

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PETER ALFONSO Y ABLAZA, ACCUSED-APPELLANT.*G.R. No. 87367. February 19, 1993*

Ponente: CRUZ, J.

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It is the task of the prosecution in every criminal action to prove that the accused is guilty. It is not for the accused to prove that he is innocent. In the case at bar, the accused virtually collaborated with the prosecution. By his own words, no less than by the evidence of the People, he pronounced his own conviction.

The charge against him was violation of the Dangerous Drugs Act for transporting and carrying marijuana, committed on September 2, 1988, in the Province of Benguet.[1]

Two witnesses were presented by the prosecution namely, POI Arturo Ellazar and Capt. Valentino Gaerlan. Ellazar testified that at about noon of the afore-mentioned date, he and his team-mates from the Narcotics Command were manning a checkpoint they had established along the national highway at Acop, in the municipality of Tublay of the said province. Their purpose was to ferret out drug traffickers reported to be coming from the Mountain Province. As they were inspecting each approaching vehicle, they noticed the herein accused, whom they subsequently identified as Peter Alfonso, sneak out from the back of a truck and start scampering. Suspicious, Ellazar gave chase and called on Alfonso to stop. Instead, the fleeing man kept running, pausing briefly only to throw the bag he was carrying at his pursuer. Ellazar stopped to pick up its scattered contents and directed M/Sgt. Rogelio Raguine to continue the pursuit. Raguine finally caught his quarry after Alfonso jumped into a sayote plantation in a ravine below the road. The suspect was taken to the NARCOM headquarters for investigation.[2] The eight bundles of dried leaves with flowering tops which had spilled out of Alfonso's bag were taken to the PC Crime Laboratory for examination. They were found by Capt. Gaerlan, forensic chemist, to be positive for marijuana.[3]

Alfonso had a different story to tell. He said that on September 1, 1988, he had gone to his uncle in the Mountain Province to borrow P20,000.00. He claimed he wanted to buy a lot worth P50,000.00 but he had only P30,000.00. He got the loan the following day and at about noon started to look for transportation to take him to Baguio City. While waiting, he was approached by Maria Codasa, a townmate of his, who handed him a multi-colored bag and requested him to deliver it to her son, who would be waiting at the Dangwa Station Canteen in Baguio City. Alfonso agreed. A truck loaded with vegetables arrived and, as he knew there were no more regular buses coming at that time, he hitched a ride at the back. When they reached Acop, he saw long-haired men in civilian clothes stopping every vehicle and he became worried about the P20,000.00 he was carrying, thinking the men might be hold-uppers. So he surreptitiously alighted from the truck and, leaving the multi-colored bag on the side of the road, started running. Some men began chasing him. He did not stop even as he heard several shots and finally he dived for cover into a sayote plantation. Here he wrapped his money and buried it, taking care to mark the place with a stick. When he heard his pursuers identifying themselves as soldiers, he came out and gave himself up.[4] At NARCOM headquarters, he was visited by his wife and his brother-in-law, Roy Agtulao, whom he directed to

the place where he had buried the money. Agtulao later testified that he found the buried money in the place Alfonso had indicated.[5] Abellon Olsim, Alfonso's uncle, affirmed that he did lend his nephew P20,000.00 on September 2, 1988.[6]

The trouble with Alfonso's story is that it is unbelievable. Worse, he told it in a manner that failed to convince the trial judge,[7] who felt that the accused "was not telling the truth," had "that shifty look," and "could not even look straight in the eyes of the Presiding Judge when probed for details." Even the testimonies of the corroborating witnesses "were perfectly matched" and obviously part of a "well-rehearsed plan."

The rule is to accord much weight to the impressions of the trial judge, who has the opportunity to observe the witnesses directly and to test their credibility by their demeanor on the stand. By such observation, he is able to ascertain whether they are honoring their oath or lying in their teeth and to base his factual findings on this appraisal. In the absence of a showing that such conclusions are far-fetched or arbitrary, they are judiciously accepted on appeal and even considered conclusive on the reviewing court.

In the case at bar, the very substance of the defense evidence supports the case for the prosecution. Or perhaps we should say the very lack of substance. The Court finds Alfonso's testimony a wild tale, indeed, that only emphasizes and affirms his guilt.

Given the evidence that had established a formidable case against him, Alfonso should have exerted more efforts to shift the burden of evidence back to the prosecution. Instead, he offered a likely story that he failed to substantiate. He gave no details of the lot he said he was purchasing, not even its location or its owner. Maria Codasa, who he said had given him the bag, disappeared completely although he claimed she was his townmate. Asked to deliver the bag, he did not even bother to check its contents, as he could easily have done because it was open (the bundles of marijuana spilled out when he hurled it at Ellazar). He said he was afraid that the long-haired civilians were robbers, but they were in fact wearing military uniforms[8] and he could not have mistaken that the vehicles were being stopped at a checkpoint. The fact that he sneaked out and ran - which he does not deny - plainly shows he had something to hide, and it was not the money he was supposedly carrying but the marijuana.

The defense now contends that the marijuana should not have been admitted in evidence against Alfonso because it was illegally seized after an invalid warrantless search. The argument is groundless. In fact, there was no search at all as Ellazar picked up the marijuana bundles after Alfonso himself had left or scattered them on the road. When he was apprehended in the sayote plantation, Alfonso no longer had the marijuana bundles on him. There was no need to search him and no seizure of any article was made from him.

At that, even if it were assumed that there was, indeed, a search and seizure, it would still have been lawful even without a warrant because the NARCOM agents simply stumbled upon the marijuana bundles, which were "open to eye and hand" on the road. Seizure of the articles in such circumstances was valid even if made without a warrant.[9]

The Court is satisfied that the prosecution, with the unwitting aid of the defense, curiously enough, has established the guilt of the accused-appellant beyond reasonable doubt. He must therefore suffer the penalty imposed upon him for the serious crime of poisoning the health and future of the nation.

WHEREFORE, the appeal is DISMISSED and the appealed judgment is AFFIRMED in toto, with costs against the accused-appellant. It is so ordered.

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

- [1] Rollo, p. 9.
- [2] TSN, October 24, 1988, pp. 5-8, 10-11.
- [3] Ibid., November 9, 1988, p. 28.
- [4] Id., January 16, 1989, pp. 3-8; 11-20.
- [5] id., January 16, 1989, pp. 27, 30, 32-33, 44-47.
- [6] id., January 17, 1989, pp. 4-5.
- [7] Judge Romeo A. Brawner of the Regional Trial Court of La Trinidad, Benguet, Branch 10.
- [8] TSN, October 24, 1988, p. 34.
- [9] *Manipon v. Sandiganbayan*, 143 SCRA 267; *Harris v. United States*, 390 U.S. 234.

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