

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALFREDO RUMERAL Y VILLEGAS, ACCUSED-APPELLANT.

G.R. No. 86320. August 05, 1991

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

Accused-appellant Alfredo Rumeral y Villegas was charged with violation of Section 4, Article II of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, before the Regional Trial Court of Olongapo City. The information, dated February 11, 1987, read as follows:

"That on or about the Fifth (5th) day of February, 1987, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused without being lawfully authorized did then and there wilfully, unlawfully and knowingly engage in selling, delivering, giving away to another and distributing one (1) plastic bag containing marijuana dried leaves approximately weighing twenty five (25) grams which are prohibited drugs.

"CONTRARY TO LAW." (p. 1, Records)

The accused was arraigned in Tagalog on March 20, 1987 and he pleaded not guilty (p. 7, Records) to the charge.

Thereafter, trial ensued. On September 15, 1988, a decision was rendered by the court a quo finding the accused guilty beyond reasonable doubt of the offense charged. The dispositive portion of the decision reads:

"WHEREFORE, premised on all the foregoing considerations, the Court finds the accused Alfredo Rumeral y Villegas guilty beyond the shadow of doubt of the crime of violation of Sec. 4, Art. 11 of RA 6425, as amended as charged in the information, and pursuant to the same section, the Court sentences the accused Alfredo Rumeral y Villegas to life imprisonment and the Court orders him to pay a fine of Twenty Thousand (P20,000.00) pesos with cost against the accused. The Court hereby orders the immediate destruction of the plastic bag of marijuana dried leaves which is the subject of this offense.

"SO ORDERED." (p. 26, Rollo)

The evidence of the prosecution established that the accused was arrested in a buy-bust operation conducted by agents of the NARCOM in Olongapo City on February 5, 1987.

Acting upon a "tip" from an informant known only as Jorge, who reported to P/Lt. Ernesto Abello that a certain alias "Freddie" was in possession of marijuana which was offered to him (informant), Lt. Abello conducted a briefing for the conduct of the buy-bust operation. P/Cpl. Lorian Morales was to act as the poseur-buyer. He was provided with three (3) twenty P20.00 peso bills and two (2) ten P10.00 peso bills, the serial numbers of which were copied on a piece of paper and recorded in their logbook by Sgt. Danilo Santiago (TSN, pp. 3-5).

After the briefing, the team leader, Lt. Abello and the other members of the team, namely: Cpl. Lorian Morales, Sgt. Efren Querubin, Sgt. Jose Domingo, Jorge the informant and NIS Agent Bobby Salonga, the driver, boarded the NIS car and proceeded to the target area at Norton Street, New Kalalake, Olongapo City. Once in the area,

Morales and Jorge alighted from the car and walked towards the residence of Freddie at 113 Norton Street. The rest of the team positioned themselves at strategic places away from Freddie's residence (TSN, pp. 5-7).

Upon reaching the door, Jorge knocked and called out for Freddie. The latter immediately appeared at the threshold of said door. Jorge told him: "Freddie, itong kaibigan ko gustong umiskor ng marijuana." After Freddie ascertained that Jorge had the money, he handed a plastic bag of marijuana to Morales and the latter gave him the money amounting to P80.00. After receiving the marijuana and handing the money to Freddie, Morales introduced himself as a Narcom agent and arrested Freddie. Morales immediately executed the pre-arranged signal by scratching his head, and the back-up team immediately closed in on them (TSN, pp. 25-28). Querubin searched the pocket of the suspect, who was identified as the herein accused, Alfredo Rumeral. The buy bust money was taken from him (TSN, p. 7). The team brought the accused to the Narcom Office. Querubin prepared a receipt of the money seized. Santiago for his part, prepared the custody/receipt of the marijuana (Exh. "J") bought from the accused and the request for laboratory examination. He likewise prepared the booking and arrest report which the accused voluntarily signed (TSN, p. 42). On February 12, 1987, the PC/INP Crime Laboratory Service rendered its report finding the specimen positive for marijuana.

The accused had a different version which the lower court did not believe. He testified that on that same afternoon, he was resting in his room which was also his residence. He heard a knock on his door and when he stood up to open it, four (4) men barged in. One of them poked a gun at him and ordered his companions to tie him and bring him with them.

The only other witness presented by the defense was the accused's brother Renato Rumeral. He testified that at about 3:00 o'clock of that same day, he saw four (4) men in civilian clothes enter his brother's room. He saw them tie his brother with a belt and placed him aboard their jeep.

From the judgment of conviction, the accused filed the present appeal praying for the reversal of the judgment of conviction on two grounds:

1. Not all of the elements of the offense were proved; and
2. The appellant's rights to remain silent and to counsel were violated.

According to accused-appellant, since the charge was for the selling of marijuana, the elements of sale namely: the identity of the buyer and the seller, the object and consideration; and the delivery of the thing sold and the payment thereof should be proved with certainty. These elements accordingly were not proven. There is allegedly some doubt as regards the identity of the buyer. Although Morales was instructed to be the poseur-buyer it was not certain that he actually played that role. It was Jorge who apparently transacted with the accused-appellant but it was not certain that the alleged marijuana was given to him. The other members of the team were allegedly at a distance where it would be impossible for them to witness who actually handed the money and received the alleged marijuana. Jorge, the informant, should have been presented to shed light on these matters.

The allegations of the accused-appellant deserve no consideration. It was clear from the testimony of Morales, the poseur-buyer that he was the buyer himself who handed the amount of P80.00 to the seller, who was identified as the accused-appellant, and that the latter in turn handed him the marijuana contained in a plastic bag.

"FISCAL: Did you hear what Jorge told Freddie?

a : Yes Mam. (sic)

"q : What did Jorge tell Freddie?

x x x

a : "Freddie .. itong kaibigan ko gustong umiskor ng marijuana."

"q : When these words were expressed to Freddie .. what did Freddie do?

a : He asked Jorge if he was bringing the money.

"q : What did Jorge answer?

a : Jorge told him that I was the one bringing the money.

"q : Did alias Freddie ask you question regarding the money?

a : Yes sir, he asked to bring out the money so that he will give the marijuana.

"q : Did he ask how much money you have?

a : Yes sir.

"q : What did you tell him?

a : I told him P80.00.

"q : After that when you said you had P80.00 what happened?

a : I got the marijuana from him and I gave the P80.00.

"q : Where did alias Freddie get the marijuana?

a : Inside the house, sir.

"q : You mean to say when you told him you have P80.00 this alias Freddie went inside the house and returned back?

a : He returned and he was bringing the one plastic bag of marijuana.

"q : Which happened first?

a : (Parang kaliwaan) almost simultaneous sir.

x x x." (pp. 26-27, Hearing dated August 17, 1987)

It was not established with certainty that the other members of the team also witnessed the transaction between the accused-appellant on the one hand, and Morales and Jorge on the other, because they concealed themselves at a distance of about 20 meters from the house of the accused-appellant which was located in a looban. Thus, whatever testimony given by the other members of the team may be considered hearsay. However, their testimonies on the circumstances immediately before the actual sale and after the consummation of the sale may be received to prove that the team was at the scene of the crime for the purpose of conducting the buy-bust operation and for no other purpose. Their testimonies corroborated the testimony of Morales on this aspect.

There is nothing repugnant about holding the accused-appellant guilty beyond reasonable doubt of the offense charged on the basis of the testimony of only one person, in this case, Morales, who happened to be the principal witness. The testimony of a single witness is credible and positive and if it satisfies the court that the accused is guilty beyond reasonable doubt is sufficient to convict (*People v. Javier*, G.R. No. 70997, February 28, 1990, 182 SCRA 830). Coming from an officer of the law who had no motive for falsely testifying against the accused-appellant, his testimony, under the circumstances obtaining in this case, may be received as true.

In *People v. Tejada*, G.R. No. 81520, February 21, 1989, 170 SCRA 497, We held that (t)he fact that the accused

returned bringing with him the amount of marijuana corresponding to the price offered by the poseur-buyer suffices to constitute if not sale, then delivery and distribution of the prohibited drug. What the law proscribes is not only the act of selling but also, albeit not limited to, the act of delivering (People v. de la Cruz, et al., G.R. No. 83260, April 18, 1990, 184 SCRA 416). The commission of the offense of illegal sale of marijuana requires merely the consummation of the selling transaction (People v. Dekingco, G.R. No. 87685, September 13, 1990, 189 SCRA 512). What is important is that the poseur buyer received the marijuana from the accused (People v. Fernandez, et al., G.R. No. 80481, June 27, 1990, 186 SCRA 830).

The accused-appellant also argued that it is hard to believe that he would transact business with a new face (Morales) when Jorge himself was hardly known to him. In People v. Sanchez, G.R. No. 77588, May 12, 1989, 173 SCRA 305, We held that drug pushers, especially small quantity or retail pushers sell their prohibited wares to anyone who has the price of the drug, be they strangers or not. What matters is not the existing familiarity between the buyer and the seller but their agreement and acts constituting the sale and delivery of the marijuana leaves (People v. Borja, G.R. No. 71838, February 26, 1990, 182 SCRA 58; People v. Tejada, G.R. No. 81520, 21 Feb. 89, 170 SCRA 497).

Contrary to the submission of accused-appellant, the testimony or identity of the informant is not indispensable since his testimony would be merely corroborative and cumulative (People v. Cerelegia, G.R. No. 72353, January 30, 1987, 147 SCRA 538), with that of poseur-buyer who was himself presented and who testified on the details of the sale and delivery. It would be otherwise if the poseur-buyer himself was also not presented as in People v. De Luna, G.R. No. 82180, November 8, 1989, 179 SCRA 245, where We held that "x x x because the prosecution's case rose and fell on (the poseur-buyer's) testimony, (I)t is also doubtless that the rest of the members of the raiding party's testimonies would have been hearsay in the absence of testimony given straight from the horse's mouth."

The accused-appellant was allegedly subjected to all the rituals of in-custody questioning without the aid of counsel. Hence, all incriminatory facts and circumstances taken from him in violation of his rights should have been excluded and given scant consideration.

It should be noted that the accused-appellant was caught in flagrante delicto. His conviction was based on the testimony of the principal prosecution witness, the poseur-buyer and on the testimonies of the other members of the team which conducted the buy-bust operation and not on any piece of evidence taken from or supplied by him while he was under investigation for the commission of the crime. The buy bust money taken from him as an incident in the arrest may be presented against him in court; so with the stuff bought from him which was found positive for marijuana.

The Court is convinced that the guilt of accused-appellant had been proven beyond reasonable doubt. The buy-bust operation conducted by the NARCOM agents to catch the accused-appellant was an entrapment allowed by law. The law enforcers are presumed to have performed their duties regularly in the absence of proof to the contrary (People v. Wapat-a, G.R. No. 84951, November 14, 1989, 179 SCRA 403).

ACCORDINGLY, the decision appealed from is AFFIRMED.

SO ORDERED.

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

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