF MERE CONJECTURES AND NOT ON FACTS AND CIRCUMSTANCES PROVEN

"V

"THE COURT A QUO GRAVELY ERRED IN NOT FINDING THAT THE GUILT OF THE ACCUSED DID NOT PASS THE TEST OF MORAL CERTAINTY." (Rollo, p. 49)

The antecedent facts of this case as recounted by the trial court are as follows:

"On April 27, 1985 Pierre Pangan a minor was investigated by Pat. Felino Noguerra for drug dependency and for an alleged crime of robbery. In the course of the investigation, the policemen discovered that Pierre Pangan was capable of committing crime against property, only if under the influence of drug (sic). As Pierre Pangan is a minor, the police investigators sought the presence of his parents. Leopoldo Pangan, father of the minor was invited to the police headquarters and was informed about the problem of his son. Mr. Pangan asked the police investigators if something could be done to determine the source of the marijuana which has not only socially affected his son, but other minors in the community. Previous to the case of Pierre Pangan was the case of Francisco Manalo, who was likewise investigated by operatives of the Tiaong, Quezon Police Department and for which a case for violation of the Dangerous Drug Act was filed against him, covered by Criminal Case No. 85-516 before Branch 60 of the Regional Trial Court of Lucena City. Aside from said case, accused Francisco Manalo was likewise facing other charges such as concealment of deadly weapon and other crimes against property. Pat. Felino Noguerra went to the Tiaong Municipal Jail, and sought the help of Francisco Manalo and told him the social and pernicious effect of prohibited drugs like marijuana being peddled to minors of Tiaong, Quezon. Manalo although a detention prisoner was touched by the appeal made to him by the policeman and agreed to help in the identification of the source of the marijuana. In return he asked the policeman to help him in some cases pending against him. He did not negotiate his case for violating the dangerous drug act, as he has entered a plea of guilty to the charged (sic) before the sala of Judge Eriberto Rosario.

With the consent of Francisco Manalo, Pfc. Sarmiento, Chief of the Investigation Division gave him four (4) marked P5.00 bills to buy marijuana from sources known to him. The serial numbers of the money was entered in the police blotter. The instruction was (sic) for Manalo to bring back the prohibited drug purchased by him to the police headquarters. Few minutes there after (sic), Manalo returned with two (2) foils of dried marijuana which he allegedly bought from the accused Gloria Umali. Thereafter, he was asked by the police investigators to give a statement on the manner and circumstances of how he was able to purchase two (2) marijuana foils from accused Gloria Umali. With the affidavit of Francisco Manalo, supported by the two (2) foils of marijuana, the Chief of the Investigation Division petitioned the Court for the issuance of a search warrant as a justification for them to search the house of Gloria Umali located at Rector (sic) Street, Poblacion, Tiaong, Quezon. After securing the same, the police operatives, went to the house of Gloria Umali and served the search warrant on her. Confiscated from the person of Gloria Umali were the four (4) P5.00 bills with serial numbers BA26943, DT388005, CC582000 and EW69873, respectively, as reflected in the police blotter. Likewise, present in the four (4) P5.00 bills were the letters T which were placed by the police investigators to further identify the marked four (4) P5.00 bills. The searched (sic) in the house was made in the presence of Brgy. Capt. Punzalan. The search resulted in the confiscation of a can of milo, containing sixteen (16) foils of dried marijuana leaves which were placed in a tupperware and kept in the kitchen where rice was being stored.

The return of the search warrant reads as follows:

"DATE: 22 April 1985

WHAT: "RAID"

WHERE: Residence of Dr. Emiliano Umali Poblacion, Tiaong, Quezon

WHO: MBRS. OF TIAONG INP

TIME STARTED/ARRIVED AT SAID PLACE:

221410H Apr' 85

SERVED TO: MRS. GLORIA UMALI

MR. EMILIANO UMALI

PERSON APPREHENDED/PROPERTY SEIZED/RECOVERED

Mrs. Gloria Umali 16 Aluminum Foils of
Mr. Emiliano Umali Suspected Marijuana leaves

TIME/DATE LEFT SAID PLACE: 221450H

Apr' 85

WITNESSES (sic) BY:

1. (Sgd) Reynaldo S. Pasumbal
2. (Sgd) Luisabel P. Punzalan
3. (Sgd) Arnulfo C. Veneracion
4. (Sgd) Isidro C. Capino

Samples of the marijuana leaves confiscated were submitted to the PC Crime Laboratory for examination. Capt. Rosalinda Royales of the PC Crime Laboratory took the witness stand, testified and identified the marijuana submitted to her and in a written report which was marked as Exhibit "G" she gave the following findings:

"Qualitative examination conducted on the specimen mentioned above gave POSITIVE result to the tests for marijuana."

"In Criminal Case No. 85-516, Francisco Manalo was charged of having in his possession Indian Hemp on April 5, 1985, in violation of Section 8, Article II of Republic Act 6425 as amended, otherwise known as the Dangerous Drugs Act of 1972. The Court in rendering judgment against him disposed the case as follows:

"In view of the foregoing, the Court hereby finds the accused Guilty beyond reasonable doubt of the crime of illegal possession of "Indian Hemp" penalized under Sec. 8 of Article 6425 (sic); as amended otherwise known as the Dangerous Drugs Act of 1972" and the Court hereby sentences him to suffer an imprisonment of two (2) years and four (4) months of prision correccional to six (6) years and one (1) day of Prision Mayor and to pay a fine of Six Thousand Pesos (P6,000.00). Let the period of detention of the accused be credited to his sentence."

"Accused never disputed the claim of Francisco Manalo that the marijuana found in his possession on April 5, 1985 in the municipality of Tiaong, Quezon was sold to him by the accused Gloria Umali. The defense also did not dispute the claim of the prosecution that in the investigation of Pierre Pangan, the police investigator came to know that Gloria Umali was the source of the marijuana leaves which he used and smoked resulting in his present drug dependency." (Rollo, pp. 22-27)

The appellant vehemently denied the findings of the lower court and insisted that said court committed reversible errors in convicting her. She alleged that witness Francisco Manalo is not reputed to be trustworthy and reliable

and that his words should not be taken on its face value. Furthermore, he stressed that said witness has several charges in court and because of his desire to have some of his cases dismissed, he was likely to tell falsehood.

However, the plaintiff-appellee through the Solicitor General said that even if Francisco Manalo was then facing several criminal charges when he testified, such fact did not in any way disqualify him as a witness. "His testimony is not only reasonable and probable but more so, it was also corroborated in its material respect by the other prosecution witnesses, especially the police officers." (Rollo, pp. 83-84)

The appellant also claimed that the marked money as well as the marijuana were confiscated for no other purpose than using them as evidence against the accused in the proceeding for violation of Dangerous Drugs Act and therefore the search warrant issued is illegal from the very beginning. She stressed that there can be no other plausible explanation other than that she was a victim of a frame-up.

In relation to this contention, the Solicitor General noted that it is not true that the evidences submitted by the prosecution were obtained in violation of her constitutional right against illegal search and seizure.

Furthermore, the appellant contended that the essential elements of the crime of which she was charged were never established by clear and convincing evidence to warrant the findings of the court a quo. She also stressed that the court's verdict of conviction is merely based on surmises and conjectures.

However, the Solicitor General noted that the positive and categorical testimonies of the prosecution witnesses who had personal knowledge of the happening together with the physical evidence submitted clearly prove the guilt beyond reasonable doubt of accused-appellant for violation of the Dangerous Drugs Act.

Time and again, it is stressed that this Court is enjoined from casually modifying or rejecting the trial court's factual findings. Such factual findings, particularly the trial judge's assessment of the credibility of the testimony of the witnesses are accorded with great respect on appeal for the trial judge enjoys the advantage of directly and at first hand observing and examining the testimonial and other proofs as they are presented at the trial and is therefore better situated to form accurate impressions and conclusions on the basis thereof (See *People v. Bravo*, G.R. No. 68422, 29 December, 1989, 180 SCRA 694, 699). The findings of the trial court are entitled to great weight, and should not be disturbed on appeal unless it is shown that the trial court had overlooked certain facts of weight and importance, it being acknowledged that the court below, having seen and heard the witnesses during the trial, is in a better position to evaluate their testimonies (*People v. Alvarez y Soriano*, G.R. No. 70831, 29 July 1988, 163 SCRA 745, 249; *People v. Dorado*, G.R. No. L-23464, October 31, 1969, 30 SCRA 53; *People v. Espejo*, G.R. No. L-27708, December 19, 1970, 36 SCRA 400). Hence, in the absence of any showing that the trial court had overlooked certain substantial facts, said factual findings are entitled to great weight, and indeed are binding even on this Court.

Rule 130, Section 20 of the Revised Rules of Court provides that:

"Except as provided in the next succeeding section, all persons who can perceive, and perceiving can make known their perception to others may be witnesses.

Religious or political belief, interest in the outcome of the case, or conviction of a crime unless otherwise provided by law, shall not be a ground for disqualification."

The phrase "conviction of a crime unless otherwise provided by law" takes into account Article 821 of the Civil Code which states that persons "convicted of falsification of a document, perjury or false testimony" are disqualified from being witnesses to a will." (Paras, *RULES OF COURT ANNOTATED*, Vol. IV First Ed., p. 44)

Since the witness Francisco Manalo is not convicted of any of the above-mentioned crimes to disqualify him as a

witness and this case does not involve the probate of a will, We rule that the fact that said witness is facing several criminal charges when he testified did not in any way disqualify him as a witness.

The testimony of a witness should be given full faith and credit, in the absence of evidence that he was actuated by improper motive (*People v. Melgar*, G.R. No. 75268, 29 January 1988, 157 SCRA 718). Hence, in the absence of any evidence that witness Francisco Manalo was actuated by improper motive, his testimony must be accorded full credence.

Appellant's contention that she was a victim of a "frame-up" is devoid of merit. "Courts must be vigilant. A handy defense in such cases is that it is a frame-up and that the police attempted to extort from the accused. Extreme caution must be exercised in appreciating such defense. It is just as easy to concoct as a frame-up. At all times the police, the prosecution and the Courts must be always on guard against these hazards in the administration of criminal justice (*People v. Rojo*, G.R. No. 82737, 5 July 1989, 175 SCRA 119).

The appellant's allegation that the search warrant is illegal cannot also be given any merit. "Where marked peso bills were seized by the police as a result of the search made on the appellant, the admissibility of these marked peso bills hinges on the legality of the arrest and search on the person of the appellant (*People v. Paco*, G.R. No. 76893, 27 February 1989, 170 SCRA 681). Since the search is predicated on a valid search warrant, absent any showing that such was procured maliciously the things seized are admissible in evidence.

Appellant argues that the lower court's verdict is based on surmises and conjectures, hence the essential elements of the crime were never established by clear and convincing evidence.

Conviction cannot be predicated on a presumption or speculation. A conviction for a criminal offense must be based on clear and positive evidence and not on mere presumptions (*Gaerlan v. Court of Appeals*, G.R. No. 57876, 6 November 1989, 179 SCRA 20). The prosecution's evidence consisted of the testimony of witness Manalo and the law enforcers as well as the physical evidence consisting of the seized marked peso bills, the two (2) foils of marijuana purchased and the can containing sixteen (16) aluminum foils of dried marijuana.

Credence is accorded to the prosecution's evidence more so as it consisted mainly of testimonies of policemen. Law enforcers are presumed to have regularly performed their duty in the absence of proof to the contrary (*People v. Tejada*, G.R. No. 81520, 21 February 1989, 170 SCRA 497). Hence, in the absence of proof to the contrary, full credence should be accorded to the prosecution's evidence. The evidence on record sufficiently established that Umali gave two (2) foils of marijuana to witness Manalo for which she was given and received four (4) marked five peso (P5.00) bills, and fully supports conviction for drug pushing in violation of Section 4 Article II of the Dangerous Drugs Act.

Thus, the Court has no option but to declare that the trial court did not err in finding, on the basis of the evidence on record, that the accused-appellant Gloria Umali violated Section 4, Article II of the Dangerous Drugs Act.

Pursuant to recent jurisprudence and law, the case is covered by Section 4 of Republic Act No. 6425 as amended by Presidential Decree No. 1675, effective February 17, 1980, which raised the penalty for selling prohibited drugs from life imprisonment to death and a fine ranging from twenty to thirty thousand pesos (*People v. Adriano*, G.R. No. 65349, October 31, 1984, 133 SCRA 132) Thus, the trial court correctly imposed the penalty of life imprisonment but failed to impose a fine.

ACCORDINGLY, the appealed decision is AFFIRMED with the modification that a fine of twenty thousand pesos (P20,000.00) be imposed, as it hereby imposed, on the accused-appellant.

SO ORDERED.

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

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