

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LETICIA LABARIAS, DEFENDANT-APPELLANT.

G.R. No. 87165. January 25, 1993

Ponente: CRUZ, J.

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CRUZ, J.:

It is the policy of this Court to sustain the factual findings of the trial court on the reasonable assumption that it is in a better position to assess the evidence before it, particularly the testimonies of the witnesses, who reveal much of themselves by their deportment on the stand. The exception that makes the rule is where such findings are clearly arbitrary or erroneous as when they are tainted with bias or hostility or are so lacking in basis as to suggest that they were reached without the careful study and perceptiveness that should characterize a judicial decision.

This exception is especially applicable in criminal cases, where, consistently with the constitutional presumption of innocence, no less than proof beyond reasonable doubt is necessary for the conviction of the accused.

In the case at bar, Leticia Labarias was charged in the Regional Trial Court of Palayan City with violation of Article II, Section 4, of the Dangerous Drugs Act for having sold two teabags of marijuana on February 12, 1988, to one Edmundo Rirao.[1]

According to the prosecution, Rirao was a drug user who was asked by a buy-bust team to entrap Labarias. The team was composed of Pat. Emeterio Somera, Jr., Pat. Guillermo Roxas and Pat. Rodolfo Barrogo and was organized by P/Sgt. Danilo de los Santos, officer-in-charge of the Gabaldon Police Station. He had earlier received information that Labarias and her husband, Orly Musni, were selling marijuana at their store in South Poblacion, Gabaldon, Nueva Ecija.

Pat. Somera testified that at seven o'clock in the evening of the said date, he approached Rirao at the Gabaldon public market and asked him to buy marijuana for them from Labarias. Rirao agreed to do so and after receiving the marked money to be used for the purchase proceeded to the suspect's store. The team followed in a private vehicle, which they parked about ten meters from the store to watch the sham purchase. From their vantage point, they saw Labarias hand over two teabags to Rirao in exchange for the marked money that he gave her. Rirao thereafter went to the parked vehicle and delivered to them the two teabags he had bought from Labarias for P10.00 each.[2]

The team then went back to the police headquarters to examine the contents of the teabags and compare them with marijuana samples kept in the station. They did not take any other action because P/Sgt. De los Santos was not there and came back only in the evening of the following day. Upon his return, De los Santos took a small quantity of the contents of each bag, placed them in a plastic container which, together with a letter-request for its examination, was personally delivered three days later by Pat. Melvin Galang and Pat. Ricardo Fabian to the PC/INP Crime Laboratory in Camp Olivas, Pampanga.[3] The contents were analyzed that same day by PC/Capt. Marlene M. Salangad, forensic chemist, who found them positive for marijuana.[4]

Leticia Labarias testified for herself and denied the accusation against her. She claimed that the charge was trumped-up because she refused to give the police officers her pet dog when they asked for it on February 12, 1988, at about four o'clock in the afternoon. Her refusal annoyed Pat. Somera, who left with the veiled threat, "Ikaw rin. Bahala ka." This resulted later, according to her, in her prosecution. She also argued that she would not have sold marijuana so openly, as alleged by the prosecution, especially where there was a parked vehicle with persons inside that was only ten meters from her store.[5]

In a decision promulgated on January 26, 1989, Labarias was found guilty and sentenced to suffer the penalty of reclusion perpetua, and to pay a fine of P20,000.00, with costs.[6] Parenthetically, the penalty prescribed by the Dangerous Drugs Act is life imprisonment, not reclusion perpetua, which carries accessory penalties that the former does not.[7]

There are certain questions that the trial judge and the Solicitor General have left unanswered. These questions have introduced the reasonable doubt of the accused-appellant's guilt that should have led to her exoneration.

In the first place, why was Labarias not immediately arrested when she allegedly sold the marijuana to the poseur-buyer? According to Pat. Somera, he and his team-mates actually saw the accused-appellant hand the teabags to Rirao when he pretended to buy from her at her store in the evening of February 12, 1988. They made no move to arrest her. Immediately after the transaction, Rirao went to them in their vehicle and informed them that he had effected the purchase, at the same time delivering to them the two teabags. Still they did not arrest her.

Under the circumstances narrated by the prosecution itself, the police officers could have arrested Labarias without a warrant under Rule 113, Section 5, of the Rules of Court. The crime was actually being committed or at least had just been committed in their presence and they knew the culprit to be Labarias. Yet they did not do anything to arrest her. Instead, and most strangely, they simply went to the police headquarters to examine the teabags.

On the stand, Pat. Somera spoke of his obsession to go against drug-pushers, to explain his motive in filing the charge against Labarias.[8] He did not explain why, despite his obsession, he did not immediately arrest Labarias when he saw her selling the marijuana to Rirao that evening. The Solicitor General suggests that Somera was being extra careful and wanted first to be sure that the teabags delivered to Rirao contained marijuana. This was not the usual procedure in a buy-bust operation. The team was sent precisely to entrap Labarias on the basis of the confidential tip that she and Orly Musni were selling the prohibited drug in their store. The object was in fact to catch Labarias red-handed.

As a policeman, Somera knew that he would not be liable for false arrest or arbitrary detention as long as he had not acted arbitrarily or maliciously and had complied with the conditions laid down in the Rules of Court.[9] Good faith and honest error would have insulated him from prosecution. This knowledge, which must at least be presumed, makes it difficult to understand why Somera and his team-mates deviated from the usual pattern of the buy-bust operation. They knew, or should have known, that they could have pounced upon Labarias that night of February 12, 1988, as she handed the prohibited drug to the pretended purchaser.

As we have observed in a number of cases, "having caught the appellant in flagrante as a result of the buy-bust operation, the policemen were not only authorized but were also under obligation to apprehend the drug pusher even without a warrant of arrest." [10]

The handling of the two teabags is also rather curious. The rule in this respect is to send the seized articles themselves to the laboratory for examination, but in the case at bar this procedure was also not followed. Instead, the station commander merely took a small quantity of the contents of each teabag and it was only this sampling

that he sent to the PC/INP Crime Laboratory.

The prosecution has not shown that the teabags from which the samples were taken were at that time marked for identification. No less noteworthy, the specimen was delivered to the PC/INP Crime Laboratory only after all of four days from February 12, 1988, during which it remained in the police station. Considering that, according to Pat. Somera, his team compared the contents of the two teabags with other samples of marijuana in the police station, we agree that the specimen sent to the laboratory for examination may not really have come from such teabags. And all this is on the supposition only that the two teabags actually came from Labarias, an important fact that has not been satisfactorily established.

In *People v. Mariano*,^[11] this Court stressed that in prosecutions for the illegal sale of marijuana, what is material is the proof that the selling transaction transpired, coupled with the presentation of the corpus delicti as evidence. The identity of the teabag of marijuana which constitutes the corpus delicti must be firmly established before the court.

While it is a presumption of law that official duty has been regularly performed and that persons act in good faith and with good motives, we note that in the instant case the prosecution did not introduce evidence to rebut Labarias' testimony that she incurred the team's hostility when she refused to give them her pet dog. This testimony was corroborated by Severino Bate and was never refuted by Somera or any of his companions.

We have nothing but commendation for the serious efforts of law-enforcement agencies against the menace of prohibited drugs, but we nevertheless must also be watchful against the conviction of alleged drug-pushers on the basis of less than satisfactory evidence of their guilt. Such evidence may be the result only of an excess of zeal, or lack of deference for constitutional rights, or even at times malice or vindictiveness on the part of such officers. In any of such cases, the accused is entitled to be acquitted on the ground of reasonable doubt.

It must be so in the case at bar. The prosecution has failed to establish the accused-appellant's guilt with that quantum of proof strictly required in criminal cases. It is true that her defense consists of a mere denial but, as we have repeatedly declared, the conviction of the accused must rest not on the weakness of the defense but on the strength of the prosecution. The defense in this case is not strong enough, to be sure, but the evidence for the prosecution is clearly even weaker. The accused-appellant must be presumed innocent because the contrary has not been proved.

WHEREFORE, the judgment of the trial court is REVERSED. The accused-appellant is ACQUITTED and ordered released immediately. No costs.

SO ORDERED.

Padilla, Griño-Aquino, and Bellosillo, JJ., concur.

[1] Rollo, p. 1; Records, pp. 49-51.

[2] TSN, September 27, 1988, pp. 3-6.

[3] Exhibit "C," Records, p. 109; TSN, September 27, 1988, pp. 6-13.

[4] Exhibit "E," Records, p. 111.

[5] TSN, December 7, 1988, pp. 3-5; Rollo, 150-151.

[6] Decision penned by Judge Conrado P. Labrador; Rollo, p. 141.

[7] Article II, Section 4, Republic Act No. 6754; Article 41, Revised Penal Code.

[8] TSN, September 27, 1988, pp. 28-29.

[9] Umil v. Ramos, 202 SCRA 251.

[10] People v. Bati, 189 SCRA 97; People v. Rodriguez, 172 SCRA 742; People v. Paco, 170 SCRA 681.

[11] 191 SCRA 136.

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